

COMMONWEALTH OF PENNSYLVANIA  
**Legislative Journal**

WEDNESDAY, NOVEMBER 20, 2019

SESSION OF 2019 203RD OF THE GENERAL ASSEMBLY

No. 50

**SENATE**

WEDNESDAY, November 20, 2019

The Senate met at 1 p.m., Eastern Standard Time.

The PRESIDENT (Lieutenant Governor John K. Fetterman) in the Chair.

**PRAYER**

The Chaplain, Reverend CRAIG KEPHART, of Washington Presbytery, Eighty Four, offered the following prayer:

Mr. Governor, Senators and staff, honored guests, it is my great privilege to lead you for these few moments today. Pray with me, please.

Sovereign God, who sets in order all things and whose judgments and justice are perfect, give good order to the proceedings and the participants within this Chamber today, we humbly ask. We give thanks for divine blessings bestowed upon Pennsylvania and its people, for the vitality of our cities, the sense of caring and community in our small towns and boroughs, the serenity of our woodlands, for our State's history and heritage, and for Pennsylvania's place in the government and commerce of these United States. Grant to these Senators today ears to hear, minds set to their duties, and hearts of compassion, for these elected, and those who serve alongside them, bear great responsibility for Pennsylvanians present and future. We pray as well Your graces and Your equipping for Governor Wolf, for Lieutenant Governor Fetterman, and for all who give leadership here in Harrisburg and in each of our 67 counties. So, we lift our spirits to You even right now, great God, raising this prayer that all that takes place here today, discussion and debate, decisions and even delays, ultimately will be for the strengthening of liberties and the protecting of freedoms for all the citizens of our Commonwealth. Through the power and with the privilege of Thy great name, we pray. Amen.

The PRESIDENT. The Chair thanks Reverend Kephart, who is the guest today of Senator Bartolotta.

**PLEDGE OF ALLEGIANCE**

(The Pledge of Allegiance was recited by those assembled.)

**BILLS INTRODUCED AND REFERRED**

The PRESIDENT laid before the Senate the following Senate Bills numbered, entitled, and referred as follows, which were read by the Clerk:

November 20, 2019

Senators COSTA, A. WILLIAMS, BREWSTER, FARNESE, SANTARSIERO, SCHWANK, HAYWOOD, FONTANA, TARTAGLIONE, KEARNEY, L. WILLIAMS, BOSCOLA, BLAKE, COLLETT, HUGHES and DINNIMAN presented to the Chair **SB 11**, entitled:

An Act amending the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, in Secretary of the Commonwealth; in primary and election expenses, further providing for definitions, for organization of political committees, for registration and for reporting, providing for limitations on contributions, further providing for late filing fees and certificates of filing, for contributions or expenditures by national banks, corporations or unincorporated associations, for advertising and for reports by business entities and publication and providing for independent expenditures and for independent expenditure evaluation; and providing for corporate political accountability.

Which was committed to the Committee on STATE GOVERNMENT, November 20, 2019.

Senators PITTMAN, YAW, ARGALL, MARTIN, MASTRIANO, GORDNER, LANGERHOLC, K. WARD, STEFANO, J. WARD, BAKER, PHILLIPS-HILL, SCAVELLO, BROOKS, MENSCH, BARTOLOTTA, REGAN, BROWNE, HUTCHINSON and VOGEL presented to the Chair **SB 950**, entitled:

An Act authorizing the Department of Environmental Protection to conduct a public comment process on and submit to the General Assembly a measure or action intended to abate, control or limit carbon dioxide emissions by imposing a revenue-generating tax or fee on carbon dioxide emissions.

Which was committed to the Committee on ENVIRONMENTAL RESOURCES AND ENERGY, November 20, 2019.

Senators MASTRIANO, ARGALL, GORDNER, SCHWANK, J. WARD and MENSCH presented to the Chair **SB 958**, entitled:

An Act amending Title 8 (Boroughs and Incorporated Towns) of the Pennsylvania Consolidated Statutes, in manufacture and supply of electricity, further providing for specific powers.

Which was committed to the Committee on LOCAL GOVERNMENT, November 20, 2019.

Senators BARTOLOTTA, LAUGHLIN, COLLETT, KILLION, LANGERHOLC, HUGHES, REGAN, SABATINA, MENSCH, ARGALL, DINNIMAN, J. WARD, HUTCHINSON, TOMLINSON, LEACH and K. WARD presented to the Chair **SB 959**, entitled:

An Act amending the act of June 13, 1967 (P.L.31, No.21), known as the Human Services Code, in public assistance, further providing for medical assistance payments for institutional care.

Which was committed to the Committee on HEALTH AND HUMAN SERVICES, November 20, 2019.

**GENERAL COMMUNICATION**  
**COVERED DEVICE RECYCLING ACT**  
**2018 REPORT**

The PRESIDENT laid before the Senate the following communication, which was read by the Clerk as follows:

COMMONWEALTH OF PENNSYLVANIA  
Department of Environmental Protection  
Rachel Carson State Office Building  
P.O. Box 2063  
Harrisburg, PA 17105-2063

November 5, 2019

Ms. Megan Martin  
Secretary-Parliamentarian of the Senate  
Senate Post Office Box 203053  
Harrisburg, PA 17120-3053

Dear Ms. Martin:

The Department of Environmental Protection (DEP) is pleased to present to you its Covered Device Recycling Act (CDRA) Report for calendar year 2018. This report summarizes the electronics recycling achievements made in 2018, evaluates the challenges of the CDRA and illustrates the efforts to divert unwanted electronic equipment from landfills through implementation of the act.

As provided in the CDRA, DEP is submitting the report to the General Assembly and posting the report on the DEP Web site. The report can be found at [www.dep.pa.gov](http://www.dep.pa.gov), search "electronics recycling."

Thank you for your interest in this report and for continuing to partner with DEP to promote a clean environment and safer communities for all Pennsylvanians.

Sincerely,

PATRICK McDONNELL  
Secretary

The PRESIDENT. This report will be filed in the Library.

**BILLS SIGNED**

The PRESIDENT (Lieutenant Governor John K. Fetterman) in the presence of the Senate signed the following bills:

**HB 57 and HB 754.**

**BILLS REPORTED FROM COMMITTEES**

Senator LAUGHLIN, from the Committee on Game and Fisheries, reported the following bills:

**SB 377 (Pr. No. 1401) (Amended)**

An Act amending Title 34 (Game) of the Pennsylvania Consolidated Statutes, in enforcement, further providing for jurisdiction and penalties; and, in game or wildlife protection, further providing for the offense of unlawful taking and possession of protected birds and for endangered or threatened species.

**HB 102 (Pr. No. 101)**

An Act amending Title 34 (Game) of the Pennsylvania Consolidated Statutes, in hunting and furtaking licenses, further providing for eligibility for license.

**HB 584 (Pr. No. 591)**

An Act amending Title 30 (Fish) of the Pennsylvania Consolidated Statutes, in fishing licenses, further providing for exemptions from license requirements.

**HB 617 (Pr. No. 612)**

An Act amending Title 34 (Game) of the Pennsylvania Consolidated Statutes, in hunting and furtaking licenses, providing for a volunteer instructor license.

Senator REGAN, from the Committee on Veterans Affairs and Emergency Preparedness, reported the following bills:

**SB 276 (Pr. No. 227)**

An Act amending Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, in veterans' pensions and benefits, further providing for blind veteran's pension and for amputee and paralyzed veteran's pension.

**SB 952 (Pr. No. 1370)**

An Act amending Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, in veterans' preference, repealing provisions relating to soldier defined, providing for purpose and for definitions, repealing provisions relating to credits in civil service examinations, further providing for additional points in grading civil service examinations, for preference in appointment or promotion, for lack of training, age or physical impairment, for preferential rating provision in public works specifications, for computation of seniority for reduction in force, for preference of spouses and for law exclusive and providing for reporting requirement and for guidelines; and, in voluntary veterans' preference in private employment, further providing for definitions and for eligibility for preference.

**SB 957 (Pr. No. 1402) (Amended)**

An Act amending Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, in veteran-owned small businesses, providing for miscellaneous provisions; imposing a penalty; and making an editorial change.

**HB 630 (Pr. No. 625)**

An Act amending Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, in military leave of absence, further providing for employment discrimination for military membership or duty.

**HB 1050 (Pr. No. 1779)**

An Act amending the act of December 15, 1982 (P.L.1266, No.287), entitled "An act conferring limited residency status on military personnel, their dependents and civilian personnel assigned to an active duty station in Pennsylvania," further providing for residency of students.

**LEGISLATIVE LEAVES**

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, I request a temporary Capitol leave for Senator Baker.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Costa.

Senator COSTA. Mr. President, I request a legislative leave for Senator Brewster.

The PRESIDENT. Senator Corman requests a temporary Capitol leave for Senator Baker.

Senator Costa requests a legislative leave for Senator Brewster.

Without objection, the leaves will be granted.

**JOURNAL APPROVED**

The PRESIDENT. The Journal of the Session of September 25, 2019, is now in print.

The Clerk proceeded to read the Journal of the Session of September 25, 2019.

Senator CORMAN. Mr. President, I move that further reading of the Journal be dispensed with and that the Journal be approved.

On the question,  
Will the Senate agree to the motion?

The yeas and nays were required by Senator CORMAN and were as follows, viz:

YEA-49

Argall	DiSanto	Martin	Street
Aument	Farnese	Mastriano	Tartaglione
Baker	Fontana	Mensch	Tomlinson
Bartolotta	Gordner	Muth	Vogel
Blake	Haywood	Phillips-Hill	Ward, Judy
Boscola	Hughes	Pittman	Ward, Kim
Brewster	Hutchinson	Regan	Williams, Anthony H.
Brooks	Iovino	Sabatina	Williams, Lindsey
Browne	Kearney	Santarsiero	Yaw
Collett	Killion	Scarnati	Yudichak
Corman	Langerholc	Scavello	
Costa	Laughlin	Schwank	
Dinniman	Leach	Stefano	

NAY-0

A majority of the Senators having voted "aye," the question was determined in the affirmative.

The PRESIDENT. The Journal is approved.

**GUESTS OF SENATOR JOHN M. DISANTO PRESENTED TO THE SENATE**

The PRESIDENT. The Chair recognizes the gentleman from Dauphin, Senator DiSanto.

Senator DiSANTO. Mr. President, it is my honor to introduce representatives of Penn National Insurance, a business headquartered within my district that is celebrating its 100th anniversary this year. Established in Harrisburg in 1919, Penn National Insurance was founded by a trade association of farmers and threshermen seeking to provide affordably priced workers' compensation insurance to its members. The clientele soon expanded from a rural and agricultural market to coverage in the coal mining and logging industries, and the company began offering personal and commercial automobile insurance and homeowner's insurance. Today, Penn National Insurance ranks 97 of net premiums written out of approximately 1,000 U.S. property and casualty insurance groups.

From their humble beginnings, they now operate in 11 States and employ more than 830 people. Penn National Insurance focuses much of its philanthropy on Harrisburg, where they have given millions of dollars to support urban education initiatives. They also rank among the largest contributors to our local United Way, since they match their employee's donations dollar for dollar. Two of Penn National Insurance employees are joining us on the floor today: Karen Yarrish, senior vice president, secretary, and general counsel; and Lisa Katterman, senior corporate counsel and director of government relations and compliance.

Please join me in welcoming Penn National Insurance on their 100th anniversary.

The PRESIDENT. Would the guests of Senator DiSanto please rise to be welcomed by the Senate.

(Applause.)

**GUEST OF SENATOR CAMERA BARTOLOTTA PRESENTED TO THE SENATE**

The PRESIDENT. The Chair recognizes the gentlewoman from Washington, Senator Bartolotta.

Senator BARTOLOTTA. Mr. President, I extend a special thank you to Reverend Craig Kephart, who serves as executive presbyter at Washington Presbytery in Eighty Four, Pennsylvania, in the 46th Senatorial District, for serving as our guest Chaplain today and offering the opening, emotional, and very poignant prayer for us today in Session.

Please join me in giving Reverend Kephart a warm Senate welcome.

The PRESIDENT. Would the guest of Senator Bartolotta please rise to be welcomed by the Senate.

(Applause.)

**GUESTS OF SENATOR ARTHUR L. HAYWOOD PRESENTED TO THE SENATE**

The PRESIDENT. The Chair recognizes the gentleman from Montgomery, Senator Haywood.

Senator HAYWOOD. Mr. President, I rise today to introduce my second round of guests from my district office here to visit the Capitol and see how we conduct business in Harrisburg. I thank them for making the journey up and particularly for all the work that they have done for the constituents in my district and for those around the Commonwealth of Pennsylvania. I also thank them for their support of me this morning at the housing alliance awards ceremony along with Senator Vogel.

Today we have Dwight Pedro Lewis, Emily Pugliese, Erma Lloyd, and Mike Sokil. Dwight Pedro is a good friend of mine, chief of staff, and you may not know, he was outstanding Big Brother of the Year in Philadelphia. We are glad to have that kind of compassion and leadership in the office. Emily is also a district representative and brings a long expertise and experience in environmental issues and has been the lead on environmental issues in my office. Erma Lloyd, as you may know, was a former staff member of Senator Shirley Kitchen. I am so glad she could join our staff and provide that experience derived from those experiences. Lastly, Mike is a district representative and also provides experience and expertise on budget matters. He is my budget analyst, so he has some better position to make decisions on budget matters. I thank all of them for being here today. I

thank them again for their tremendous work, and I ask that we give them a warm Senate welcome for their service to the Commonwealth.

The PRESIDENT. Would the guests of Senator Haywood please rise to be welcomed by the Senate.

(Applause.)

## CALENDAR

### SECOND CONSIDERATION CALENDAR

#### BILLS OUT OF ORDER

Without objection, the following bills on today's Calendar were called out of order by Senator CORMAN, as Special Orders of Business.

#### BILLS ON SECOND CONSIDERATION AND REREFERRED

**HB 355 (Pr. No. 2110)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, in preliminary provisions, providing for advertising; and, in charter schools, further providing for definitions, for charter school requirements and for powers of board of trustees and providing for fund balance limits.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

Upon motion of Senator CORMAN, and agreed to by voice vote, the bill just considered was rereferred to the Committee on Appropriations.

**HB 1982 (Pr. No. 2895)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 71 (State Government) of the Pennsylvania Consolidated Statutes, in preliminary provisions, further providing for definitions; in membership, credited service, classes of service, and eligibility for benefits, further providing for credited State service; in contributions, further providing for shared-risk member contributions and shared-gain adjustments to regular member contributions, for contributions to the system by the Commonwealth and other employers and for actuarial cost method and providing for advance payment of accrued liability contributions; in administration, funds, accounts and general provisions, further providing for administrative duties of the board, for duties of heads of departments and for State accumulation account; providing for obligations of the board, for exercise of legislative power and for liability.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

Upon motion of Senator CORMAN, and agreed to by voice vote, the bill just considered was rereferred to the Committee on Appropriations.

## RECESS

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, I request a recess of the Senate for the purpose of a Republican caucus to be held immediately in the Majority Caucus Room.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Costa.

Senator COSTA. Mr. President, Senate Democrats will meet immediately in our caucus room in the rear of the Chamber.

The PRESIDENT. For purposes of Republican and Democratic caucuses, without objection, the Senate stands in recess.

## AFTER RECESS

The PRESIDENT. The time of recess having expired, the Senate will come to order.

## LEGISLATIVE LEAVE

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, I request a temporary Capitol leave for Senator Regan.

The PRESIDENT. Senator Corman requests a temporary Capitol leave for Senator Regan. Without objection, the leave will be granted.

## LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. Senator Brewster has returned, and his legislative leave is cancelled.

## SPECIAL ORDER OF BUSINESS ANNOUNCEMENT BY THE SECRETARY

The SECRETARY. Permission has been granted for the Committee on Appropriations to meet today off the floor to consider House Bill No. 355 and House Bill No. 1982 in the Rules room.

## RECESS

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, I request a recess of the Senate for the purpose of an off-the-floor meeting of the Committee on Appropriations to be held in the Rules room in the rear of the Chamber.

The PRESIDENT. For the purpose of an off-the-floor meeting of the Committee on Appropriations, without objection, the Senate stands in recess.

## AFTER RECESS

The PRESIDENT. The time of recess having expired, the Senate will come to order.

## LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. Senator Baker has returned, and her temporary Capitol leave is cancelled.

CONSIDERATION OF CALENDAR RESUMED

THIRD CONSIDERATION CALENDAR

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 60 (Pr. No. 1391) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in human trafficking, further providing for the offense of trafficking in individuals, for the offense of patronizing a victim of sexual servitude and for asset forfeiture; and, in depositions and witnesses, further providing for definitions.

Considered the third time and agreed to, And the amendments made thereto having been printed as required by the Constitution,

On the question, Shall the bill pass finally?

The PRESIDENT. The Chair recognizes the gentlewoman from York, Senator Phillips-Hill.

Senator PHILLIPS-HILL. Mr. President, I rise in support of Senate Bill No. 60, also known as the buyer beware act. This bipartisan and bicameral legislation would make Pennsylvania a leader in the fight to end human trafficking. Despite our best efforts, we have seen that human trafficking continues to be a problem affecting every corner of our Commonwealth. In order to effectively end the problem in Pennsylvania, we need to shut off the demand. Gone are the days where we would label victims of human trafficking as prostitutes. Gone are the days when we would label those who solicited the services of a victim of human trafficking as someone who simply was caught in the wrong place at the wrong time. No, today we are saying to the victims of human trafficking that we stand with you and want to fight to end this egregious industry in Pennsylvania.

Senate Bill No. 60 will increase penalties on those criminals who recruit, entice, solicit, advertise, harbor, transport, provide, obtain, or maintain a trafficked victim. If that victim is used for sexual servitude, the penalty for that criminal is a first-degree felony. If that victim is used for labor servitude, the penalty for that criminal is a second-degree felony. We will also increase the penalty to a super felony if the victim is a minor. Mr. President, the key component of this legislation is that it will increase the penalties on those who patronize these victims of human trafficking from \$500 to at least \$1,000 for the first offense, over \$5,000 for a second offense, and any additional offenses will result in a fine of at least \$10,000. If that victim is a minor, the fine will be no less than \$10,000 for a first offense.

Mr. President, representing a district along Interstate 83, we know that the victims are trafficked through our State each and every day. As William Wilberforce, who fought slavery in the 19th century said, "You may choose to look the other way but you can never say again that you did not know." Today, I thank my colleagues and the 25 cosponsors of this legislation for standing up for victims of human trafficking. I also thank my good friend, York County District Attorney Dave Sunday, for all of his

expertise, as well as the many advocates all across the State who worked with us on this legislation. As I said earlier, this has been a bicameral effort, and I would be remiss if I did not thank my friend and former colleague, the good Representative from Dover, for partnering with me on this much needed reform. Today, we are saying enough is enough. Today, we are showing the nation that Pennsylvania can be a leader in the fight to end human trafficking.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Chester, Senator Dinniman.

Senator DINNIMAN. Mr. President, not only do I rise to support this bill, but we should note the good work that former Senator Greenleaf did on this bill. He was the leader in this effort for over a decade, and many of us had an opportunity to work with him on some of the earliest legislation that was passed here in the Senate. We had a little difficulty sometimes with the House, but thanks to our good Leadership we got the House to agree with us on several bills.

Every time we make an advancement in human trafficking, we are not only doing a good thing but we need to recognize those early leaders here in Harrisburg. I and others joined with Senator Greenleaf. He was our leader. He was our mentor. He was the person who brought this issue to everyone's attention, and I just want to make sure that we pay tribute to his work. Further, let me say I was happy to hear the sponsor of this bill--and we thank her for sponsoring it--mention the advocates. There are indeed thousands of advocates across Pennsylvania who have formed groups in local communities, who have formed groups in their churches, and in their professions to try to stop this abomination of human trafficking.

Many of those trafficked are really our own children between the ages of 12, as young as that, and 21. In fact, when a youngster runs away, in two-thirds of the cases, he will be contacted on the street by a pimp or someone else who is involved in the use of human trafficking in terms of sexual exploitation. Also, let us remember that human trafficking sometimes involves jobs. It involves people who are not being paid for their work. So we are making advancements. We need to continue making advancements on this bill. As we all, hopefully, unanimously pass it, we are sending a message that human trafficking will not be tolerated in Pennsylvania. Let us hope we can also start to advance our work in terms of labor trafficking which is also taking place in the Commonwealth.

Thank you, Mr. President.

And the question recurring, Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEA-49

Argall	DiSanto	Martin	Street
Aument	Farnese	Mastriano	Tartaglione
Baker	Fontana	Mensch	Tomlinson
Bartolotta	Gordner	Muth	Vogel
Blake	Haywood	Phillips-Hill	Ward, Judy
Boscola	Hughes	Pittman	Ward, Kim
Brewster	Hutchinson	Regan	Williams, Anthony H.
Brooks	Iovino	Sabatina	Williams, Lindsey

Browne	Kearney	Santarsiero	Yaw
Collett	Killion	Scarnati	Yudichak
Corman	Langerhole	Scavello	
Costa	Laughlin	Schwank	
Dinniman	Leach	Stefano	

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

BILL OVER IN ORDER TEMPORARILY

**SB 79** -- Without objection, the bill was passed over in its order temporarily at the request of Senator CORMAN.

BILLS OVER IN ORDER

**SB 94, HB 97 and SB 174** -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

**HB 227 (Pr. No. 2925)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, in nomination of candidates, further providing for number of signers required for nomination petitions of candidates at primaries; in ballots, further providing for form of ballots, printing ballots, stubs and numbers, for number of ballots to be printed and specimen ballots and for record of ballots to be kept; in electronic voting systems, further providing for forms, for supplies, preparation of the voting system and of polling places, for election day procedures and the process of voting and for post election procedures; in preparation for and conduct of primaries and elections, further providing for voter's certificates, for manner of applying to vote, persons entitled to vote, voter's certificates, entries to be made in district register, numbered lists of voters and challenges, for admission of electors within enclosed space, for ballots to be issued by election officers only, ballots not to be removed and official ballots only to be deposited or counted and for duties of election officers after the close of the polls in districts in which ballots are used; in voting by qualified absentee electors, further providing for official absentee voters ballots; in voting by qualified mail-in electors, further providing for official mail-in elector ballots; and, in returns of primaries and elections, further providing for computation of returns by county board, certification and issuance of certificates of election.

Considered the third time and agreed to,

And the amendments made thereto having been printed as required by the Constitution,

On the question,  
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEA-49

Argall	DiSanto	Martin	Street
Aument	Farnese	Mastriano	Tartaglione
Baker	Fontana	Mensch	Tomlinson

Bartolotta	Gordner	Muth	Vogel
Blake	Haywood	Phillips-Hill	Ward, Judy
Boscola	Hughes	Pittman	Ward, Kim
Brewster	Hutchinson	Regan	Williams, Anthony H.
Brooks	Iovino	Sabatina	Williams, Lindsey
Browne	Kearney	Santarsiero	Yaw
Collett	Killion	Scarnati	Yudichak
Corman	Langerhole	Scavello	
Costa	Laughlin	Schwank	
Dinniman	Leach	Stefano	

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate return said bill to the House of Representatives with information that the Senate has passed the same with amendments in which concurrence of the House is requested.

BILL OVER IN ORDER

**HB 305** -- Without objection, the bill was passed over in its order at the request of Senator CORMAN.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

**HB 321 (Pr. No. 1404)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in abortion, further providing for definitions and for medical consultation and judgment.

Considered the third time and agreed to,

On the question,  
Shall the bill pass finally?

The PRESIDENT. The Chair recognizes the gentleman from Montgomery, Senator Haywood.

Senator HAYWOOD. Mr. President, I rise to encourage my colleagues to vote against this legislation. There are a number of reasons to do so, and I will lay out many of them. First, as I shared at the committee level and previously, this is a piece of legislation where the legislature's best role is to stay away. The legislature's best role is to stay away from the decisions that a woman makes about termination of a pregnancy. Stay away from the decisions that a family makes. Stay away from the decisions that should be made by a conversation between a woman, the family, and the physician. Now, staying away for some of us, I think, is apparently very challenging. We have come up with what I have called a triage of reasons that we seek to impose on women before they make a decision.

It is a difficult decision for the woman, for the family, but it is her decision. That it is her decision has already been determined by the United States Supreme Court and Federal courts throughout this land. This is further a decision that we are making without any hearings or testimony. It is a decision that we are making without the advice of doctors, of whom I have a long list who oppose this legislation. It is not just a place where we

should stay away, particularly when we have had no hearings, when doctors, one after another, oppose it. This is a decision where we are asking our law enforcement to do an impossible job. How is it that law enforcement will be in a position to determine when a termination decision has been made for the proposed reasons? Will the law enforcement now be in the physicians' offices? Will physicians now be required to be informants against their patients? This law is as unenforceable as any that I can imagine.

Now, we heard, we had some tremendous examples of individuals, of parents who made the decision to have a child with Down syndrome, and we had many, many examples of spectacular, spectacular lives of these individuals and the parents. There is no reason we need to change that. Those spectacular life experiences came from what? A choice. A choice that those families made. There is no reason for us to change those choices and have the same outcomes of spectacular families overcoming the odds. I discourage us from taking the path of litigation. We know that is the path that we are choosing, given the litigation in the other States that have followed this same path, and use the resources that now will end up in litigation for programs that can actually help those who have disabilities in this Commonwealth. That is the choice we should make. We can do so by first taking the position today against this proposed legislation.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentlewoman from York, Senator Phillips-Hill.

Senator PHILLIPS-HILL. Mr. President, I rise today in support of House Bill No. 321, legislation sponsored by my dear friend from Hanover. House Bill No. 321 is a commonsense piece of legislation that protects the most fundamental right that we all share, and that is the right to be born. I doubt that it was planned, but it is also very fitting that we are considering this bill today on a very special day, National Child Day. You see, I believe that every single child should have the right to live a full and productive life, no matter what their circumstance might be.

This piece of legislation would simply add to the already existing statute and prohibit a child from being aborted just because they have the diagnosis of Down syndrome. Under current law, a woman can obtain an abortion prior to 24 weeks for any reason except if the woman's sole reason is to select the sex of the child. This bill would add Down syndrome to that list. By voting in support of this bill, we are saying one very simple thing to every child with a Down syndrome diagnosis, and that is, we believe you have the right to be born and the right to enjoy a full and productive life. We are affirming as a body today that every individual who is living with Down syndrome has the support they need to live their life to the fullest and that they are equal with every other member in society.

Mr. President, I am the proud aunt of an amazing and strong young lady who is living an incredible life with mosaic Down syndrome. Her fighting spirit, her compassion for empowering others, is an inspiration to all of us. So, today, I ask my colleagues to please join me and vote in support of House Bill No. 321 to send a loud and clear message that in Pennsylvania, a life with Down syndrome is a life worth living. And those are lives that we are all fighting for.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentlewoman from Montgomery, Senator Collett.

Senator COLLETT. Mr. President, I rise today to offer comments to House Bill No. 321. As we talk about the sanctity of life in general, and the sanctity of the lives of people with disabilities in particular, I encourage our legislature to focus our limited resources and attention on addressing the very real and growing issues facing individuals with disabilities and those who care for them. House Bill No. 321 does nothing to improve the lives of people with Down syndrome; instead, it uses them to advance a political agenda.

As a lawyer for children victimized by abuse and neglect and a nurse who has worked closely with vulnerable populations of children and adults, I remind my colleagues of our constitutional and moral duty to protect and defend the rights of those we serve. To me, this means tackling the real-world problems affecting the people living in the communities we represent. I have heard from many constituents and community leaders about what they would like us to address. Dear Senator Collett, my husband and I are in our 80s and would like to move into an assisted living facility, but we are worried about what will happen to our son. He has been on the waiting list for a housing waiver for nearly 2 years. Dear Senator Collett, my daughter with Down syndrome has worked at a job she loves for nearly 30 years. She has friends there, she has pride in making her own money. She thrives with her set routine, but funding cuts may force her employer to end this program. I do not know what we will do. Dear Senator Collett, I teach high school students with disabilities. We teach life and career skills. Most of our students are capable of holding jobs in our community, but the opportunities are not there. How do we encourage local businesses to work with us and our students?

These are just some of the problems my constituents are talking about - access to affordable quality healthcare, educational opportunities, career development and life skills training, expanding residential and community-based services, and supporting caregivers and paying them a living wage. It is often said that you can tell a lot about a society's values by the laws it does and does not pass. I plan to vote "no" on House Bill No. 321, and I encourage my colleagues to do the same, and to join me instead on focusing on legislation aimed at protecting people, not dogma. Thank you.

The PRESIDENT. The Chair recognizes the gentleman from Franklin, Senator Mastriano.

Senator MASTRIANO. Mr. President, I rise in support of House Bill No. 321. This important piece of legislation before the Senate reminds us that every human life has dignity and worth, even those with Down syndrome. Today we have an opportunity to stand with these perfectly imperfect individuals and support the lives of unborn babies with Down syndrome. The legislation is very close to my heart, as I have a 36-year-old niece with Down's. Allison's parents chose life. Unfortunately, her case is rare, as research shows that more than two-thirds of fetuses prenatally diagnosed with Down syndrome are aborted in the United States.

As lawmakers, we have a responsibility to stand up for the voiceless. I am thankful for Representative Klunk for standing for the social justice and life of those most vulnerable in our society. This debate is not about abortion, it is about eliminating an entire class of people because they possess a trait that some find undesirable. A baby should not be denied a chance to live simply because they face a prenatal diagnosis of possibly having

Down syndrome. Let us fight the good fight for freedom and life for these babies and show them that we care.

Many children born with Down syndrome lead full and productive lives. In fact, according to the Centers for Disease Control and Prevention, 93 percent of the babies born with Down syndrome live to see their first birthday, and 88 percent live to their 20s. Additionally, the life expectancy for somebody with Down syndrome has gone from 10 years old in the 1960s to 60 years old today. Most of us know someone with Down syndrome. Can you imagine a world without them, without their smile, without their laughter, and without their determination?

No one with Down's should be denied the gift of life. As lawmakers, we have a great responsibility to protect these individuals with Down syndrome, and they deserve our protection. They should be embraced, not erased. Mr. President, today is our opportunity to fight for the babies with Down syndrome. It is never too late to choose life. Let us give life a chance. Thank you.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Farnese.

Senator FARNESE. Mr. President, here we are again, forced again to rise in opposition to another attack upon a woman's right to choose. You could say a lot of things about this building and say a lot of things about this Chamber, but the one thing we can agree on is that with each and every legislative Session, at least since I have been here, the one thing we are sure about, this Majority is going to attack a woman's right to choose, period. And here we are again. The bill simply takes away the autonomy granted to a woman by the United States Supreme Court, period.

Mr. President, I understand that concept, for some, is difficult to wrap their mind around. The United States Supreme Court said that a woman's right to choose is her absolute right to choose. It does not matter how many times we attack it in this building. It does not matter how many times we go after a woman's right to healthcare in this building, because the Supreme Court says you are wrong. Even more than that, as a previous speaker said, the bill is an affront to the health and safety of women across the Commonwealth of Pennsylvania. You see, Mr. President, abortion, and this is a part that a lot of folks who bring these bills just do not simply want to understand, is that abortion is part of a woman's healthcare, and restricting access to same cuts against a constitutionally granted right.

Last Session, Governor Wolf vetoed a bill that would have made aborting a pregnancy due to Down syndrome diagnosis illegal. What do we do? Back again, again, and again, and again, and again. Restricting women's access to an abortion for any reason, Mr. President, is wrong. House Bill No. 321 is wrong. The bill attempts to insert the government into a medical decision that is best made by a woman, her family, and her doctor. This bill is similar, as I said before, to Sessions with legislation that has been introduced by the other side. It is similar to an abortion limitation that, ironically, was struck down by a Federal court in Indiana.

Putting aside the constitutional considerations, and being morally reprehensible, the bill, and this point was very well made by my colleague, Senator Collett, a nurse, an attorney, who told us that this bill does not have a single disability rights group supporting it. Let us say that again. Not a single disability rights group is supporting this bill. Families with children with Down syndrome are actually, Mr. President, speaking out against it.

The bill has the opposition of every major organization for women's rights and civil liberties.

Additionally, Mr. President, in public opinion polls, Pennsylvanians overwhelmingly support abortion rights. They support a woman's right to choose. They trust women to make their own medical decisions. Yes, Mr. President, I trust them, too. So let us stop attacking women. Instead, as previous speakers have said, let us start working together to create a culture in our State where women are respected, where women are trusted to make their own decision, and where no one is attempting to take away the autonomy of a woman having rights over their own bodies for medical decisions, and yes, Mr. President, their own choices. There are so many things that we could be doing in this body. There are so many issues that today, as we prepare to leave over the next several days, in turn, come to a close of this part of Session, there are so many things, so many issues that Pennsylvanians around the State are crying out for, yet we waste time on stuff like this. It has no place, Mr. President, in this building, and it has no place in law. Thank you.

The PRESIDENT. The Chair recognizes the gentleman from Lancaster, Senator Martin.

Senator MARTIN. Mr. President, I rise today in support of House Bill No. 321. The news of efforts to eradicate Down syndrome have made world news over the course of the last 2 years, most notably a country who wanted to actually exclaim that they had eradicated Down syndrome at 100 percent. They did not cure Down syndrome, they eliminated people. Worldwide, 90 percent of children who are diagnosed in the womb are targeted for abortion. In the United States, 67 percent of the children are aborted once they come up with the diagnosis in the womb. This is eugenics. This is not healthcare. These are parents who actually want to have children, who are presented as if this child will be a burden, who cannot live a productive life. Time and time again, over the last 2 years, we have had advocates showing children who are able to go to college, marry, get jobs, swim the English Channel, climb mountains, things that many of us will never do, but when a family wants to have a child and that diagnosis comes back, all too often, including families in my own district, the first thing that is spoken to them from their doctor is, I can abort that painlessly. Why? Because they have an undesirable trait? These children have the ability to live long productive lives, even past the age of 60.

Mr. President, in current law in Pennsylvania, you cannot have an abortion based solely on gender. I personally have not found too many people who say that is incorrect. What is being placed in, via this bill, are the same provisions that have been in law for 30 years regarding gender selection and abortion. I ask everyone here, we all know that scientific testing is always advancing our ability to predict cancer genes and other things. What will be next? What is the next undesirable trait that we will want to have tested for? A predisposition for pediatric cancer? A predisposition for addiction? Male pattern baldness? Where will it end? Is that the type of society that we are going to live in that we are only going to allow children to live who have perceived desirable traits? That is not the kind of society I want to live in.

Disability rights begin in the womb. A Down syndrome life is a life worth living, and those families who fully intend on wanting to have a child should be presented with the opportunities and supports that our society, our government, and so many



wonderful programs offer. The initial response should not be, I can abort that child painlessly. I please ask my colleagues to support House Bill No. 321.

The PRESIDENT. The Chair recognizes the gentleman from Montgomery, Senator Leach.

Senator LEACH. Mr. President, originally I thought that I would interrogate and ask a couple of questions, but I understand that this is a House bill and there is no one appropriate to answer the questions, so I will talk about the questions I was going to raise and try to make the points that I was hoping to make. The first one of which is that there is not even the most remote scrutiny that this bill withstands when you actually look at how it would work in real life. Let us look at the issue of enforcement. This bans abortions solely on the basis of a diagnosis of Down syndrome, but how do we know that there is a diagnosis of Down syndrome? Does an abortion provider, are they required to ask a woman why are you getting an abortion today? Are they allowed to ask a woman why are you getting an abortion today? Is that woman required to answer that question? Suppose the woman says I am getting an abortion because I cannot afford the child or I am getting an abortion because I have some family situation, do we accept that at face value or do we do some sort of investigation into what really is the reason that she is getting an abortion?

Suppose we even know that there was a diagnosis of Down syndrome involving the fetus, but the woman says that is true, but that is not why I am here today, I am here for a totally unrelated reason. Does the doctor believe or disbelieve the woman? Does the doctor have that obligation? Do different doctors come to different conclusions with the same set of facts? Can a woman predict what happens in such a situation? Does it encourage provider shopping, where women have to go from facility to facility until they find someone who believes them when they say that they are getting an abortion for a legal reason? This does not make any sense.

How does this comport with HIPAA? If I have a woman with a diagnosis of Down syndrome from one doctor and she goes to an abortion provider somewhere else, is that first doctor required to, or even allowed to, disclose that diagnosis? How are any of these things going to be enforced? How are any of these going to be worked out?

Then there is the question of, and I believe the previous gentleman who spoke raised this issue, well, you know, there are other issues, there are other diseases. Are we going to ban abortions based on just Down syndrome? Are there other diseases, autism, Tay-Sachs disease, there are a thousand things I can think of. It is a nice rhetorical device to talk about a child with a sparkle in his eyes or whatever, but does an autistic child have that? Does a child with familial dysautonomia have the right sparkle in their eye? What is the limiting principle here that allows us to choose this disease, out of all of the diseases, to change the constitutional rights of women? That has not been made clear to me. What about an encephalitic baby who literally may have no cerebrum at all? You know, can we ban abortions for those people? These are unanswered questions that I think, at the very least, should be answered before we pass legislation like this.

Also, Down syndrome typically, as I understand it, can be diagnosed in the first trimester, when protection for a woman's right to choose is at its greatest. So even in the very beginning of

pregnancy, we can stop a woman from exercising her reproductive freedom solely because of a diagnosis of Down syndrome disease. Which is also, I think, very problematic.

Now, this bill was passed in a couple of other States. It was challenged constitutionally in Ohio and Indiana, and it was struck down in both of those States. I am unaware of a court decision that has upheld that law. In the meantime, there are no additional services or funding streams provided for people who are now going to be forced to care for a Down syndrome baby. Good luck to you, you are on your own. In fact, we often cut those programs here, but we are going to require them to have the child anyway because we know better than them what they can handle, what their life is like, their situation, and we are prepared to impose our views on them.

This is beyond the normal level of intrusiveness because it is not just a ban on abortion, which is intrusive enough. This is we are going to ban abortion in certain circumstances and we are going to find out a lot about you and a lot about your life and a lot about your history and we are going to decide whether you are telling us the truth or not telling us the truth or whether you do not deserve to have reproductive freedom or whether you do not. That seems to me, in some ways, to be more intrusive than a total ban. Some stranger is going to evaluate you and decide if your reasoning and your explanations are good enough for them to have an abortion.

We sometimes talk about constitutional rights in other contexts and people say things like a constitutional right is a constitutional right. That shall not be questioned. That shall not be interfered with. For example, in the context of guns. Can you imagine a bill that would say, well, before you get a gun we are going to ask you what are you going to do with it? Where you are going to keep it? How often are you going to use it? All of that. If your answers are satisfactory to us, then you can get a gun. My guess is that there would be a lot of opposition in this Chamber to a bill like that. Abortion and guns are both constitutional rights. There is no mini-constitutional rights or constitutional rights lite. They are both constitutional rights which either we respect or we do not. If people believe that children with Down syndrome are a blessing, and I have no argument with that, then have such a child, if it is presented to you in that situation. If you believe other people should think that, persuade them. But do not use the law to criminalize people who are in this extremely difficult circumstance.

I would say, finally, someone asked over on the other side of the aisle what type of society do we want? We want a society, I think, where we do not cross-examine our wives, our sisters, our friends, we do not cross-examine women about their personal reproductive choices, but a society where, in a free society and an equal society, we respect those decisions knowing that the person involved in the situation is the person who knows best what is appropriate and what is the appropriate course of conduct in that situation.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Street.

Senator STREET. Mr. President, each and every day each of us makes a set of choices. We chose to run for office, we choose to serve. We choose whether or not we are going to take our children to a baseball game or whether we are going to let them play football. We choose what we are going to eat. Life is a fun-

damental set of choices, some of which, like our faith, are protected choices. One of those choices for women is whether they wish to bring life into the world, whether they wish to have their bodies encumbered for a number of months, endure all the risks, and then give birth to a child. That decision is an intensely personal decision. It is a decision that a woman makes consulting with her doctor and whomever else in her life she deems to be important to her in making that decision. She may consult a pastor, she may consult some other form of faith leader, but she makes it herself. Once a person has made that choice to bring a life into the world, you understand that it is a commitment. It is a commitment that lasts decades, and sometimes even after children are grown, as many of us know, they still need us, but it is a choice that we willingly go into.

It is unconscionable that we stand here today deciding that the government should scrutinize those choices that women make. Deciding that the State, the Members of the General Assembly, and not an individual woman and her doctor will decide whether to move forward with her being a mother. If she should decide that she does not want to move forward, it is not the right time, we are going to decide and empower government officials to scrutinize that decision and ask a series of questions, which if she gets wrong, we will jail her and subject her to criminal sanctions. It is unconscionable that we wish to empower the government to intrude upon these most personal medical decisions of a woman. It is wrong. These are decisions that each and every woman has to make individually. These are decisions, Mr. President, that she should make with her family, friends, and most importantly, her doctor. These are decisions about her life. No one is compelled to terminate any pregnancies. It is always a choice.

No one who opposes this legislation is talking about removing or compelling anyone to not move forward with the life of a child. I applaud any parent who is raising a child with Down syndrome. There is beauty in all life. However, the choice as to what a woman does with her own life, the choice as to how she wants to move forward with her medical decisions, are choices that should remain with that woman. As it has already been alluded to today, there are many here that, if we adopt this provision, will not stop at Down syndrome. They will then scrutinize what other conditions they have. At some point, will we be causing women to not even want to know, to not have tests to know what is going on with their medical condition, and not know what is going on with the fetus inside of them because if they know, the knowledge in and of itself could increasingly restrict their choice, a woman's choice, increasingly limit her options. What kind of a world do we want to have where women are compelled to move forward and restrict her from having an abortion, restrict her from having one legally in a safe manner? Do we wish to return to the days where people had to seek this kind of medical procedure in back alleys? Do we want women's lives to be at risk? Do we want to remove the ability of a woman to have an honest and open conversation with her doctor and to make a choice about what she is going to do with her own life, with her own body?

Mr. President, I urge that we respect a woman's right to choose, we respect the right of her to make her own health decisions, and we reject this government intrusion into the life and the most personal decisions that a woman will ever have to make. I urge a "no" vote.

The PRESIDENT. The Chair recognizes the gentlewoman from Blair, Senator Judy Ward.

Senator J. WARD. Mr. President, I, too, am a nurse, and I rise in great support of House Bill No. 321. I start out by clarifying a previous speaker. North Dakota's statute was originally challenged at the district court level, but the abortion providers requested that their objections to the Down syndrome ban be dismissed. As a result, for over 6 years, North Dakota has prohibited such abortions for unborn children with a diagnosis of Down syndrome without further challenge. Most recently, this summer, a Federal judge in Missouri allowed a statute to go into effect that would prohibit abortions where the unborn child had a prenatal diagnosis, test, or screening indicating Down syndrome or the potential of Down syndrome. I also want to clarify that this legislation does not change the law in regards to the health and the well-being of the mother.

I, too, believe that it is unconscionable that we are discussing this today because I believe that every child deserves and has the right to life. The children with Down syndrome are no exception. As a previous speaker mentioned, at the turn of the 20th century, a baby diagnosed with Down syndrome was not expected to live past their 10th birthday. In 2019, the life expectancy for an individual with Down syndrome has been extended to age 60 and beyond. Many individuals with Down syndrome lead productive lives. They get an education and hold down a job. They are thriving and loving individuals who should never be deemed undesirable or unwanted.

I had a family member with Down syndrome named Christian. Christian was the bright spot in our family. He rode the subway to work at his job at the United States Capitol in the mail room. He was an absolute delight to all who knew him. Last week, I had the opportunity to meet Jon and Jeanette. They had worked with a woman to have a private adoption. When the mother delivered the baby, it was discovered that their daughter had Down syndrome. They were told they could choose not to adopt Sophie, but they stated this was their daughter and they were excited to bring her home. They told me they cannot imagine their life without Sophie. I would also like to share some comments that parents and grandparents have shared with me about their children and grandchildren with Down syndrome. One mother said, our daughter Reina has made us a better family. Her positive attitude, determination, and unconditional love teaches us all to have a better outlook on life when faced with challenges. McKenna's grandparents said that McKenna has taught us a level of love that is incomprehensible. It is unconditional love. Her love is different than any other grandchild. It has brought our family so much closer together. I had a letter from one mother who wrote me saying, some argue that efforts should be focused on the need for increased disability services. The way to solve that need is not for people with Down syndrome not to be born at all. In fact, a true disability advocate would support the protection of those with disabilities starting at the diagnosis of that disability. I ask for an affirmative vote.

Thank you, Mr. President.

The PRESIDENT. Without objection, the Chair recognizes the gentleman from Montgomery, Senator Haywood, for the second time.

Senator HAYWOOD. Mr. President, I submit remarks for the record.

The PRESIDENT. Without objection, the remarks will be spread upon the record.

(The following prepared remarks were made part of the record at the request of the gentleman from Montgomery, Senator HAYWOOD:)

Mr. President, I rise to oppose House Bill No. 321, the banning of an abortion of a fetus with Down syndrome. While I am glad to speak out against this issue, I wish I did not have to at all. First and foremost, the State legislature has no place interfering in a woman's reproductive health. The State legislature has no place in a woman's OB/GYN office. The decision to terminate a pregnancy is already an extremely difficult choice--but it is a right. It is the woman's right guaranteed by the Federal Constitution under the fundamental right to privacy. That choice should be made between a woman and her doctor. The reasons for termination, whatever they may be, must be patient-centered. The government should not impose a triage of reasons to interfere with such a personal choice in these difficult circumstances.

Numerous courts have decided legislation like this is unconstitutional, including *Planned Parenthood of Indiana and Kentucky, Inc. v. Commissioner of the Indiana State Department of Health*, where the Seventh Circuit Court invalidated Indiana's law that would ban the abortion of a fetus because of a diagnosis of Down syndrome. According to the court, neither the Fourteenth Amendment nor Supreme Court precedent allow a State to invade this privacy realm to examine the underlying basis for a woman's decision to terminate her pregnancy prior to viability. And, in Ohio, a law prohibiting a fetus from being aborted due to Down syndrome was enjoined by the Sixth U.S. Circuit Court of Appeals in *Pre-Term Cleveland v. Lance Himes*. The court said the law violates every woman in the State's right to privacy and is unconstitutional on its face. Further, the court found the argument that the law prevents discrimination against persons with Down syndrome and protects them "simply rephrase[s] the State's interest in potential life, which the Supreme Court has already held [is] not...compelling" pre-viability.

There are so many things the Commonwealth can do to enhance the lives of those with Down syndrome and other disabilities--taking away a woman's right to choose what happens to her body is not a part of that. The State could not infringe upon this right; even if this bill is enacted, it cannot be enforced. If a woman receives a prenatal test that diagnoses her fetus with Down syndrome and the woman asks her doctor to terminate the pregnancy, the State will have no way of knowing the reason for the abortion. If a woman's doctor asks why she is seeking an abortion, neither the doctor, nor the State, will know if she is telling the truth, nor will they be able to prove otherwise. If a doctor performs an abortion with full knowledge that it is because of a diagnosis of Down syndrome, the State will not be aware of the reason the abortion is performed, unless the doctor or patient report themselves to the State. Furthermore, we have had no hearings to get information that states this legislation would benefit the women affected. Doctors would be wrongfully prosecuted for being involved in a decision that is between them and their patient. This is wrong.

Under this bill, if a doctor performed an abortion that was sought because the fetus would likely be born with Down syndrome, the doctor would be considered guilty of "unprofessional conduct" and his license for the practice of medicine and surgery would be subject to suspension and revocation. This Pennsylvania bill to take away the right to choose is just as unconstitutional as similar laws across the nation. Ten organizations across the State have expressed opposition to this bill. When this bill was considered in the previous Session, three additional organizations and 85 medical professionals voiced their opposition to this legislation that injects the State into a very personal, private matter for a woman. To date, of the five States that have enacted reason-based bans on abortion, the laws have been struck down in two of those States.

For those reasons and more, I vote "no" to this legislation and will continue to vote "no" on any legislation that interferes with a woman's right to choose.

Thank you, Mr. President.

And the question recurring,  
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEA-27

Argall	DiSanto	Mensch	Tomlinson
Aument	Gordner	Phillips-Hill	Vogel
Bartolotta	Hutchinson	Pittman	Ward, Judy
Brewster	Killion	Regan	Ward, Kim
Brooks	Langerholz	Scarnati	Yaw
Browne	Martin	Scavello	Yudichak
Corman	Mastriano	Stefano	

NAY-22

Baker	Farnese	Laughlin	Street
Blake	Fontana	Leach	Tartaglione
Boscola	Haywood	Muth	Williams, Anthony H.
Collett	Hughes	Sabatina	Williams, Lindsey
Costa	Iovino	Santarsiero	
Dinniman	Kearney	Schwank	

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate return said bill to the House of Representatives with information that the Senate has passed the same without amendments.

SB 79 CALLED UP

SB 79 (Pr. No. 1389) -- Without objection, the bill, which previously went over in its order temporarily, was called up, from page 1 of the Third Consideration Calendar, by Senator CORMAN.

BILL ON THIRD CONSIDERATION  
AND FINAL PASSAGE

SB 79 (Pr. No. 1389) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of January 17, 1968 (P.L.11, No.5), known as The Minimum Wage Act of 1968, further providing for definitions; providing for Federal compliance; and further providing for minimum wages and for exemptions.

Considered the third time and agreed to,  
And the amendments made thereto having been printed as required by the Constitution,

On the question,  
Shall the bill pass finally?

The PRESIDENT. The Chair recognizes the gentlewoman from Philadelphia, Senator Tartaglione.

Senator TARTAGLIONE. Mr. President, as you know, the General Assembly has not raised Pennsylvania's minimum wage in over 13 years, so any increase is a step in the right direction. That is why I rise in support of Senate Bill No. 79. As I speak, there are 1.6 million Pennsylvanians living in poverty, and 3.5 million Pennsylvanians living in near poverty. We also know that unemployment is at an historic low. Senate Bill No. 79 will help Pennsylvania's working poor, yet, as we look to the future, much, much, much more must be done. I say this because a \$9.50 an

hour full-time, full-year worker will earn less than \$20,000 a year. I say this because of what our closest neighbors are doing to raise the minimum wage. Maryland, New Jersey, and New York have already adopted legislation that will take the minimum wage to \$15 an hour. New Jersey, New York, and Ohio have adopted automatic adjustments in the minimum wage so that when inflation goes up, the minimum wage goes up accordingly. That minimum wage worker in those States will continue to get raises long after Pennsylvania flatlines at \$9.50.

Postponing the overtime regulations is disappointing to those workers who would have become eligible for overtime pay under an increase to the threshold subsequent to the Federal increase that will take place in January. That said, I think it is important that we can do everything we can right now to help low-wage workers to put food on their tables, put roofs over their heads, and to educate their children. Mr. President, we have much, much further to go. A \$2.25 raise is better than no raise at all.

I thank Senator Corman, Senator Costa, Senator Haywood, Senator Bartolotta, Senator Baker, and the Governor and his team for working with me to take this important step in the right direction. Mr. President, I hope it does not take another 13 years in order for us to catch up with the rest of the States.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentlewoman from Allegheny, Senator Lindsey Williams.

Senator L. WILLIAMS. Mr. President, I support a \$15 minimum wage and strong union rights. This bill, while a small step in the right direction, is far from where we should be. People are going to have to wait until January 2022 to make \$9.50, which is still way lower than most of the States around us. This bill does not tie this increase to inflation, it fails to remove preemption so that our local municipalities who want to pass a higher minimum wage can do so, and it does not address tipped minimum wage.

I will vote for this bill today because I cannot turn down even a small raise for people, but I am not happy and I will continue to fight for more. Thank you.

The PRESIDENT. The Chair recognizes the gentleman from Montgomery, Senator Leach.

Senator LEACH. Mr. President, I want to talk about a specific part of this bill that I feel falls short. That is the part, I believe it was alluded to previously, the tipped minimum wage. The national tipped minimum wage, for those who do not know, is a subminimum wage for people who theoretically get tips as part of their regular course of employment. The national tipped minimum wage is \$2.13 an hour. It has not gone up in almost three decades. Pennsylvania's \$2.83 an hour has not gone up since 1998. This is obviously not a livable wage and it is simply human exploitation. Keep in mind, tipping is not required. No customer has to give you a tip. Now, if you, let us say, work at a restaurant and you work at the Four Seasons or you work at a fine dining establishment and the check is very high, you will probably make a very good living off of your tips. But if you work at an IHOP in a poor neighborhood where people themselves are struggling, well, then often you do not get tipped at all. We should not outsource the obligation to pay our workers to strangers who have no obligation and are not required to pay.

Now, the employer is supposed to make up the difference. So if someone makes less than \$7.25 an hour under current law, the employer is supposed to make up the difference between \$2.83

and \$7.25. But often they do not. Keep in mind, this is a cash business. The Department of Labor's Wage and Hour Division did a survey, and they found that between 2010 and 2012, the most recent years they did the survey, that 84 percent of full-service restaurants had wage payment violations, including failure to make up the difference. Now, employees are often fearful about getting their hours cut retaliatorily or being fired if they report that they are not getting the wages they are supposed to get.

You can read, I have read a lot of real stories and met with people who have real stories about how difficult this is. One woman said, let us say the whole night is one big party and that party does not tip you, for some reason. You are going home with nothing. Also, employers can pay employees tipped minimum wage, the \$2.83 an hour, for nontipped work like folding napkins or polishing glasses. There are no tips there, that is just straight \$2.83 an hour, which is, again, human exploitation.

According to the Economic Policy Institute, tipped workers have twice the level of poverty as nontipped workers in the private sector. These underpaid workers are a growing segment of our workforce. Since 1990, the number of tipped workers has gone up 85 percent, where the number of workers generally in the private sector has gone up 24 percent. We are becoming a more service-oriented society.

Another really troubling part of all this is that there is a real, unfortunate, and tragic racial history to all of this. Research shows that tipping itself, the concept of tipping, has a racial component. Customers generally across, no matter what kind of restaurant it is or what kind of service it is, they tip white workers more than they tip black workers. They tip men workers more than they tip women. Women receive about 79 percent of what their male counterparts earn, while black women servers receive about 60 percent. Now, since this is supposed to be the main basis of their pay, this is built-in racial and gender discrimination that we are saying is fine. The whole concept of tipping, keep in mind, deepens inequality and is actually a relic of slavery. Tipping first came to be when former slave owners did not want to pay their former slaves to do work. So, essentially, they said, well look, if you can get something from the customer, that is fine, but I am not paying you. Pullman porters were a great example. It is demeaning to have the worker have to please both the employer and the customer to get paid at all.

In 1916 there was a very popular antitipping paper called *The Itching Palm*, written by a guy named William Scott. He described tipping as an aristocratic custom that went against American ideals. "The relation of a man giving a tip and a man accepting it is as undemocratic as the relation of master and slave." Scott wrote. "A citizen in the republic ought to stand shoulder to shoulder with every other citizen, with no thought of cringing, without an assumption of superiority or an acknowledgment of inferiority." To compound racial disparity, by the way, the fine dining restaurants I mentioned that give a pretty good living to people who get tips are overwhelmingly populated, the waiters in those restaurants are overwhelmingly white males. Whereas the less exclusive restaurants, about 67 percent of all tipped workers and 69 percent of servers and bartenders are women. It is just patently unfair.

The amount of tips is only weakly related to quality of service. It is very strongly related, as we all know, to the amount of the bill. So if I go to a fancy restaurant and I order a \$1,000 bot-

tle of wine, someone brings me a \$1,000 bottle of wine, how is that any different in terms of the work done than someone ordering a \$10 bottle of wine? The difference is approximately a \$200 tip versus a \$10 tip, for the exact same service. If I order a bottle of Coke, a bottle of Pepsi, it is like a \$.40 or \$.50 tip versus \$200 for the exact same work.

It took until 1966 for advocates to win a base wage for tip workers at all, and that amounted to only 50 percent, which was really controversial at the time. If this bill becomes law and the tipped minimum wage does not go up at all, it will be less than 30 percent of what a regular minimum wage worker earns. The poorest of the poor are the people who will be most badly hurt by this. Some, including restaurants, say the tipped minimum wage, to raise it, or eliminate it, which is what I would do, would hurt profits. But how low does it have to go before we reject that argument? You know, if your business model involves paying your workers starvation wages, you have a bad business model. Keep in mind, it is only people, it is only human beings we do this to. If I want to open a restaurant and it costs me \$20,000 to buy a refrigerator, I cannot go to General Electric and say, well, my business model only involves me paying \$10,000, which is what it cost in 1958. So that is all I am going to pay you. You are not going to get the refrigerator. The same thing is true with flooring, or fans, or anything except human beings. Human beings are the only thing where it does not matter what they need to survive, where that is irrelevant to our public policy. The argument is also not true. Look at California. California has eliminated the tipped minimum wage. Seven States have done that. They have thriving restaurant businesses, their prices of food are the same as ours, and the Restaurant Association itself projects that California will have a 10.6-percent increase in restaurants in the next decade. We can treat workers like human beings and still run a business.

Now, the tipped minimum wage essentially is saying welcome to my restaurant, please pay my employees. We should pay the people we hire. We should guarantee them a living wage, whatever we here decide that minimum is. But, year after year, the tipped minimum wage, which, again, affects the poorest people in our society, does not go up a dime. It is not going up a dime in this bill. The last time we raised the minimum wage a dozen years ago, it did not go up a dime then. The time before, it did not go up a dime then. Meanwhile, CEO pay over the same period of time has gone up 150 percent.

So, I really hope that—I am going to support the bill because, you know, something is better than nothing, and it is really as tepid as I can get. But, you know, the bottom line is, we really have to start thinking about people who desperately need our help that we continue to ignore time and time again.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Street.

Senator STREET. Mr. President, I rise to support this legislation. Although we understand that \$9.50 an hour is not a living wage, and certainly workers should make more, and although we would certainly like to give people who are working full-time jobs and living below the poverty line a larger raise, it is, in fact, a step forward. Although we want to do more for those who are working real hard and making a small amount, I think a step in the right direction is a first step. There is a Native American proverb, "A journey of a thousand miles begins with a single

step." This is the first step, Mr. President, but we have a long way to go, and hopefully we will act quickly in the future to enhance folks' wages beyond \$9.50 an hour. I do urge an affirmative vote.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Hughes.

Senator HUGHES. Mr. President, along with my colleague, Senator Tartaglione, we have stood at this microphone for decades trying to move this issue forward. Pennsylvania, at one point, was a leader in the region of States and a leader in the nation when, in 2006, after months of standing on this floor asking for movement on the minimum wage, that it finally occurred. We stood and signed that bill, Mr. President, after a church service in west Philadelphia at Sharon Baptist Church. I was flanked on one side by Governor Rendell in the middle and flanked on the far side with Senator Tartaglione, and joined by community leaders, pastors, labor leaders, and all kinds of folks who sought economic justice. At that moment, Mr. President, we shot from being behind the curve to being ahead of the curve with respect to the minimum wage. At that moment, we raised the minimum wage and raised it higher than most States, and, in fact, raised it before the Federal government raised the minimum wage in 2009, which, as we all know, was done in the context with one of the largest economic collapses in the history of this country, which became a ripple effect for economic crisis all around the world. It took that economic failure, that economic flatlining, that economic bottoming out in 2008 that in the context of the negotiations for a relief program for this nation's economy in 2009, President Obama led the effort in raising the minimum wage then, in addition to bailing out the banks, which is a whole other story.

Still, Mr. President, 10 years later, we failed to act, as Senator Leach had indicated earlier, on the issue of tip wage. We failed to act, Mr. President, on the issue of a COLA so that low-income working individuals, individuals in poverty, on an annual basis can expect a little bit more money in their paycheck for the very hard work that they do to advance their economic situation. We failed to act then, Mr. President, on the issue of no preemption, which means that local communities, if they saw the need to make sure that their workers in their communities, in their cities, in their counties, and in their townships wanted to raise the wage higher so they could benefit the economic situation of folks in their community, they could have had the opportunity to do that, but we failed to act, Mr. President. No tip wage increase, no preemption for local communities, and no COLA. Folks are still stuck under the Federal poverty level.

We will pass this bill, and, hopefully, it will get through both Chambers and quickly get to the Governor's desk, and he has indicated he will sign it. Be clear, Mr. President, when we get to January of 2022, you may not be able to see this chart, but take my word for it, the statistics show Pennsylvania will be at \$9.50 an hour in January of 2022, New York will be at \$12.68 an hour, New Jersey will be at \$13 an hour, Maryland will be at \$12.50 an hour. We will be a little bit higher than Delaware, we will be a little bit higher than West Virginia, we will be a little bit higher than Ohio, but we will still be trailing unless, of course, a significant change occurs in Washington, D.C., and we can move a national minimum wage increase. Hopefully, there will be significant change there.

So, Mr. President, we will vote for this piece of legislation because we cannot be in the position of taking money out of the pockets of people who need it the most, who do not have a full benefit program, who do not have sick leave, who do not have vacation days, who do not have time for themselves to deal with their own personal situation, but what they do have is a low minimum wage. So, we will vote to put money in the pockets of low-income working people because somebody needs to do it, and we are here to do it to get it done. Let us be clear, no tip wage, no preemption for local communities so that they could do what they needed to do for their own neighborhoods, for their own communities, for their own people, no cost-of-living adjustment. There is no win here, Mr. President, none that we should be celebrating, none that we should be dancing and popping champagne corks, or anything like that. Those restaurant workers, who were spoken about in great detail by my colleague, those restaurant workers will still be getting paid \$2.83 an hour. The discrimination that occurs in that space, that was so eloquently pointed out earlier by a previous speaker, when we leave here this evening, when we go out for the holidays, Thanksgiving, Christmas, New Year's, we will be spending a lot of money dining, eating out, and taking our families out and going to fancy restaurants, and places like that, but be clear, an overwhelming number of individuals who serve us, who feed us, will be making \$2.83 an hour. Think about that. Be clear on that. I do not want to see anyone standing up and saying they have done something great here. That this is a great day for Pennsylvania. It is not a great day. We are stuck in a position because of the political dynamic that we are in that we cannot do something more for the folks who deserve to have something more.

The gentleman spoke about the fact that it has been decades, 10 years, 20 years, 30 years that a person who is on the wait staff of any restaurant has been making \$2.83 an hour. Decades. \$2.83 an hour. Analyze the data about who tips and who does not. Analyze the individual circumstances of those who are in this crisis mode. There is no win here, but we will help. We will provide votes, we will get this over the top, but let us not say that we are the great saviors for low-income working individuals. The fight for \$15 an hour does not stop on the passage of this bill. The fight for \$15 an hour will continue. We will not back down on that fight. We will not turn away from that fight. We darned sure will not turn away from those individuals who are making \$2.83 an hour and barely get tip wages. No, Mr. President, there is no win here. No win at all. Thank you.

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, before I get into my remarks, I thought, since this has been such a topic of discussion, I would remind everyone that if you are making a tip wage and the tips that you make that day do not equal the minimum wage for the hours that you are there, the owner of that restaurant has to make up that difference. So at a minimum, you will make the minimum wage. Now, my constituents who came to me on the tip wage issue asked me not to eliminate the tip wage because they made higher, on average, than the minimum wage. Just a point of reference as it was being discussed.

As the Leader, my job, obviously, in a lot of areas, not just this one, is to enter into negotiations and to talk through issues and try to come to some middle ground. The hard part of that job is not the actual negotiation, it is not the actual back and forth

between the person who you are negotiating with who is trying to get more from you and you are trying to get more from them and you try to find where you can get common ground. The hard part of that job is that after you do come to an agreement, going back to your side and saying this is what we agreed to; this is the compromise that I have come to. Because if you are not involved in that, everyone thinks you should have gotten more. We could have gotten a better deal. It is sort of like me at home telling the football players or baseball players I watch that they should have done better, sort of Monday morning quarterbacking.

Compromises are tough. A lot of people think compromise is a four-letter word. It is not. You know what a four-letter word is? Zero. Zero is a four-letter word. If you do not come to a compromise, you do not get to middle ground, you get zero. For 13 years we have gotten zero on this issue. For 13 years we have not moved the ball on this issue. Today, we are moving the ball through this compromise. Some people think compromises are cowardly. I say they are the exact opposite, they are courageous. And the Senator from Philadelphia is the most courageous person I know in this building, and mark everyone's words, this would not be done today without her. To think that today is not a victory, that there are no wins today, I dispute that. When this, hopefully, goes into place and the House passes this bill, we hope, and the Governor signs it, those who are going to get an increase in wages should take a little bit of money, buy a stamp, and send a thank you note to the Senator from Philadelphia, because we would not be here today without her. I encourage an affirmative vote.

And the question recurring,  
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEA-42

Argall	Costa	Laughlin	Stefano
Aument	Dinniman	Leach	Street
Baker	DiSanto	Martin	Tartaglione
Bartolotta	Farnese	Mensch	Tomlinson
Blake	Fontana	Muth	Vogel
Boscola	Gordner	Regan	Williams, Anthony H.
Brewster	Haywood	Sabatina	Williams, Lindsey
Brooks	Hughes	Santarsiero	Yaw
Browne	Iovino	Scarnati	Yudichak
Collett	Kearney	Scavello	
Corman	Killion	Schwank	

NAY-7

Hutchinson	Mastriano	Pittman	Ward, Kim
Langerhole	Phillips-Hill	Ward, Judy	

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

**LEGISLATIVE LEAVE**

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, I request a legislative leave for Senator Bartolotta.

The PRESIDENT. Senator Corman requests a legislative leave for Senator Bartolotta. Without objection, the leave will be granted.

LEAVE OF ABSENCE

Senator COSTA asked and obtained a leave of absence for Senator SABATINA, for the balance of today's Session, for personal reasons.

CONSIDERATION OF CALENDAR RESUMED

THIRD CONSIDERATION CALENDAR RESUMED

BILLS OVER IN ORDER

HB 330, HB 375, SB 485, SB 491, SB 492, SB 637, HB 684, SB 693, SB 850 and SB 895 -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 902 (Pr. No. 1315) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of August 9, 1955 (P.L.323, No.130), known as The County Code, in district attorney, assistants and detectives, further providing for filling of vacancies.

Considered the third time and agreed to,

On the question, Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEA-48

Table with 4 columns of names: Argall, Aument, Baker, Bartolotta, Blake, Boscola, Brewster, Brooks, Browne, Collett, Corman, Costa, Dinniman, DiSanto, Farnese, Fontana, Gordner, Haywood, Hughes, Hutchinson, Iovino, Kearney, Killion, Langerholc, Laughlin, Leach, Martin, Mastriano, Mensch, Muth, Phillips-Hill, Pittman, Regan, Santarsiero, Scarnati, Scavello, Schwank, Stefano, Street, Tartaglione, Tomlinson, Vogel, Ward, Judy, Ward, Kim, Williams, Anthony H., Williams, Lindsey, Yaw, Yudichak

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

BILL OVER IN ORDER

HB 956 -- Without objection, the bill was passed over in its order at the request of Senator CORMAN.

BILLS OVER IN ORDER TEMPORARILY

HB 962, HB 963, HB 1051 and HB 1171 -- Without objection, the bills were passed over in their order temporarily at the request of Senator CORMAN.

BILL AMENDED

HB 1203 (Pr. No. 2814) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, in municipal authorities, further providing for money of authority.

On the question, Will the Senate agree to the bill on third consideration? Senator K. WARD offered the following amendment No. A4033:

Amend Bill, page 2, line 6, by inserting a bracket before "his" Amend Bill, page 2, line 6, by inserting after "his":

the

Amend Bill, page 2, line 30, by inserting a bracket before "at"

Amend Bill, page 2, line 30, by inserting a bracket after "authority"

Amend Bill, page 3, line 10, by striking out "IF THE" and inserting:

The

Amend Bill, page 3, line 10, by striking out "IS" and inserting:

shall be

On the question, Will the Senate agree to the amendment? It was agreed to.

Without objection, the bill, as amended, was passed over in its order at the request of Senator CORMAN.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 1402 (Pr. No. 2817) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in sexual offenses, providing for the offense of sexual extortion.

Considered the third time and agreed to, And the amendments made thereto having been printed as required by the Constitution,

On the question, Shall the bill pass finally?

The PRESIDENT. The Chair recognizes the gentlewoman from Berks, Senator Schwank.

Senator SCHWANK. Mr. President, I rise to support House Bill No. 1402 and our House colleagues, Representative Nesbit and Representative McClinton, and my Senate colleague, Senator Kim Ward, who cosponsored the Senate version, Senate Bill No. 347, of this exact same bill with me. I also thank retired Senator Randy Vulakovich, who worked with me on this bill in the last Session. I am so happy to finally see this result in legislation that will be up for a vote, and, of course, I will be voting in support of this bill.

It is far past time that we recognize the troubling reality that people in vulnerable positions, particularly women, too often find themselves facing demands of a sexual nature for what they should be able to get or not get, including employment, promotions, raises, and, although those are common, also basics like housing and other services. In other words, they are extorted through sexual favors for services that they should be able to acquire. While this type of extortion has a shamefully long history in not only our Commonwealth but in this country, its use has grown in both intensity and frequency in the digital age, outpacing our current laws and mechanisms and leaving victims with inadequate recourse and perpetrators unaccountable. Victims often experience negative physical, mental health, economic, and reputational consequences because of sexual extortion, not to mention the personal shame that one feels when they are subjected to this.

This bill will establish sextortion, or sexual extortion, as a specific criminal offense with consequences comparable to other sexual offenses. I acknowledge the Pennsylvania Coalition Against Rape, PCAR, which brought this legislation forward, for their support. It is not an easy topic to discuss. It is not something that we probably want to acknowledge, but it happens. It is a practice. We know that it happens, and we need to end it. We need to treat it like the crime that it is. Thank you.

And the question recurring,  
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEA-48

Argall	Dinniman	Laughlin	Schwank
Aument	DiSanto	Leach	Stefano
Baker	Farnese	Martin	Street
Bartolotta	Fontana	Mastriano	Tartaglione
Blake	Gordner	Mensch	Tomlinson
Boscola	Haywood	Muth	Vogel
Brewster	Hughes	Phillips-Hill	Ward, Judy
Brooks	Hutchinson	Pittman	Ward, Kim
Browne	Iovino	Regan	Williams, Anthony H.
Collett	Kearney	Santarsiero	Williams, Lindsey
Corman	Killion	Scarnati	Yaw
Costa	Langerholc	Scavello	Yudichak

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate return said bill to the House of Representatives with information that the Senate has passed the same with amendments in which concurrence of the House is requested.

BILL OVER IN ORDER

**HB 1896** -- Without objection, the bill was passed over in its order at the request of Senator CORMAN.

SECOND CONSIDERATION CALENDAR RESUMED

BILLS OVER IN ORDER

**SB 132, SB 258, SB 284, SB 329, SB 368, SB 417, HB 422, HB 427, HB 476, SB 531, SB 594, SB 595, SB 606 and SB 647** -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

BILL ON SECOND CONSIDERATION AND REREFERRED

**SB 679 (Pr. No. 1395)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of November 26, 1978 (P.L.1375, No.325), known as the Dam Safety and Encroachments Act, further providing for definitions; and providing for programs for removing obstructions and flood-related hazards on streams.

Considered the second time and agreed to,  
Ordered, To be printed on the Calendar for third consideration.

Upon motion of Senator CORMAN, and agreed to by voice vote, the bill just considered was rereferred to the Committee on Appropriations.

BILLS OVER IN ORDER

**SB 726, SB 727, SB 766, SB 784, SB 798, SB 809 and SB 810** -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

BILL ON SECOND CONSIDERATION

**HB 917 (Pr. No. 1055)** -- The Senate proceeded to consideration of the bill, entitled:

An Act repealing the act of May 17, 1929 (P.L.1805, No.598), entitled "An act authorizing municipalities other than townships to acquire by gift, devise, or bequest, lands, chattels, securities and funds for the establishment and maintenance of a hospital; to appoint trustees of such property and funds, subject to the approval of the orphans' court; to operate and maintain such hospital through and by means of such trustees; and to expend municipal funds to aid in the establishment and maintenance of such hospital."

Considered the second time and agreed to,  
Ordered, To be printed on the Calendar for third consideration.

BILLS OVER IN ORDER

**SB 922, SB 924, SB 954, HB 1035 and HB 1036** -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.



BILL ON SECOND CONSIDERATION

**HB 1045 (Pr. No. 1186)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 64 (Public Authorities and Quasi-Public Corporations) of the Pennsylvania Consolidated Statutes, in Commonwealth Financing Authority, further providing for board.

Considered the second time and agreed to,  
Ordered, To be printed on the Calendar for third consideration.

BILLS OVER IN ORDER

**HB 1058, HB 1100, HB 1174, HB 1180, HB 1325, HB 1379, HB 1405 and HB 1522** -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

BILL ON SECOND CONSIDERATION AND REREFERRED

**HB 1537 (Pr. No. 2812)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law, in administration of act, further providing for records of and reports by employers; in contributions by employers and employees, further providing for contributions by employees; in compensation, further providing for qualifications required to secure compensation and for rate and amount of compensation; in determination of compensation, appeals, reviews and procedure, further providing for determination of compensation appeals and for decision of referee and further appeals and reviews; and, in shared-work program, further providing for participating employer responsibilities.

Considered the second time and agreed to,  
Ordered, To be printed on the Calendar for third consideration.  
Upon motion of Senator CORMAN, and agreed to by voice vote, the bill just considered was rereferred to the Committee on Appropriations.

BILL OVER IN ORDER

**HB 1662** -- Without objection, the bill was passed over in its order at the request of Senator CORMAN.

BILL ON SECOND CONSIDERATION

**HB 1772 (Pr. No. 2821)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in burglary and other criminal intrusion, further providing for the offense of criminal trespass.

Considered the second time and agreed to,  
Ordered, To be printed on the Calendar for third consideration.

SENATE RESOLUTION No. 272, ADOPTED

Senator CORMAN, without objection, called up from page 13 of the Calendar, **Senate Resolution No. 272**, entitled:

A Resolution designating the month of November 2019 as "Victims of Communism Memorial Month" in Pennsylvania.

On the question,  
Will the Senate adopt the resolution?

The PRESIDENT. The Chair recognizes the gentleman from Schuylkill, Senator Argall.

Senator ARGALL. Mr. President, along with Senator Mastriano, I encourage a "yes" vote on Senate Resolution No. 272 as we commemorate the 30th anniversary of the fall of the Berlin Wall and we take a moment to remember the countless millions of people who lost their lives to the scourge of communism during the last century.

Senator Mastriano has a much more compelling story than I, but I was there 2 years before the wall came down. I saw this terrible, terrible division between one nation free and one nation held in captivity. I was there then a few years later as an Eisenhower Fellow and was just amazed by the transformation of East Germany after it attained freedom. I recall going through the Brandenburg Gate with a German cab driver and trying to use my high school and college German to discuss with him how it had affected his life, and he told me in very halting English, today I have a whole new life.

There are people all over central and eastern Europe who today are enjoying freedom because of the dedication of so many American veterans. Each year on Veterans Day, and often on Memorial Day, I have shared that story with people back home in Berks and Schuylkill Counties. I have with me a souvenir of one of my trips, a simple piece of the Berlin Wall not far from where President Kennedy had given his famous speech, where President Reagan had given his famous speech demanding that Mr. Gorbachev tear down the wall.

So I certainly ask all of us today, not just to remember the 30th anniversary, but to celebrate the anniversary and to always remember the many, many victims of that terrible time in world history.

The PRESIDENT. The Chair recognizes the gentleman from Franklin, Senator Mastriano.

Senator MASTRIANO. Mr. President, I join with my esteemed colleague, Senator Argall, to designate November as "Victims of Communism Memorial Month" in Pennsylvania. Benjamin Franklin wrote, "If men are so wicked as we now see them with religion what would they be if without it?" Franklin's fear of what would happen with a government not constrained by religion was demonstrated in the last century when socialist revolutionaries seized power in Russia in 1917. These atheistic leaders, led by such as Lenin, who used the terms "socialism" and "communism" interchangeably, quickly established their dictatorship of the proletariat, which included total government and political societal economic control. They advocated international socialism and, as such, actively spread their ideas to eastern, central, and southeastern Europe; the Caucasus; and Central Asia, and by force established the Union of Soviet Socialist Republics (USSR).

Soviet propagation of this subversive ideology continued and eventually led to other nations falling under its control throughout the world. God was replaced by man as the final arbiter of what was permissible for the people living under these regimes. All freedoms are swept away, places of worship were razed, closed, or turned into museums. Those brave enough to maintain their faith were hauled off to slave labor camps, tortured, and/or killed.

Freedom of speech and freedoms of the press were forbidden. The fickle edicts of the rulers became gospel, and anyone not in line with the partyline were severely punished. The government in the system controlled everything, even dictating what was politically acceptable to say and do. If a person stepped outside the guidelines of what the government authorized, what little rights they had were stripped away and they were usually shipped off to dubiously named slave labor camps for reeducation.

Anyone and any group perceived as a threat was systematically eliminated. For example, soviet socialist dictator Joseph Stalin punished Ukrainians for their nationalism and launched an operation to literally starve them to death in 1932 and 1933. Ukraine remembers this as a Holodomor. It resulted in up to 10 million Ukrainians dying by a manmade starvation. Literally, a nation was starved to death for being perceived as being out of step with Moscow.

As Benjamin Franklin correctly feared, without the restraints of religion, tyrants ruled the land, giving birth to the world's greatest mass murderers killing more in 100 years than all the wars of religion in the past 6,000 combined. The averages are an estimated 100 million perishing under this terrible system, including 65 million people in The People's Republic of China, many of whom likewise starved to death under Mao Zedong's cultural revolution; 20 million killed in the Soviet Union, largely at the orders of Stalin; 2 million in Cambodia, nearly half of the population of that country, under the leadership of Pol Pot and the Khmer Rouge; 2 million in North Korea by the Kim family; 1.7 million in Ethiopia; 1.5 million in Afghanistan; 1 million across Europe; 1 million in Vietnam; 5 million, separate from these figures, in the Russian famine of 1921; and another 700,000 during the Russian purge. And let us not forget the deportations of Poles, Ukrainians, Moldovans, and Baltic Estonian, Latvian, and Lithuanian peoples in 1939-41 and 1944-45 which resulted in hundreds of thousands of deaths.

With such massive numbers of deaths at the hands of this evil and corrupt ideology, it is hard to really understand the suffering of average people. I think it is appropriate to bring up the suffering of the Lithuanian people, a nation partnered with our own National Guard. Their story of the past 70 years tells a painful one of life under communism. Lithuania personifies the experience of living under the soviet socialist system and its population suffered horribly. Anyone perceived as a threat to the regime was executed in prison or deported to Siberia. There were 35 mass expulsions in Lithuania carried out in 1941 and between 1945 and 1952. In total, some 300,000 Lithuanians were deported, 70 percent of whom were women and children. Many of these never returned home. They died in Siberia from exposure, starvation, and disease.

Meanwhile, in the Baltic nations of Estonia, Latvia, and Lithuania, the soviet socialists eliminated all freedoms, Christians were forbidden to follow the precepts of their faith, and all reli-

gious and personal freedoms were removed from the land. An intrusive and oppressive government arrested any Lithuanian who did not subscribe to the USSR's narrow ideas of culture, society, and politics. For those who dared to step outside of what the soviet socialist leadership allowed, there was a terrible price to pay. Torture houses were set up across the Baltic nations, run by the KGB, and in them innocent men, women, and children were subjected to unimaginable brutality and even executions at the hands of the soviet socialists.

Reflecting on the plug of communism that so ravaged his Russia, soviet dissident Aleksandr Solzhenitsyn, who spent 8 years in prison and labor camps, said, and I quote, (*reading*):

More than half a century ago, while I was still a child, I recalled hearing a number of older people offer the following explanation for the great disasters that had befallen Russia: "Men have forgotten God; that's why all this has happened."—**Solzhenitsyn continued to say in his writings**—Since then I have spent well-nigh fifty years working on the history of our Revolution; in the process I have read hundreds of books, collected hundreds of personal testimonies, and have already contributed eight volumes of my own toward the effort of clearing away the rubble left by the upheaval. But if I were asked today to formulate as concisely as possible the main cause of the ruinous Revolution that swallowed up some sixty million of our people, I could not put it more accurately than to repeat: "Men have forgotten God; that's why all this has happened."

May we never forget the suffering of those who languished under the oppression and intolerance of a bankrupt ideology of communism and international socialism, and let us take a warning from the past to not allow this evil system into our government today.

Dr. John Lennox, a professor at Oxford University, writes, and I quote, "New things are old things happening to new people." New things are old things happening to new people. There is indeed nothing new under the sun. Despite having the bloody history of communism within living memory, it seems that many in the next generation have already forgotten the hard-learned lessons of history. We only need to look to Venezuela, where a once-prosperous nation embraced the failed ideas of socialism and has since spiraled into societal chaos and horrific human suffering.

As a young man, I personally experienced the hate of this system when I was detained by the Volkspolizei, the "People's Police," in East Berlin for merely taking a picture in the subway at Friedrichstrasse. Back then, I was a young teenager and had long hair and had no idea that I was forbidden merely to take a picture in a subway stop. It was sweet justice as a few years after that, as Lieutenant Douglas Mastriano, I was deployed with the 2nd Armored Cavalry regiment along West Germany's Cold War borders with Czechoslovakia in East Germany that I had the pleasure and honor of defending our people on the front lines of freedom. I had a close seat from there to see the oppression and desperation of those who suffered under this bankrupt system. Oftentimes those in the East, in desperation, would try to escape to the freedoms of the West but not survive that endeavor. But one of the highlights of my life was being there when the Cold War ended and to be one of the first to welcome Easterners to freedom, and as I looked into their eyes I saw hope and joy I have never seen in eastern European eyes before. It was all worth it.

We have inherited the richest, most prosperous, freest, and greatest nation on the face of the earth, paid for with the blood of patriots and at great cost in life and treasure handed to a generation that knows little of the sacrifice of those who came before us. It is up to us to remember the hard-won costs of freedom and not to surrender it to a divisive and destructive force of failed political and economic systems.

Thank you, Mr. President.

And the question recurring,  
Will the Senate adopt the resolution?

The yeas and nays were required by Senator CORMAN and were as follows, viz:

YEA-48

Argall	Dinniman	Laughlin	Schwank
Aument	DiSanto	Leach	Stefano
Baker	Farnese	Martin	Street
Bartolotta	Fontana	Mastriano	Tartaglione
Blake	Gordner	Mensch	Tomlinson
Boscola	Haywood	Muth	Vogel
Brewster	Hughes	Phillips-Hill	Ward, Judy
Brooks	Hutchinson	Pittman	Ward, Kim
Browne	Iovino	Regan	Williams, Anthony H.
Collett	Kearney	Santarsiero	Williams, Lindsey
Corman	Killion	Scarnati	Yaw
Costa	Langerholc	Scavello	Yudichak

NAY-0

A majority of the Senators having voted "aye," the question was determined in the affirmative.

The PRESIDENT. The resolution is adopted.

RECESS

The PRESIDENT. The Chair recognizes the gentleman from Center, Senator Corman.

Senator CORMAN. Mr. President, I request a recess of the Senate for the purpose of a Republican caucus to be held in the Rules room. Caucus should not take very long. I also want to inform the staff that dinner has been delivered and we will give some time for people to get something to eat and maybe return to the floor somewhere between 6:30 and 6:45.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Costa.

Senator COSTA. Mr. President, Senate Democrats will meet in the Minority Caucus Room as well to discuss an amendment.

The PRESIDENT. For purposes of Republican and Democratic caucuses, without objection, the Senate stands in recess.

AFTER RECESS

The PRESIDENT. The time of recess having expired, the Senate will come to order.

LEGISLATIVE LEAVE

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, I request a temporary Capitol leave for Senator Argall.

The PRESIDENT. Senator Corman requests a temporary Capitol leave for Senator Argall. Without objection, the leave will be granted.

CONSIDERATION OF CALENDAR RESUMED

THIRD CONSIDERATION CALENDAR RESUMED

HB 963 CALLED UP

HB 963 (Pr. No. 1130) -- Without objection, the bill, which previously went over in its order temporarily, was called up, from page 5 of the Third Consideration Calendar, by Senator CORMAN.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 963 (Pr. No. 1130) -- The Senate proceeded to consideration of the bill, entitled:

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for courts to be open and suits against the Commonwealth.

Considered the third time and agreed to,

On the question,  
Shall the bill pass finally?

The PRESIDENT. The Chair recognizes the gentlewoman from Montgomery, Senator Muth.

Senator MUTH. Mr. President, it is never too late for justice. I stand here today not only as a Senator, but as a rape survivor, an advocate, and as a woman who will never stop fighting for justice for survivors. If we can look closely at ourselves today, and listen to the stories of struggle and wisdom of others, we can change the world. But sadly, today, I am concerned that with a vote on this bill, we will fall short. We will be settling and many have waited far too long, and a compromise is unacceptable. Those who say that a constitutional amendment route for an incomplete abolishment of statute of limitations that still has an age limit on reporting and exclusive age of victimization is better than nothing should know that we, the people, the survivors, the families, and friends of survivors know more could have been done and should have been done. A deal made by lawmakers who are leaving many victims waiting for their rightful path to justice and healing, and leaving many victims out of the deal just because of when they were victimized, is not a good deal. I have yet to get an answer as to what the difference is as to what age you were raped versus another age, why some arbitrary number is used to determine whether or not someone is worthy of being protected by the law. Based on the information we know about how trauma is processed, reported, and also the impacts of PTSD, and the individualized process of healing itself, updating our laws to eliminate protections for predators like a statute of limitations on reporting crimes of sexual abuse and sexual violence should have been done a long time ago. The excuses and rationale about this continued delay and justice have been frustrating. Something is better than nothing is simply unacceptable.

I stand here today as a Senator, as a rape survivor and advocate, and I will never stop fighting for that justice. Stop using this Constitution to block people from their pathway to healing. We know that abolishing the statute of limitations should have happened long ago. I stand here as one, but I represent the survivors in the balcony, the one in four women, and one in seven men who have experienced, or will experience, sexual assault or rape in their lifetime. I also represent the victims of child sexual abuse, the one in four girls and one in six boys, who were victimized and most failed by adults and institutions allowing predators to harm millions of kids, and these numbers are just victims who actually reported their abuse, or assault, or rape. Failure to update our laws to help those who have suffered at the hands of predators and protect future harm is unacceptable.

I understand that this is the deal in front of us. I understand that a constitutional amendment is what is being proposed in House Bill No. 963. I understand why many of these survivors, who have been in this building even longer than I have been, over 10-some years, fighting for this, they are here waiting for us to do the right thing. This bill ran in front of Senate Bill No. 962. So Senate Bill No. 962 has amendments that you could vote for for a statutory window, meaning as soon as it is passed in the House, the Governor can sign it into law, not delaying justice for a minute more. People who are suffering from dealing with their trauma, whether it be with substance abuse disorders, mental health issues, people are overdosing and they are dying. That is a real reality. So, yes, I understand the "yes" vote on House Bill No. 963, but the vote of courage and the vote to do what is right is to add a statutory window amendment into Senate Bill No. 962. I ask all of you to do the right thing. Thank you.

The PRESIDENT. The Chair recognizes the gentlewoman from Luzerne, Senator Baker.

Senator BAKER. Mr. President, no one can truly understand the pain of victims or their anger over a system that has discouraged them, and a debate that, at times, disparaged them, and the urgency that they feel toward dramatic and irrevocable change. Fortunately, no one, to my knowledge, has come locked in a position that they want to do nothing. In the end, our differences come down to variant views on how and when remedies become available.

This evening, I believe we have an opportunity to advance consequential change by enacting all four of the grand jury recommendations and offering greater protections for victims of child sexual abuse in Pennsylvania. Therefore, I rise in support of House Bill No. 963, which amends section 11 of Article I of our Constitution to create a 2-year civil window for time-barred claims on child sexual abuse. My interpretation of the oath I took to support the Constitution leads me to this position. We properly think of the Constitution as enumerating our rights and enshrining our freedom, but it also contains limitations designed to prevent passion from overtaking reason. The Pennsylvania Constitution contains more rights and more limitations than does the Federal Constitution. The Framers realized situations would arise that were not even contemplated at their time. The remedy is to change the Constitution, with the approval of our citizens, a deliberate process that insures the change is thoroughly examined and deemed acceptable. The answer is not to end-run the Constitution, or to pass something and let the courts decide, that is an abdication of our legislative responsibility.

There is an instructive point in this debate worth repeating. The prime sponsor of this proposed constitutional amendment was himself a victim of abuse. Does anyone really think he wants to delay or deny justice to victims? Does anyone really think he is looking out for the interests of a powerful lobby group? Does anyone really think he relishes being denounced and berated by the arch-advocates of sidestepping the Constitution? No, he came into office committed to finding a solution and determined that a constitutional amendment in the long run is the most reliable and direct route. He is not making a casual or political judgment about someone else's situation.

There is something more that can take place constructively. Until the time that voters render a judgment on a constitutional amendment, those organizations that had established victim compensation funds should reopen the window. Other organizations where abuse occurred should establish such funds to let victims make a decision on immediate recourse or a broader recourse in time. We already know that some chose the fund and others continue to advocate for a fuller set of remedies. From the standpoint of law, pursuing the constitutional amendment route is sound and prudent. From a practical standpoint, it is a safeguard against a court ruling overturning the legislation we are endeavoring to pass. From a public standpoint, the referendum requirement insures that people understand and approve of what we are doing here. And in our concern about litigation, we must take into account not just the legislation before us, but subsequent legislation that would seek to remedy other abuse cases that come to light. We may fervently hope that everything has been uncovered, but that is highly unlikely.

Acting on this proposed constitutional amendment does not preclude or negate legislation underway; rather, it provides the best guarantee possible for abuse victims that the sought-after changes to statute of limitations will not come undone with an adverse court ruling. I believe House Bill No. 963 represents a clear pathway forward, and I urge an affirmative vote.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Cambria, Senator Langerholc.

Senator LANGERHOLC. Mr. President, I stand before you today on one of the most important days of this Chamber. We stand at the precipice of finally enacting reform that will help victims and enact the four recommendations of the grand jury report. To the victims, you have hurt in a way that no one could ever know. We stand here today on the verge of truly historic reform. For years, you have toiled in this building, you have come forth, you have advocated. You have relived the horrors you faced. You fought, you struggled for something to be done. This institution failed you. We allowed the politics of division and misinformation and blame to quell any advances on this most important of issues. But not today. Do not let those same forces that have stood in the way of reform rear their ugly head. We are here to do the right thing.

The grand jury spent countless hours, countless time poring over testimony before they made their recommendations. My district was ground zero. My district was the first that exposed the vileness and inhumaneness of the systematic coverup of abuse of the Catholic church. My district was one where a child predator doctor preyed upon his patients while a community supported him. It sickens me to no end to think of this evilness. Yet it pales in comparison to what so many of the victims dealt

with, and continue to deal with every single day of their lives. There truly can be no punishment severe enough for the monsters who perpetuate abuse on our youth. The only consolation I take is that there exists a special place in hell for those individuals.

We are here today, many years later, and have a chance to finally enact legislation that will accomplish the goals of the grand jury. All four recommendations of the grand jury that heard the most wickedness of the wicked, of coverup, of abuse, of secrecy, of pure unadulterated evil. We can enact this reform today, yet, still, misinformation and division exists. For someone who proposes to represent the victims to make the comment that rather nothing be done than to add this constitutional amendment, I ask, who do you serve? What interests do you truly represent? We know that whatever course is taken will result in appellate action. Sadly, no course of action will result in immediate justice. Nothing we do here today will change that. But what we can do is we can build a solid foundation and enact the strongest course of action.

I have read the cases, the voluminous pages of opinion, I have read the various positions of competing interests. I can tell you this: I support a retroactive civil window. Unequivocally. I support all four recommendations of the grand jury report. I am not convinced that the Remedies Clause of the Pennsylvania Constitution makes this unconstitutional. My opinion is that that clause protects the rights of an individual to bring an action, not protecting the rights of a defendant in a statute of limitations action. Accordingly, this legislation will enable every voter in this Commonwealth to go to the ballot box and cast their vote on the constitutionality of this issue. That action will form the most solid of bases to withstand constitutional challenge. As our Supreme Court has held, and I quote, (*reading:*)

Under either equal protection or due process, reviewing courts are the most justified in finding a classification permissible when it is enacted by the people as a constitutional amendment and does not offend the United States Constitution. Such a revision to the organic law of the Commonwealth of Pennsylvania will only be deemed to violate the Constitution that it amends (if at all) where the challenger has shown--clearly, palpably, and plainly--that the amendment is so unreasonable as to be considered "irrational."

This proposed constitutional amendment is not clearly, palpably, and plainly unreasonable. This constitutional amendment will withstand constitutional scrutiny. We can, and we will, make history tonight. I ask my colleagues today, stand with the victims, do what we have tried in this building to do for so long, for too long: give the victims justice. Give them the retroactive civil window, give them the four recommendations of the grand jury report. Vote "yes" on this legislation. Thank you.

The PRESIDENT. Without objection, the Chair recognizes, for the second time, the gentlewoman from Montgomery, Senator Muth.

Senator MUTH. Mr. President, to prevent misinformation and divisiveness, I think we must be clear, there are other alternatives for justice, which is Senate Bill No. 540, that has all four grand jury recommendations in it. It also includes adult victims. In regards to the funds, Senate Bill No. 540 does not prohibit a single fund from happening. It actually is a 6-month delay that allows any institution that wants to establish a fund to go ahead and do so, because here is the thing, the bill that needs to pass has to be victim-centered. That means the victim, the survivor,

has their own choice in their pathway to healing and justice. That may be their day in court, that may be financial assistance to help with therapy. It is different for every victim. Giving them one route is not enough. These funds are not enough for each survivor. And that is just clergy abuse survivors. There are not funds for other survivors. I know that there is going to be one amended into this with a lifetime cap of \$10,000 for children who are victims, and then \$5,000 for adults. But the total cost of care for someone who has been sexually assaulted for rape in their lifetime can be anywhere from \$87,000 to \$210,000. It is not enough.

It is not that we cannot do the right thing tonight. History can be made tonight in a bipartisan way. This has never happened before. This is the opportunity to vote on the right thing. I am still going to fight for this. This is not a game over, this is what these victims are dying for: justice. It is unbearable to not be heard. They have suffered long enough.

Thank you, Mr. President.

And the question recurring,  
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEA-42

Argall	Dinniman	Laughlin	Schwank
Aument	DiSanto	Leach	Stefano
Baker	Farnese	Martin	Tartaglione
Bartolotta	Fontana	Mastriano	Tomlinson
Blake	Gordner	Mensch	Vogel
Boscola	Haywood	Phillips-Hill	Ward, Kim
Brewster	Hughes	Pittman	Williams, Anthony H.
Brooks	Iovino	Regan	Yaw
Browne	Kearney	Santarsiero	Yudichak
Corman	Killion	Scarnati	
Costa	Langerholc	Scavello	

NAY-6

Collett	Muth	Ward, Judy	Williams, Lindsey
Hutchinson	Street		

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate return said bill to the House of Representatives with information that the Senate has passed the same without amendments.

HB 962 CALLED UP

HB 962 (Pr. No. 2891) -- Without objection, the bill, which previously went over in its order temporarily, was called up, from page 4 of the Third Consideration Calendar, by Senator CORMAN.

BILL AMENDED

HB 962 (Pr. No. 2891) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, reforming remedies for victims of sexual abuse: in limitation of time, further providing for six months

limitation, for infancy, insanity or imprisonment, for no limitation applicable and for other offenses; in matters affecting government units, further providing for exceptions to sovereign immunity, for limitations on damages in actions against Commonwealth parties, for exceptions to governmental immunity and for limitations on damages in actions against local parties; and in sentencing alternatives, providing for counseling services for victims of sexual abuse.

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

#### BAKER AMENDMENT A4106

Senator BAKER offered the following amendment No. A4106:

Amend Bill, page 1, line 13, by striking out "AND"  
Amend Bill, page 1, line 15, by inserting after "ABUSE":  
; and  
transferring money from the General Fund into the Crime Victim's Compensation Fund  
Amend Bill, page 2, line 4, by striking out "5533(b)(2)(i)" and inserting:  
5533(b)(2)  
Amend Bill, page 2, line 11, by inserting a bracket before "childhood"  
Amend Bill, page 2, line 11, by inserting a bracket after "childhood"  
Amend Bill, page 2, line 16, by inserting a bracket before "childhood"  
Amend Bill, page 2, line 16, by inserting a bracket after "childhood"  
Amend Bill, page 2, line 17, by striking out all of said line and inserting:

(i.1) If an individual entitled to bring a civil action arising from sexual abuse is at least 18 and less than 24 years of age at the time the cause of action occurs, the individual shall have until attaining 30 years of age to commence an action for damages regardless of whether the individual files a criminal complaint regarding the sexual abuse.

(ii) For the purposes of this paragraph, the term ["childhood sexual abuse"] "sexual abuse" shall include, but not be limited to, the following sexual activities between [a minor] an individual who is 23 years of age or younger and an adult, provided that the individual bringing the civil action engaged in such activities as a result of forcible compulsion or by threat of forcible compulsion which would prevent resistance by a person of reasonable resolution:

(A) sexual intercourse, which includes penetration, however slight, of any body part or object into the sex organ of another;

(B) deviate sexual intercourse, which includes sexual intercourse per os or per anus; and

(C) indecent contact, which includes any touching of the sexual or other intimate parts of the person for the purpose of arousing or gratifying sexual desire in either person.

(iii) For purposes of this paragraph, "forcible compulsion" shall have the meaning given to it in 18 Pa.C.S. § 3101 (relating to definitions).

Amend Bill, page 3, lines 15 and 16, by striking out all of said lines and inserting:

Section 4. Section 5552(b.1), (c)(3) and (c.1) of Title 42 are amended and subsection (c) is amended by adding a paragraph to read:

Amend Bill, page 5, line 9, by striking out all of said line and inserting:

(3.1) Any sexual offense committed against an individual who is 23 years of age or younger any time up to the later of the period of limitation provided by law after the individual has reached 24 years of age or 20 years after the date of the offense. As used in this paragraph, the term "sexual offense" means a crime under the following provisions of Title 18 or a conspiracy or solicitation to commit an offense under any of the following provisions of Title 18 if the offense results from the conspiracy or solicitation:

Section 3011(a) as it relates to sexual servitude.

Section 3012 as it relates to sexual servitude.

Section 3121(a) and (b).

Section 3123(a).

Section 3124.1.

Section 3124.2(a) and (b).

Section 3125(a).

Section 3126.

Section 3127.

Section 4302(a).

\*\*\*

(c.1) Genetic identification evidence.--Notwithstanding any provision of law to the contrary, if evidence of a misdemeanor sexual offense set forth in subsection (c)(3) or (3.1) or a felony offense is obtained containing human deoxyribonucleic acid (DNA) which is subsequently used to identify an otherwise unidentified individual as the perpetrator of the offense, the prosecution of the offense may be commenced within the period of limitations provided for the offense or one year after the identity of the individual is determined, whichever is later.

\*\*\*

Amend Bill, page 7, line 5, by inserting after "MADE":  
directly

Amend Bill, page 7, line 6, by inserting after "FUND":

The office shall determine the form and manner for receiving payment under this paragraph.

Amend Bill, page 8, line 16, by striking out "SHALL" and inserting:

may

Amend Bill, page 8, by inserting between lines 21 and 22:  
"Counseling services." Mental health therapy performed by or under the supervision of a health care provider.

Amend Bill, page 8, lines 25 through 27, by striking out all of said lines and inserting:

"Health care provider." Any of the following:

(1) A psychiatrist.

(2) An individual licensed under the act of March 23, 1972 (P.L.136, No.52), known as the Professional Psychologists Practice Act.

(3) A licensed professional counselor, as defined in section 3 of the act of July 9, 1987 (P.L.220, No.39), known as the Social Workers, Marriage and Family Therapists and Professional Counselors Act.

(4) A licensed social worker, as defined in section 3 of the Social Workers, Marriage and Family Therapists and Professional Counselors Act.

Amend Bill, page 8, line 28, by inserting after "SERVICES":

in the Pennsylvania Commission on Crime and Delinquency

Amend Bill, page 8, line 29, by inserting after "WHICH":

occurs in this Commonwealth and

Amend Bill, page 9, by inserting between lines 16 and 17:

Section 8.2. The sum of \$5,000,000 is transferred from the General Fund to the Crime Victim's Compensation Fund to be used until June 30, 2021, to implement the addition of 42 Pa.C.S. § 9730.3(a)(1) for counseling services provided after the effective date of this section. In fiscal years beginning after June 30, 2021, the General Assembly shall appropriate money to implement the addition of 42 Pa.C.S. § 9730.3(a)(1).

Amend Bill, page 9, lines 22 and 23, by striking out "5533(b)(2)(i)" and inserting:

5533(b)

Amend Bill, page 9, line 23, by striking out "and" where it occurs the second time and inserting a comma

Amend Bill, page 9, line 23, by inserting after "(c)(3)":

and (3.1)

Amend Bill, page 9, line 26, by striking out "5533(b)(2)(i)" and inserting:

5533(b)(2)

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

The PRESIDENT. The Chair recognizes the gentlewoman from Luzerne, Senator Baker.

Senator BAKER. Mr. President, this evening we are making a concerted effort to reach agreement on changing the statute of limitations for victims of sexual abuse. For the sponsor of this

bill, along with other Members of both the House and Senate, this is deeply, deeply personal, for these individuals are survivors. We must acknowledge and thank them for their advocacy, commitment, and determination to right an egregious wrong. When the Committee on Judiciary held hearings several weeks ago, we indicated that the testimony would be used to help strengthen the bill before us. We listened to intensely painful and very impactful testimony from victims and survivors who shared their experiences and offered recommendations. What we learned was the arbitrary age thresholds established years ago no longer are sufficient to deal with the horrific and widespread cases of abuse that continue to surface. Recent research findings and the testimony provided during the work of the Committee on Judiciary tell us there is another age group of victims who deserve equal access to the remedies we intend to provide, those below 18 years of age.

The committee heard from Laquisha Anthony, a student athlete at Kutztown University. During her first weeks in school, she described her excitement about being in college, participating in track and field, and meeting new friends. She talked of meeting another athlete, a person she wanted to get to know and spend time with. Unfortunately, that exhilaration went terribly wrong and what ended up happening to her was sexual assault and life-changing trauma in her very first few weeks at college. Laquisha is one of the several survivors who offered testimony who were older than 18.

This amendment brings victims between 18 through the age of 23 into the bill. There are several significant factors that warrant addition to the complicated matter of providing redress to the many victims who have come forward and the unknown number who may yet do so. There are multiple studies showing that brain development continues into a person's early to mid-20s. There is a shocking prevalence of sexual abuse and assault cases reported by college students. In fact, 1 in 5 women and 1 in 16 men are sexually assaulted while in college. More than 90 percent of these sexual assault victims on college campuses do not report that assault. With the added remedies earlier this year when we included Senator Schwank's initiative about reporting so that the student would not find themselves kicked out of college or impacted, and we also did the online reporting for anonymous reporting on college campuses, we have clearly agreed that this age range is a vulnerable population. Although the changes contained in the amendment provide for victims 18 to 23, a civil claim can be filed up until the age of 30. Right now, that law gives them 2 years. For the criminal statute of limitations, that would go up 20 years from the existing 12 years.

Our prevailing concern must be with victims irrespective of the place where the abuse occurred or the condition of the balance sheets of the institutions that may have condoned or failed to respond to the degree they were morally obligated to do so. We rarely talk about those survivors of abuse for whom any window may never provide a pathway to justice. And so, with this amendment, along with our previous changes that added giving an opportunity for any child or adult survivor of sexual abuse to attain counseling through our Crime Victim's Compensation Fund, that strengthens and enhances the underlying bill. The fund is the payer of last resort, but for many it represents the only option. In setting out to do the right thing for victims, we must not be limited in our determination as to who qualifies, and there-

fore, adding this important amendment strengthens and improves this bill significantly, and I urge an affirmative vote.

Thank you, Mr. President.

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. Senator Argall has returned, and his temporary Capitol leave is cancelled.

And the question recurring,  
Will the Senate agree to the amendment?

The yeas and nays were required by Senator BAKER and were as follows, viz:

YEA-48

Argall	Dinniman	Laughlin	Schwank
Aument	DiSanto	Leach	Stefano
Baker	Farnese	Martin	Street
Bartolotta	Fontana	Mastriano	Tartagliona
Blake	Gordner	Mensch	Tomlinson
Boscola	Haywood	Muth	Vogel
Brewster	Hughes	Phillips-Hill	Ward, Judy
Brooks	Hutchinson	Pittman	Ward, Kim
Browne	Iovino	Regan	Williams, Anthony H.
Collett	Kearney	Santarsiero	Williams, Lindsey
Corman	Killion	Scarnati	Yaw
Costa	Langerholc	Scavello	Yudichak

NAY-0

A majority of the Senators having voted "aye," the question was determined in the affirmative.

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

MUTH AMENDMENT A3954 OFFERED

Senator MUTH offered the following amendment No. A3954:

- Amend Bill, page 1, line 1, by striking out "Title" and inserting: Titles 23 (Domestic Relations) and
- Amend Bill, page 1, line 3, by inserting after "STATUTES," in child protective services, further providing for penalties; and
- Amend Bill, page 1, lines 18 and 19, by striking out all of said lines and inserting:

Section 1. Section 6319(b), (c) and (d) of Title 23 of the Pennsylvania Consolidated Statutes are amended to read:

§ 6319. Penalties.

\* \* \*

(b) Continuing course of action.--If a person's willful failure under [subsection (a)] this section to report an individual suspected of child abuse continues while the person knows or has reasonable cause to [believe the] suspect a child is [actively] being subjected to child abuse by the same individual, or while the person knows or has reasonable cause to suspect that the same individual continues to have direct contact with children through the individual's employment, program, activity or service, the person commits a [misdemeanor of the first degree] felony of the third degree, except that if the child abuse constitutes a felony of the first degree or higher, the person commits a felony of the [third] second degree.

(c) Multiple offenses.--A person who [commits a second or subsequent offense under subsection (a)], at the time of sentencing for an offense under this section, has been convicted of a prior offense under

this section commits a felony of the third degree, except that if the child abuse constitutes a felony of the first degree or higher, the penalty for the second or subsequent offenses is a felony of the second degree.

(d) Statute of limitations.--The statute of limitations for an offense under [subsection (a)] this section shall be either the statute of limitations for the crime committed against the minor child or five years, whichever is greater.

Section 1.1. Section 5522 of Title 42 is amended by adding a subsection to read:

Amend Bill, page 2, line 4, by inserting after "amended":

and the section is amended by adding subsections

Amend Bill, page 2, line 13, by inserting a bracket before "shall"

Amend Bill, page 2, line 13, by striking out the bracket before "12"

Amend Bill, page 2, line 13, by striking out "]" 37"

Amend Bill, page 2, line 14, by inserting after "to":

] may

Amend Bill, page 2, line 16, by inserting after "abuse":

or the age of the individual

Amend Bill, page 2, by inserting between lines 17 and 18:

(c) Postinfancy action.--

(1) If an individual entitled to bring a civil action arising from sexual abuse is 18 years of age or older at the time the cause of action accrues, the individual may commence an action for damages regardless of whether the individual files a criminal complaint regarding the sexual abuse or the age of the individual.

(2) For the purpose of this subsection, the term "sexual abuse" shall include actions that constitute an offense under the following provisions of 18 Pa.C.S. (relating to crimes and offenses):

Section 3011(a) (relating to trafficking in individuals).

Section 3012 (relating to involuntary servitude) as it relates to sexual servitude.

Section 3121 (relating to rape).

Section 3123 (relating to involuntary deviate sexual intercourse).

Section 3124.1 (relating to sexual assault).

Section 3124.2 (relating to institutional sexual assault).

Section 3125 (relating to aggravated indecent assault).

Section 4302 (relating to incest).

(d) Revival of claims.--The following shall apply:

(1) Notwithstanding subsection (b) or any other provision of law, for an individual entitled to bring a civil action arising from childhood sexual abuse where the limitation period has expired, the individual shall have an additional period of two years from the effective date of this subsection to commence an action.

(2) Notwithstanding subsection (c) or any other provision of law, for an individual who is 18 years of age or older and entitled to bring a civil action arising from sexual abuse where the limitation period has expired, the individual shall have an additional period of two years from the effective date of this subsection to commence an action.

Amend Bill, page 2, lines 18 and 19, by striking out "a paragraph" and inserting:

paragraphs

Amend Bill, page 3, by inserting between lines 14 and 15:

(8) An offense under any of the following provisions of 18 Pa.C.S., or a conspiracy or solicitation to commit an offense under any of the following provisions of 18 Pa.C.S. if the offense results from the conspiracy or solicitation, if the victim was 18 years of age or older at the time of the offense:

Section 3011(a).

Section 3012 as it relates to sexual servitude.

Section 3121.

Section 3123.

Section 3124.1.

Section 3124.2.

Section 3125.

Section 4302.

Amend Bill, page 3, line 20, by inserting after "5551(7)":

or (8)

Amend Bill, page 5, by inserting between lines 9 and 10:

Section 4.1. Title 42 is amended by adding a section to read:

§ 8316.2. Contracts or agreements for nondisclosure of certain conduct.  
(a) Prohibition.--Except as provided in subsection (b), an individual may not enter into, revise or amend an agreement, contract, settlement or similar instrument that includes a provision that:

(1) prohibits or attempts to prohibit the disclosure of the name of an individual suspected of sexual abuse;

(2) suppresses or attempts to suppress information relevant to an investigation by law enforcement authorities into a claim of sexual abuse;

(3) impairs or attempts to impair the ability of an individual to report a claim of sexual abuse to law enforcement authorities; or

(4) impairs or attempts to impair the ability of an individual to publicly disclose a claim of sexual abuse.

(b) Exception.--An individual may enter into, revise or amend an agreement, contract, settlement or similar instrument to include a provision prohibited under subsection (a)(1) or (4) if the individual who was the victim of sexual abuse requests a provision be included.

(c) Void provisions.--A provision of an agreement, contract, settlement or similar instrument that is contrary to this section shall be void and unenforceable.

(d) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Childhood sexual abuse." Conduct that is subject to 23 Pa.C.S. Ch. 63 (relating to child protective services) and is directed toward or against a child, notwithstanding the age of the child.

"Law enforcement authorities." An individual or entity charged with the enforcement of Federal, State or municipal law.

"Sexual abuse." As defined in section 5533(c)(2) (relating to infamy, insanity or imprisonment). The term includes childhood sexual abuse.

Amend Bill, page 5, line 20, by inserting after "5551(7)":

or (8)

Amend Bill, page 6, line 16, by inserting after "5551(7)":

or (8)

Amend Bill, page 10, lines 14 through 30; page 11, lines 1 through 13; by striking out all of said lines on said pages and inserting:

Section 11. This act shall take effect immediately.

On the question,

Will the Senate agree to the amendment?

The PRESIDENT. The Chair recognizes the gentlewoman from Montgomery, Senator Muth.

Senator MUTH. Mr. President, this amendment would strengthen and expand House Bill No. 962 by providing timely protections through statutory changes and a pathway to healing and justice for all survivors of sexual violence and abuse, regardless of age. The way that House Bill No. 962 is currently drafted, it leaves out many survivors who are victimized after a certain age and also delays justice for several years because of the process required to pass a constitutional amendment. We as legislators, as public servants, have a duty to protect and serve all Pennsylvanians. My amendment provides a pathway to justice and offers all four grand jury recommendations. Specifically, it eliminates the criminal and civil statute of limitations for all survivors, regardless of age. It also provides a 2-year statutory window for expired civil claims. We have seen at least seven other States have statutory windows that have successfully helped survivors and have not been challenged in court. This amendment also clarifies and updates the penalties for mandated reporters who fail to report child abuse, and prohibits nondisclosure agreements that would prevent survivors from reporting to law enforcement.

A truly victim-centered bill is a bill that will become law immediately. Making victims wait a moment longer for their rightful pathway to healing and justice is not only unnecessary, but hurtful and harmful. Victims of sexual abuse and sexual violence have already experienced tremendous, horrific, life-altering trauma. As a rape survivor myself, I know this struggle, I live this struggle, and there is not a day that I wake up where I am not



a rape survivor. There is no statute of limitations or expiration date or time limit on the impacts of trauma. To not have your suffering recognized is an almost unbearable form of violence. You cannot heal if you do not feel heard. You do not need to wait years and years more to provide this pathway, as a constitutional amendment would demand. We can do it now, today, in this Chamber by implementing a statutory window, by passing this amendment.

The lack of support for survivors either by individuals or institutions, like the government that serves to help people not protect predators, is a direct retraumatization of every survivor. While we as lawmakers cannot legislate morality to make people think a certain way, we can legislate to deter certain unfavorable behavior. Abolishing the statute of limitations on sexual abuse and sexual violence crimes would deter predatory behavior and enforce accountability. Leaving a loophole for predators is irresponsible and harmful to our right to safety and protection by the law and by our government. I ask my colleagues to put party loyalty or special interest influence to the wayside and take this opportunity to finally do the right thing and vote "yes" on this amendment and finally give all survivors their rightful pathway to justice and healing.

Thank you, Mr. President.

And the question recurring,  
Will the Senate agree to the amendment?

The yeas and nays were required by Senator MUTH and were as follows, viz:

YEA-20

Blake	Dinniman	Iovino	Schwank
Boscola	Farnese	Kearney	Street
Brewster	Fontana	Leach	Tartaglione
Collett	Haywood	Muth	Williams, Anthony H.
Costa	Hughes	Santarsiero	Williams, Lindsey

NAY-28

Argall	DiSanto	Mastriano	Stefano
Aument	Gordner	Mensch	Tomlinson
Baker	Hutchinson	Phillips-Hill	Vogel
Bartolotta	Killion	Pittman	Ward, Judy
Brooks	Langerholc	Regan	Ward, Kim
Browne	Laughlin	Scarnati	Yaw
Corman	Martin	Scavello	Yudichak

Less than a majority of the Senators having voted "aye," the question was determined in the negative.

And the question recurring,  
Will the Senate agree to the bill on third consideration, as amended?

MUTH AMENDMENT A3961 OFFERED

Senator MUTH offered the following amendment No. A3961:

- Amend Bill, page 2, line 4, by inserting after "amended":  
and the section is amended by adding subsections
- Amend Bill, page 2, line 13, by inserting a bracket before "shall"
- Amend Bill, page 2, line 13, by striking out the bracket before "12"
- Amend Bill, page 2, line 13, by striking out "]" 37"

Amend Bill, page 2, line 14, by inserting after "to":

I may

Amend Bill, page 2, line 16, by inserting after "abuse":

or the age of the individual

Amend Bill, page 2, by inserting between lines 17 and 18:

(c) Postinfancy action.--

(1) If an individual entitled to bring a civil action arising from sexual abuse is 18 years of age or older at the time the cause of action accrues, the individual may commence an action for damages regardless of whether the individual files a criminal complaint regarding the sexual abuse or the age of the individual.

(2) For the purpose of this subsection, the term "sexual abuse" shall include actions that constitute an offense under the following provisions of 18 Pa.C.S. (relating to crimes and offenses):

Section 3011(a) (relating to trafficking in individuals).

Section 3012 (relating to involuntary servitude) as it relates to sexual servitude.

Section 3121 (relating to rape).

Section 3123 (relating to involuntary deviate sexual intercourse).

Section 3124.1 (relating to sexual assault).

Section 3124.2 (relating to institutional sexual assault).

Section 3125 (relating to aggravated indecent assault).

Section 4302 (relating to incest).

(d) Revival of claims.--The following shall apply:

(1) Notwithstanding subsection (b) or any other provision of law, for an individual entitled to bring a civil action arising from childhood sexual abuse where the limitation period has expired, the individual shall have an additional period of two years from the effective date of this subsection to commence an action.

(2) Notwithstanding subsection (c) or any other provision of law, for an individual who is 18 years of age or older and entitled to bring a civil action arising from sexual abuse where the limitation period has expired, the individual shall have an additional period of two years from the effective date of this subsection to commence an action.

Amend Bill, page 2, lines 18 and 19, by striking out "a paragraph" and inserting:

paragraphs

Amend Bill, page 3, by inserting between lines 14 and 15:

(8) An offense under any of the following provisions of 18 Pa.C.S., or a conspiracy or solicitation to commit an offense under any of the following provisions of 18 Pa.C.S. if the offense results from the conspiracy or solicitation, if the victim was 18 years of age or older at the time of the offense:

Section 3011(a).

Section 3012 as it relates to sexual servitude.

Section 3121.

Section 3123.

Section 3124.1.

Section 3124.2.

Section 3125.

Section 4302.

Amend Bill, page 3, line 20, by inserting after "5551(7)":

or (8)

Amend Bill, page 5, line 20, by inserting after "5551(7)":

or (8)

Amend Bill, page 6, line 16, by inserting after "5551(7)":

or (8)

Amend Bill, page 10, lines 14 through 30; page 11, lines 1 through 13; by striking out all of said lines on said pages and inserting:

Section 11. This act shall take effect immediately.

On the question,

Will the Senate agree to the amendment?

The PRESIDENT. The Chair recognizes the gentlewoman from Montgomery, Senator Muth.

Senator MUTH. Mr. President, my amendment to House Bill No. 962 would provide a pathway to address the gap that leaves out many survivors in the age gap. Specifically, it eliminates the criminal and civil statute of limitations for survivors regardless

of age. Sexual assault or rape is no different when you are 17 versus when you are 19 versus when you are 23, like myself, versus when you are 40, 50, or 100. Rape is rape, no matter when it happens. This amendment provides a 2-year statutory window for expired civil claims. We have seen at least seven other States pass this legislation. Again, I ask my colleagues to do the right thing and vote for justice and healing for all survivors now with the statutory window.

Thank you, Mr. President.

And the question recurring,  
Will the Senate agree to the amendment?

The yeas and nays were required by Senator MUTH and were as follows, viz:

YEA-20

Blake	Dinniman	Iovino	Schwank
Boscola	Farnese	Kearney	Street
Brewster	Fontana	Leach	Tartaglione
Collett	Haywood	Muth	Williams, Anthony H.
Costa	Hughes	Santarsiero	Williams, Lindsey

NAY-28

Argall	DiSanto	Mastriano	Stefano
Aument	Gordner	Mensch	Tomlinson
Baker	Hutchinson	Phillips-Hill	Vogel
Bartolotta	Killion	Pittman	Ward, Judy
Brooks	Langerholc	Regan	Ward, Kim
Browne	Laughlin	Scarnati	Yaw
Corman	Martin	Scavello	Yudichak

Less than a majority of the Senators having voted "aye," the question was determined in the negative.

And the question recurring,  
Will the Senate agree to the bill on third consideration, as amended?

KEARNEY AMENDMENT A3953 OFFERED

Senator KEARNEY offered the following amendment No. A3953:

Amend Bill, page 2, line 4, by inserting after "amended":  
and the section is amended by adding a subsection  
Amend Bill, page 2, by inserting between lines 17 and 18:  
(c) Revival of claims.--Notwithstanding subsection (b) or any other provision of law, for an individual entitled to bring a civil action arising from childhood sexual abuse where the limitation period has expired, the individual shall have an additional period of two years from the effective date of this subsection to commence an action.  
Amend Bill, page 10, lines 14 through 30; page 11, lines 1 through 13; by striking out all of said lines on said pages and inserting:  
Section 11. This act shall take effect immediately.

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

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Kearney.

Senator KEARNEY. Mr. President, I offer this amendment to fulfill all the recommendations of the grand jury report and to

pass the statutory 2-year window during which child sexual assault survivors can revive claims whose statutes of limitations have expired. I agree with my colleagues, Senator Baker and Senator Langerholc, that we need to pass the four recommendations. I believe that this is the way to actually meet those recommendations.

We have listened to arguments for and against the window's constitutionality. The Attorney General argues that a window is constitutional. Courts have upheld child abuse civil windows in State after State. This very Chamber moved legislation with a window last Session. Case law regarding the Remedies Clause of the Constitution simply does not prohibit the revival of claims with expired statutes of limitations. We cannot revive claims for acts that did not used to be outlawed, but sexually assaulting a child has always been illegal. The same vested rights argument for why a window would be unconstitutional has been rejected time and time again in States that have enacted civil windows.

Our statutes should reflect that, on average, people do not come to terms with their childhood sexual trauma until they are in their 50s. That is what this bill does for future generations. But what of today's survivors? Our fellow Pennsylvanians have been suffering for so long. They have been waiting for justice and for healing, and, like future generations, they deserve the right to seek justice and to heal. We should not put off that day when we do not have to. We should not make them wait for a multi-year constitutional amendment process that is not required. We have the authority to make this happen now.

With the current makeup of the Senate, this is our last chance to do the right thing by survivors right now. I humbly ask all my colleagues to think about the survivors and to pass this amendment.

The PRESIDENT. The Chair recognizes the gentleman from Columbia, Senator Gordner.

Senator GORDNER. Mr. President, I came to the Senate in 2003, and since 2004, I have been a Member of the Senate Committee on Judiciary. It has been a very interesting committee. It is one of the busiest committees, most active committees over the years. We were led by Senator Greenleaf for a long time, and now under the able leadership of Senator Baker.

On October 2 of this year, not too long ago, we had a hearing on these cases. A very emotional hearing, in many ways. Many victims were there, there were many more in the audience. We talked about a lot of emotional issues, but we also talked about some bland issues, some bland issues like constitutionality. There was a constitutional expert there who said that a statutory window is unconstitutional. We had someone else say that it is constitutional. So we had arguments on both sides at that October 2 hearing. There is a divisiveness of opinion.

There was just a reference to our current Attorney General who says that a statutory window is constitutional. I can look back just 4 or 5 years and tell you we had an Attorney General who said that a window would be unconstitutional. So just in a 5-year period, one Attorney General says constitutional, one Attorney General says unconstitutional.

I go back as far as 2013. I have a letter here to the Senate Committee on Judiciary and the Senate Committee on Aging and Youth and the House Committee on Aging and Youth from a very well-respected attorney from Cumberland County, Carlisle, as a matter of fact. As a matter of fact, I had his father as a law professor when I was a student, he was head of the moot court

team that I was involved with. He is not just some casual attorney. He represented Children and Youth Services for many years. He co-founded the Pennsylvania Children Youth Solicitors Association. In 2006, he was selected as the Pennsylvania Bar Association's Child Advocate of the Year. In his very thought-out letter, he talks about why a statutory window is unconstitutional, and goes into detail as to why a case that has been referenced, and any constitutional lawyer who talks about this is going to reference the *Lewis* case from 1908, because it continues to be that authority on the issue of constitutionality and something called the Remedies Clause. We have heard that a number of other States have adopted windows and they have been legal, but not many States have a Remedies Clause in the Constitution, and that is what makes the Commonwealth of Pennsylvania different on this issue. We do not have a Remedies Clause in statute, we have a Remedies Clause in the Constitution that you need to pay attention to.

The constitutional expert who testified on October 2 also had sent a letter to the Committee on Judiciary in 2016, where he goes into quite detail about it. He references that there is no like clause in the Federal Constitution. This is something that the Pennsylvania Constitution and only a few other States have. And it talks about how: *(Reading)*

The Remedies Clause protects "vested rights," that is, "[A] title, legal or equitable, to the present or future enforcement of a demand, or a legal exemption from a demand made by another." To that end, our Supreme Court has construed the Clause to prohibit the legislature from retroactively eliminating an accrued cause of action. As for when a claim accrues under the Remedies Clause, the Court has indicated that "the date the law is frozen for a case is the date the injury occurs, and thus the date the cause of action and the relevant defenses accrue."

He goes on to talk again about how it applies to not just plaintiffs but to defendants. It is a defense mechanism that can be used and has been used. That 1908 case has been referenced a number of times over the years. As long as you continue to reference it and not overturn it, it is valid law and that 1908 case remains valid today. In both of these letters that I talk about, these folks go on to make sure that everyone understands that it applies to defendants as well as defenses. And that is what we are looking at here.

I bring up Virginia. It is interesting, my son was here today, my son is a second-year law student at Dickinson Law School. He got to look at LexisNexis a little bit that lawyers use when we pulled up a Virginia case from the early 1990s. In that case, they passed a statute to open up a window, and that case ended up going to the Virginia Supreme Court. The Virginia Supreme Court ended up saying that that was unconstitutional because they have a Remedies Clause as well. So what Virginia ended up having to do was do a constitutional amendment, because their Supreme Court ended up determining back in the early 1990s that that action by the legislature was unconstitutional.

Mr. President, we just took action on a piece of legislation to do a constitutional amendment. One of the Senators who spoke very passionately on our side talked about how, when you look at constitutional questions that are passed by the people, that then go to the courts, the courts give those extra weight in regard to just a statute passed by the General Assembly.

The other interesting thing, going back to October 2, and I forget, I think it may have been the chair that asked the question,

and I think they may have asked the question to one of the proponents who said it is constitutional, if this statute is passed and it is tried and appealed, how long of a process do you think it would take? And the honest answer that was given was at least 2 to 3 years. At least 2 to 3 years until it weaves its way all through the courts, hearings, appeals, et cetera. So 2 to 3 years. We are almost at the end of 2019, at the beginning of 2020. So 2 to 3 years takes us to 2023 until possibly the Pennsylvania Supreme Court might make a final decision on a statute that is appealed through all the levels.

In what we just did by the votes of those of us who voted, we can do a constitutional amendment before that time. Why would we want to, again as talked about, further delay the rights and what the folks in the audience and those passionate folks who spoke at the hearing talked to us about? A lot of experts, Attorneys General of this Commonwealth, disagree on constitutionality. Is it going to get appealed? Is it going to go to the courts? Absolutely. Positively. No doubt at all.

The way to fix that, we did it. Constitutional amendment. We do it again next Session, does not have to go to the Governor, it goes to the people and they make that decision. For those reasons, Mr. President, I ask for a negative vote on this amendment, that we vote in favor of this bill, and that we finish providing all four provisions that that grand jury had asked us to do.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Farnese.

Senator FARNESE. Mr. President, I rise and address some of the comments by my colleague on the other side of the aisle. He is right about that day, October 2, and that was a historic day, Mr. President, because that was the first time--and I have been on the Committee on Judiciary since as a freshman as well, too--that was the first time the victims, the survivors were ever allowed to come in to a hearing and be heard, remove the tape from their mouths, and get that opportunity. So yeah, the opportunity--what actually happened on October 2 was significant. They were not folks who came in and testified. They were victims, they were survivors, and they were people who broke down and cried. You know, Mr. President, the only thing older than this constitutionality argument is that *Lewis* case of 111 years old. I mean, when are we going to wake up? Let the courts do what the courts are supposed to do. In this Chamber, we use this excuse, and let us call it what it is. We are not saving the court work. This is not judicial economy, it is an excuse. Because we know, people here know, that when we want to pass something out of this place, and the Constitution smacks us in the face, we run it, and we let the courts do their job. Let the courts do their job. Do not hide, Mr. President, behind a constitutional argument that we do not need to make.

I do not know if this is constitutional or not. For every person who came in to testify, we had other people there who came in and testified, too. Marci Hamilton, CEO and academic director of Child USA, and Robert A. Fox professor of practice, University of Pennsylvania. What does she say? This year, Mr. President, has been a banner year for statute of limitations reform. Forty-four States and D.C. have considered legislation to extend or revive those statutes. Between 2003, 10 States have revived expired civil SOLs. In 2019 alone, seven more States were willing to have the guts. They knew about constitutionality. They knew about the Constitution. They knew what the role of the

courts are, but they had the guts - Arizona, Montana, New Jersey, New York, Rhode Island, Vermont, Washington, D.C. Go to [www.childusa.org/2019SOL](http://www.childusa.org/2019SOL). The point I am trying to make is you can sit there and chop this thing up any way you want to do it on the statute and the constitutionality of same, but it is an excuse.

I sat in those hearings, too, and the fact that the chairwoman was able to have those, and to the extent that she gave those survivors and those victims the opportunity to be heard, that is unprecedented. That is what is unprecedented, the work of Senator Baker to do that. We can do the right thing tonight. We are not alone. State after State after State had the guts. But even if you do not want to vote for it, stop trying to say it is not constitutional. That argument is old. You know it and we know it. The courts are competent enough to make that determination, and when struck down, we start over. How many times have we had bills in this place struck down? When the NRA wants a bill, they get it. Who gives a darn about the Constitution then? We will push that thing right through, because they want it. Cases and cases of what is constitutional and what is not. We do not get to make that decision. We pass the bills, we do our best, we take the information, we attend the hearings, we listen to the testimony, we weigh it, and we make a decision. I am fine with that. Make your decision. Vote your conscience. Vote your district, but do not make the excuse that it is not constitutional. That is not right.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Lycoming, Senator Yaw.

Senator YAW. Mr. President, I rise in opposition to the idea of a statutory window. I am not going to repeat what my fellow attorney colleagues have said so eloquently, but on October 2, we were told that there are significant constitutional issues with what is happening. The provision of our Constitution in Article I, section 2 or section 11, is the Remedies Clause. There was expert testimony that if we do a statutory window, it faces serious constitutional issues. You have already heard that what is happening by amending the Constitution, we are building a solid base, and a base that we can then pass statutory action that has substance to it, and it will pass muster.

You know, unless I am totally forgetting what the oath was when I came into the Senate, and every Member of the Senate took the same oath, and it says that we will support, obey and defend the Constitution of Pennsylvania, as well as the Constitution of the United States. Judges take that oath, and we take it. I think that we have an obligation when we are told by experts that there is an issue here, we have an obligation to at least make the initial determination, is this constitutional? If we have significant reason to believe that there is a constitutional problem, then we should follow it. I think that the statutory window sounds great. You get immediate relief. Well, you do not get immediate relief. What you get is false hope, and false hope then ends up in years and years of litigation. So we can either do years and years of litigation with the false hope not knowing what the outcome is, or do it the right way and know what the outcome is.

I think that what we are doing by saying, you know, let us let the courts decide, we are passing up an obligation we have under the oath that we took, and I take that oath very seriously. The oath was I have an obligation to support, obey and defend the Constitution of Pennsylvania, then I have an obligation to inter-

pret it the way that I think is best based on all the information that I have. I think that there is significant evidence that has been presented by everybody who has spoken here tonight that says we have an issue here, and there is serious constitutional question, there is a process in motion that would solve all those constitutional issues, and I think we have an obligation to follow that. For that reason, I ask for a negative vote.

The PRESIDENT. The Chair recognizes the gentlewoman from Montgomery, Senator Muth.

Senator MUTH. Mr. President, I submit a document for the record discussing the constitutionality of the civil window proposal regarding the Pennsylvania Remedies Clause. It is a memorandum from a senior appellate counsel stating how Pennsylvania's Remedy Clause simply states that, "All courts shall be open; and every man for an injury done him in his lands, goods, person or reputation shall have remedy by due course of law." On its face, then the provision protects people who have been harmed, not those who have harmed them. It is the past victims of child sexual abuse for whom we now seek a remedy, not the abusers and enablers.

Thank you, Mr. President.

The PRESIDENT. Without objection, the memorandum will be spread upon the record.

*(The following prepared memorandum was made part of the record at the request of the gentlewoman from Montgomery, Senator MUTH:)*

#### MEMORANDUM

TO: DAVID WADE, Chief of Staff  
 FROM: RONALD EISENBERG, Senior Appellate Counsel  
 DATE: August 29, 2018  
 Re: constitutionality of civil window proposal under Pennsylvania "remedies clause"

The 40th Statewide Investigating Grand Jury recently issued a report on child sex abuse in Catholic dioceses. The report noted that, at the time most of the abuse occurred, the applicable statute of limitations provided only two years for the filing of civil lawsuits seeking damages for the abuse. Because the institutional nature of the abuse had long been covered up, most victims were unable to seek damages in time. The grand jury therefore recommended that the legislature enact a "civil window" to give those two years back to the victims, allowing them to file lawsuits now.

Opponents have argued that a civil window would violate the "remedies clause" of the Pennsylvania Constitution, Art. I § 11. I believe that argument is not correct. The case law on which the opponents rely does not control, and the plain language of the remedies clause itself supports the civil window proposal. While the result is impossible to guarantee, I believe there is a reasonable likelihood that the Pennsylvania Supreme Court would uphold the civil window.

The remedies clause provides simply that "[a]ll courts shall be open; and every man for an injury done him in his lands, goods, person or reputation shall have remedy by due course of law." On its face, then, the provision protects people who have been harmed--not those who have harmed them. It is the past victims of child sexual abuse for whom we now seek a remedy, not the abusers and enablers.

Opponents of the civil window, however, contend that this constitutional protection of remedies for wrongs actually protects the wrongdoer here. Their argument is based on language in a Pennsylvania Supreme Court decision that is 110 years old. In *Lewis v. Pennsylvania R. Co.*, 69 A. 821, 823 (1908), the court commented that "[t]here is a vested right in an accrued cause of action, in a defense to a cause of action, even in the statute of limitations when the bar has attached." The opponents say that, since the two-year statute of limitations for most child sex abuse victims has already expired, the abusers have a vested right not to be sued under *Lewis*.

The difficulty is that, despite this language in *Lewis*, the case did not actually involve a statute of limitations. In *Lewis*, the legislature passed a new law creating a duty of care that had not existed when the underlying events occurred. The Supreme Court held that it would be unfair and illegal to apply the new law *ex post facto* against the defendant, who could not have known he had any obligation to the plaintiff at the time of the alleged conduct. Because the case was not about a statute of limitations, the Supreme Court's comment in that regard constituted what is known as dictum—a general statement made without full consideration that carries no force of law.

The century-old *Lewis* dictum has been cited in more recent cases, but the Supreme Court has still never decided a remedies clause claim involving a change to the statute of limitations. In *Ieropoli v. AC&S Corp.*, 842 A.2d 919 (Pa. 2004), for example, the court quoted from *Lewis*; but it relied on the remedies clause there to protect the plaintiff, not the defendant, by striking down a statute that limited the plaintiff's ability to sue. And in *Konidaris v. Portnoy Law Associates*, 953 A.2d 1231, 1242 (Pa. 2008), the court again quoted *Lewis*, but rejected the defendants' remedies clause argument. The court noted that, "[b]y focusing on the term 'vested right,' the [defendants] lose sight of the purpose of the Remedies Clause: the protection...of in individual's remedy for an injury done."

Also, although the Pennsylvania Supreme Court hasn't yet addressed the question presented here, the United States Supreme Court has. And that court has made clear that a civil window would be completely constitutional under the federal due process clause. "Certainly it cannot be said that lifting the bar of a statute of limitation *so as to restore a remedy lost through mere lapse of time* is per se an offense against the Fourteenth Amendment." As the court observed, "[s]tatutes of limitation find their justification in necessity and convenience rather than in logic...They are by definition arbitrary." A state legislature, therefore, "may repeal or extend a statute of limitations, even after right of action is barred thereby, [and] *restore to the plaintiff his remedy*." *Chase Securities Corp. v. Donaldson*, 325 U.S. 304, 312-16 (1945) (emphasis supplied).

For these reasons, courts in other states—including Delaware, Connecticut, Massachusetts, and California—have rejected "vested right" claims and upheld child abuse civil windows adopted in recent years. See, e.g., *Sheehan v. Oblates of St. Francis de Sales*, 15 A.3d 1247, 1259 (Del. 2011); *Doe v. Hartford Roman Catholic Diocesan Corp.*, 119 A.3d 462, 494-518 (Conn. 2015); *Sliney v. Previte*, 41 N.E.3d 732, 740 (Mass. 2015); *Deutsch v. Masonic Homes of California*, 80 Cal. Rptr. 3d 368, 378-79 (Cal. Ct. App. 2008). After all, "[t]his is not a case where the [abusers'] conduct would have been different," *Chase Securities*, 325 U.S. at 316, but for the civil window. They always knew what they were doing was wrong; the only question was whether they could hide it long enough to get away with it.

Pennsylvania, of course, is not bound by these other authorities. The State Supreme Court is free to rule that Pennsylvania's remedies clause does not permit the restoration of remedies for child abuse victims, and instead requires that these remedies be extinguished. But that seems a peculiar way to understand this provision of the Constitution's Declaration of Rights, and it is not compelled by existing precedent. The legislature would act in good faith in choosing to enact a civil window.

The PRESIDENT. The Chair recognizes the gentleman from Montgomery, Senator Haywood.

Senator HAYWOOD. Mr. President, I am also a Member of the Committee on Judiciary and was at the same hearing as some of my other colleagues have testified about already. I think that the either/or option that we seem to be presented with is really not the case. We can both have the constitutional amendment, which I voted for a few moments ago, as well as the window established statutorily. We do not have to really choose one or the other. If the constitutional amendment process ends up with a more rapid pace, then that is the pace that we are on, or if the statutory change ends up with the more rapid pace, that is the path that we are on. We do not have to say one or the other.

I do agree that there was quite a bit of dispute about the status of the Constitution. I, along with a prior speaker this evening,

have come to the conclusion that our Constitution clearly permits the 2-year window, but I understand that others in this Chamber may not agree. We do not have to end with disagreement, on an either/or choice. Today, by voting for this amendment, we can still go forward with the 2-year statutory window as well as what we have already voted for, the start of a constitutional change process.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes, for the second time, the gentleman from Columbia, Senator Gordner.

Senator GORDNER. Mr. President, I rise to submit for the record a March 20, 2013, letter from Jason Kutulakis, as well as a May 27, 2016, letter from Stephen Mikochik indicating that the statute is unconstitutional because of the Remedies Clause.

The PRESIDENT. Without objection, the letters will be spread upon the record.

*(The following prepared letters were made part of the record at the request of the gentleman from Columbia, Senator GORDNER:)*

ABOM &  
KUTULAKIS

March 20, 2013

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Hon. Louise Williams Bishop  
326 Main Capitol Building  
PO Box 202192  
Harrisburg, PA 17120-2192

RE: Statutes of Limitations in child abuse matters  
House Bill 342

Dear Representatives:

As you know in 2012 I was appointed to serve as one (1) of the eleven (11) members on the Governor's Task Force on Child Protection and since January 2013 have appeared before both the House Judiciary and Children and Youth Communities to testify in support of the Task Force's recommendations. Unlike many who communicate with you, I candidly do so with an agenda and with full disclosure, as I serve as the voice for many others. However, today I write for those without an agenda. I write on behalf of the children of the Commonwealth of Pennsylvania.

I have dedicated a significant portion of my professional career to advocating for children's rights and fighting child abuse. For over ten (10) years I represented Dauphin County Social Services for Children and Youth as its lead solicitor, and I have been special counsel to several of the surrounding counties' child welfare agencies. In 2004, I co-founded the Pennsylvania Children & Youth Solicitors Association that is now comprised of 62 member counties and over 125 solicitors statewide. In 2006, I was selected as the Pennsylvania Bar Association's Child Advocate of the Year. In 2009, before the Archdiocese Church and Sandusky high profile cases, my colleague Joyce Hatfield-Wise and

I spearheaded the implementation of a statewide training for members of the multi-disciplinary investigative team (MDIT) called ChildFirst PA. ChildFirst PA is a weeklong, intensive training for those MDIT members including forensic interviewers, children & youth caseworkers, children & youth solicitors, law enforcement and prosecutors. To date, ChildFirst PA has trained over one third (1/3) of the counties in Pennsylvania and over 200 professionals. ChildFirst PA is sponsored by the PA Children and Youth Solicitors Association in collaboration with the Pennsylvania District Attorneys Association and is anchored at the Pennsylvania State Police Academy in Hershey.

As I continue to closely monitor the progress of the Task Force recommendations, I am concerned about the issues raised within the past week specifically relating to Statutes of Limitation. In an article published by the *Patriot News*, Marci A. Hamilton, Esquire is reported to have stated that Representative Marisco has "misrepresented the constitutional law of Pennsylvania." While I hold Attorney Hamilton and her incredible fight for victims of child abuse, especially those subjected to sophisticated concealment of child abuse, in high regard, I must respectfully disagree. Throughout 2012, I personally researched and considered how statutes of limitation impact child abuse in Pennsylvania and as you are aware the Task Force ultimately concluded that the current statutes of limitations meet the needs of child victims.

Remedies are available for all victims of sexual abuse. More specifically there are three systems in effect regarding child abuse. Presumably, the most familiar is the criminal justice system. It currently provides a statutory period in which to prosecute crimes where a child was a victim of a sex crime until that child reaches fifty (50) years of age.

Second, is the civil system where victims of child abuse may seek monetary damages as well as equitable remedies for the harm caused by their abusers. Currently, a child victim of sexual abuse may perfect a civil cause of action through age thirty (30).

Finally and most overlooked, are child abuse investigations conducted by county child welfare agencies. The Child Protective Services Law (CPSL) provides no limit for which a county child welfare agency may conduct an investigation of child sexual abuse. In other words, there is no statute of limitations for investigations by county child welfare agencies into child sexual abuse. The primary purpose of the child welfare system is to assure safety of children and to provide services to help them.

I am honored to be part of a process where legislation is being developed in a manner where politics will be checked on the first step leading up to the Capitol. Putting children first will always lead to the correct result. However, I do have concerns about the newly proposed "window" amendments to H.B. 342 offered by Representatives McGeehan and Rozzi for several reasons.

Initially, I believe that should H.B. 342 be enacted into law, it would indeed violate the Pennsylvania Constitution. The Pennsylvania Constitution contains a provision, unlike the Federal Constitution, known as the Remedies Clause, Article I, Section 11, the Remedies Clause (the *italicized* portion below), stands as an immovable barrier against the elimination of certain fixed rights:

All courts shall be open; and *every man for an injury done him in his lands, goods, person or reputation shall have remedy by due course of law*, and right and justice administered without sale, denial or delay. Suits may be brought against the Commonwealth in such manner, in such courts and in such cases as the Legislature may by law direct.

In clearer terms, as offered by the Pennsylvania Supreme Court, the Remedies Clause forbids acts of the General Assembly that would impinge upon a "vested right." Konidaris v. Portnoff Law Assocs., 953 A.2d 1231, 1232 (Pa. 2008). Vested rights include vested *claims* and vested *defenses*. See Ieropoli v. AC&S Corp., 842 A.2d 919, 932 (Pa. 2004) ("[The Remedies Clause], which binds both the legislature and the courts, provides that an accrued cause of action is a vested right and as such, cannot be eliminated by subsequent legislation."); Lewis v. Pennsylvania R. Co., 69 A. 821, 823 (Pa. 1908) ("If the law of the case at the time when it became complete is such an inherent element in it that a plaintiff may claim it as a vested right, on what possible grounds can it be held that a defendant has no vested right with respect to an exemption or defense?").

More simply stated, the Remedies Clause means that the General Assembly cannot eliminate claims that already exist but that are not

time barred, and, likewise, cannot eliminate defenses that have already accrued. As to claims, this means that the General Assembly could not, for example, decide today to eliminate the tort of defamation (or change the elements of the tort) and have that change apply to every *existing* claim for defamation. Thus, if the day before this hypothetical abolition of defamation a newspaper published a libelous story about a person, that person's claim could not be extinguished under the new law. Under the Remedies Clause, the individual's claim would survive. Cf. Ieropoli, 842 A.2d at 932.

The Remedies Clause has the same effect as it applies to defenses, which is the relevant issue here with the newly proposed "window" amendments. Instead of a hypothetical example, an actual example from a decision by the Supreme Court is instructive and in fact controlling. In Lewis v. Pennsylvania Railroad Company, the plaintiff, the widow of a conductor who lost his life in a train accident, brought suit for negligence against the railroad. The statute in effect at the time of the death barred the plaintiff's claim. However, during the pendency of her lawsuit, the General Assembly repealed the former law, and provided liability for the circumstances of the conductor's death. The plaintiff then sought recovery under the new law and the Pennsylvania Supreme Court denied relief.

In doing so, the Court adopted the principle that "retroactive legislation that reduces a defendant's defenses or 'exemptions from demand' cannot be applied where the defense has 'vested.'" See Konidaris, 953 A.2d at 1241 (interpreting Lewis). As the Lewis court itself declared--and as is especially relevant to the amendments at issue here--"There is a vested right in an accrued cause of action, in a defense to a cause of action, *even in the statute of limitations when the bar has attached*, by which an action for a debt is barred." Lewis, 69 A. at 823 (emphasis added and quotations removed).

Since its decision in 1908, Lewis has been favorably cited by the Supreme Court on several occasions, which is to say, it remains controlling. See, e.g., Konidaris, 953 A.2d at 1241; Ieropoli, 842 A.2d at 926-27; Bible v. Com., Dep't of Labor & Indus., 696 A.2d 1149, 1156 (Pa. 1997). Moreover, the specific concept that a fully vested limitations defense cannot be eliminated by subsequent legislative acts has been repeatedly endorsed by Pennsylvania courts. See e.g., Overmiller v. D.E. Horn & Co., 159 A.2d 245, 248 (Pa. Super. 1960) ("It is accepted, almost without exception or qualification, that after an action has become barred by an existing statute of limitations, no subsequent legislation will remove the bar or revive the action."); Maycock v. Gravely Corp., 508 A.2d 330, 334 (Pa. Super. 1986) (citing Overmiller); Redenz by Redenz v. Rosenberg, 520 A.2d 883, 885 (Pa. Super. 1987) (citing Maycock); see also Urland by and through Urland v. Merrell-Dow Pharm., Inc., 822 F.2d 1268, 1276 (3d Cir. 1987) (citing Overmiller).

Despite the foregoing well-settled principles, some confusion has been introduced over concepts of "procedural" versus "substantive" rights. I have received a copy of the letter written on March 8, 2013, by Marci A. Hamilton, Esq., setting forth her position that H.B. 342 will pass Constitutional muster. With great deference to Marci A. Hamilton, Esq., I suggest the distinctions between procedural and substantive rights are without a difference relating to H.B. 342. Nothing in Pennsylvania law, and more specifically nothing in the cases Attorney Hamilton cites--Bible v. Commonwealth, Department of Labor and Industry, 696 A.2d 1149 (Pa. 1997) or McDonald v. Redevelopment Authority of Allegheny County, 952 A.2d 713 (Pa. Cmwlth. 2008)--holds that the Remedies Clause prohibition against the revival of time-barred claims depends on the procedural or substantive nature of the defense. Whether a statute of limitations defense is procedural or substantive, case after case states that once it applies it cannot be eliminated by subsequent legislative activity. See e.g., Lewis, 69 A. at 823; Maycock, 508 A.2d at 333-34 (holding that whether statute of limitations is characterized as procedural or substantive, the legislature cannot revive a time barred claim). Notably, Bible and McDonald both only support the unremarkable principle that a right *not* yet vested--be it a claim or a defense--can be altered. See Bible, 696 A.2d at 261; McDonald, 952 A.2d at 718. This debate is not about unvested defenses, but about defenses that became fixed and permanent long ago.

It is noteworthy that Attorney Hamilton's March 8, 2013, letter attributes to McDonald the following: "[N]o one has a vested right in a statute of limitations or other procedural matters, and the legislature may at any time alter, amend, or repeal such provision without offending constitutional restraints." See Attorney Hamilton letter at 2. However, the Commonwealth Court's sentence did not end at "restraints,"

but in fact ended only after adding the following significant qualifier: "as long as there is no omission of a remedy for the enforcement of a right for which a remedy existed when the right accrued." *McDonald*, 952 A.2d at 718. This qualifier demonstrates precisely what has been articulated above, namely, that *unvested* claims or defenses (be they procedural or substantive) are subject to change by legislative action, but once those rights are *vested*, they are protected by the Constitution.

Against all of the above, the proposed window amendments, if enacted into law, will undoubtedly violate the Remedies Clause of the Pennsylvania Constitution. The potential defendants' vested rights in the applicable statutes of limitations stand as a total bar to liability and cannot be retroactively eliminated. While no doubt the amendments are an attempt to remedy a social problem, the policy goals behind the amendments cannot and do not supplant constitutional rights. Indeed, as the Supreme Court in *Ieropoli* aptly observed: "any statutory effort aimed at reformation must not offend the Remedies Clause, if it is to pass constitutional muster." 842 A.2d at 932.

I understand that some advocates suggest that the General Assembly should just open the window and leave it to the courts to decide if the window is constitutional, but that is a dangerous path to travel. The General Assembly is a co-equal branch of government that has a co-equal duty to preserve and uphold the State Constitution. To punt on that duty by not seriously examining the constitutionality of proposed laws is to do violence to the Legislature's shared burden to the people of this Commonwealth.

Finally, we must work toward a system that is child centered and child safe. A child suspected of being a victim of child abuse must be promptly interviewed by a neutral and detached forensic interviewer, one who is well trained in asking age and developmentally appropriate questions. A child centered system in fact encourages victims and their families to promptly report. A prompt report is necessary so the victim child's safety is ensured and appropriate medical and counseling services are quickly provided. A prompt report is also needed to protect not only the victim child from future abuses, but also other children from victimization by that same perpetrator. A prompt report leads to prompt accountability.

As time goes by the ability to successfully litigate both civil and criminal cases diminishes. For example, the opportunity to obtain evidence of both physical and sexual abuse erodes; the identification and location of witness becomes more difficult; and details of witnesses accounts often fade with time.

One must also question if "window" legislation were enacted, would it necessitate a two (2) year "window" for all personal injury claims. Should not all individuals who have sustained a personal injury, yet missed the filing deadline as proscribed by the applicable statutes of limitation, be treated in the same manner and afforded additional time to commence litigation? Should victims of exposure to: asbestos, medical malpractice, automobile accidents, harm from tobacco products or defective products, et cetera all be given additional time to commence civil suits?

The Pennsylvania courts have unequivocally answered these very questions. Indeed, as the Supreme Court has explained on multiple occasions:

statutes of limitation and repose are vital to the welfare of society and are favored in the law. They are found and approved in all systems of enlightened jurisprudence. They promote repose by giving security and stability to human affairs. An important public policy lies at their foundation.

*Berwick Indus. v. W.C.A.B. (Spaid)*, 643 A.2d 1066, 1070 (Pa. 1994). The principles set forth in cases including *Lewis*, *Konidaris*, and other cases cited above are firmly rooted in this public policy. As unequivocally stated by Justice Saylor, joined by Chief Justice Castille, after the statute of limitations expires a party is "entitled to the repose afforded by the statute of limitations" and is "able to rely upon the statute of limitations in order to arrange its affairs going forward." *Abrams v. Pneumo Abex Corp.*, 981 A.2d 198, 213-14 (Pa. 2009) (Saylor, J., dissenting, joined by Castille, C.J.).

I do agree with portions of HB 342 that reiterate the current exceptions to statutes of limitations. HB 342 provides that cases may be perfected where: 1.) the existence of newly discovered evidence that, with reasonable diligence, could not have been discovered before the statute of limitations expired; or 2.) where fraud, inexcusable neglect, misrep-

resentation or misconduct by an opposing party exists. The Doctrine of Fraudulent Concealment and the Discovery Rule already operate as viable tools to tolls the statute of limitations where the facts support those legal concepts. To the extent I agree with those specific portions of HB 342, I do not believe additional legislation is required as those legal principles currently exist.

Again, a remedy does in fact currently exist for all child sexual abuse cases that will afford the victims a full investigation by county child welfare agencies. This process can and does hold perpetrators accountable and may provide closure to victims; however, it does not have any mechanism to compel any money judgements against the perpetrators or their institutions.

Unfortunately the Sandusky and Archdiocese cases represent only a mere fraction of the thousands of cases of child abuse occurring annually in Pennsylvania. Nevertheless those high profile cases have brought a bright light to this pandemic and we must grasp this time to improve the child abuse system by placing the children first.

As Pennsylvania undoubtedly moves forward in improving the child abuse system, it must do so without departing from the core upon which all systems are built . . . the Constitution. While we all must endeavor to protect children from the horrors of child abuse that permeate every socio-economic demographic, we must fashion remedies and legislation that place children first.

I remain dedicated to working toward a Pennsylvania that leads the fight for children's rights and fighting to end child abuse.

With high regards,

JASON P. KUTULAKIS

May 27, 2016

The Hon. Stewart J. Greenleaf  
Senate Committee on the Judiciary  
Pennsylvania General Assembly  
19 East Wing  
Main Capitol  
Harrisburg, PA 17120-3012

Re: The unconstitutionality of Legislation Reviving Time-Barred Civil Claims for Childhood Sexual Abuse

Dear Chairman Greenleaf:

My name is Stephen L. Mikochik. I am an Emeritus Professor of Constitutional Law at Temple Law School in Philadelphia; a Visiting Professor of Jurisprudence at Ave Maria Law School in Florida; a former civil rights attorney with the U.S. Department of Justice; and a resident of Lancaster County, Pa.

I understand your committee is considering H.B.1947 which would extend the statute of limitations for civil claims of childhood sexual abuse. To the extent the bill would apply retroactively "to revive an action which was barred by a statute of limitations prior to [its] effective date [,]" I respectfully submit such legislation would violate the Remedies Clause of the Commonwealth Constitution.

The Remedies Clause provides: "[E]very man for an injury done him in his lands, goods, person or reputation shall have remedy by due course of law, and right and justice administered without sale, denial or delay." The clause has no counterpart in the Federal Constitution, and the Pennsylvania Supreme Court has given "due course of law" an interpretation independent of "due process of Law:"

Although similar to the oft-used term "due process," the term "due course of law" has a distinct meaning in the Remedies Clause: The right to due process protects people against official deprivations of liberty or property by the state, except by "law of the land." By contrast, the right to "due course of law" provides an independent guarantee of legal remedies for private wrongs by one person against another, through the state's judicial system.

The Remedies Clause protects "vested rights," that is, "[A] title, legal or equitable, to the present or future enforcement of a demand, or a legal exemption from a demand made by another." To that end, our Supreme Court has construed the Clause to prohibit the legislature from

retroactively eliminating an accrued cause of action. As for when a claim accrues under the Remedies Clause, the Court has indicated that "the date the law is frozen for a case is the date the injury occurs, and thus the date the cause of action and the relevant defenses accrue."

As the above language implies, the Remedies Clause protects defenses as well as causes of action. In that regard, the Supreme Court has "refused to apply retroactive legislation that reduces a defendant's defenses or 'exemptions from demands' based on the concept of a vested right [.]" As the Court explained more than a century ago:

A legal exemption from liability on a particular demand, constituting a complete defense to an action brought, stands on quite as high ground as a right of action. If the law of the case at the time when it became complete is such an inherent element in it that a plaintiff may claim it as a vested right, on what possible ground can it be held that a defendant has no vested right with respect to an exemption or defense?

Notably, a "vested right with respect to an exemption or defense" can exist "even in the statute of limitations when the bar has attached[.]" Thus, in a case where plaintiff unsuccessfully maintained that the discovery rule had extended the time for filing her claim of childhood sexual abuse, the Supreme Court further concluded that the provision tolling the statute of limitations for such claim during a plaintiff's minority "could not be applied retroactively to revive a claim that was otherwise time-barred by the statute in effect at the time of the injury." Though the Court did not explain its reasoning, the conclusion it reached nonetheless conformed to its Remedies Clause jurisprudence. If a provision tolling the statute of limitations cannot apply retroactively, it follows that one extending or eliminating such limitation cannot apply retroactively as well.

Admittedly, in *Bible v. Department of Labor & Industry*, the Supreme Court quoted language from *Agostin v. Pittsburg Steel Foundry Corporation*, that "[n]o one has a vested right in a statute of limitations or other procedural matters. The legislature may at any time alter, amend or repeal such provisions without offending constitutional restraints." As the Bible Court further recognized, however, *Agostin* went on to explain that "[s]o long as there is no omission of a remedy for the enforcement of a right for which a remedy existed when the right accrued, a want of **due process** is in no way involved [.]" thus identifying Due Process, not the Remedies Clause, as the constitutional restraint at issue. Indeed, Neither the *Bible* nor the *Agostin* court even mentioned the Remedies Clause, relying variously on Section 9 and 17 of the Commonwealth Constitution and the Fourteenth Amendment of the Federal Constitution instead.

I should note that the Remedies Clause analysis in Prof. Hamilton's letter to the General Assembly last year is seriously flawed. The Letter claims that the Remedies Clause "is a constitutional guarantee for plaintiffs and not defendants." Though citing *Konidaris v. Portnoff Law Associates, Limited*, and *Ieropoli v. AC&S Corporation*, the Hamilton Letter nowhere mentions that both cases reaffirm that part of the Supreme Court's holding in *Lewis v. Pennsylvania Railroad Company*, protecting exemptions and defenses under that provision as well. The Letter, however, suggests that the relevant language in *Lewis*, quoted above, refers to due process, rather than the Remedies Clause; but the immediately preceding text makes plain the Court's intent to construe the latter: "[T]he law of the case at that time when it became complete is an inherent element in it; and, if changed or annulled, the law is annulled, justice denied, and the **due course of law** is violated."

I should add that the Hamilton Letter's reliance on the U.S. Supreme Court's decision in *Landgraf v. USI Film Products* is altogether misplaced. The Court's dictum, that, given clear intent, Congress had a relatively free hand under the Fifth Amendment Due Process Clause to apply procedures retroactively in civil cases, did not disturb the settled law that "every State had the sovereign right to adopt in its own Constitution individual liberties more expansive than those conferred by the [F]ederal Constitution." This is precisely what Pennsylvania has done in adopting the Remedies Clause as part of the Commonwealth Constitution.

As for the Hamilton Letter's argument that fairness demands revival of time-barred civil claims for childhood sexual abuse, the U.S. Supreme Court answered a similar contention in rejecting California's attempt to revive time-barred criminal prosecutions for such abuse:

[In arguing the fairness of reviving the time-barred prosecution against the accused for childhood sexual abuse,] the dissent ignores the potentially lengthy period of time (in this case, 22 years) during which the accused lacked notice that he might be prosecuted [for such abuse] and during which he was unaware, for example, of any need to preserve evidence of innocence. Memories fade, and witnesses can die or disappear. Such problems can plague child abuse cases, where recollection after so many years may be uncertain, and "recovered" memories faulty, but may nonetheless lead to prosecutions that destroy families.

Such concerns increase for defendants in civil litigation where plaintiffs' burden of proof is merely preponderance of the evidence rather than proof beyond a reasonable doubt.

In closing, I agree that remedying the harm suffered by victims of childhood sexual abuse is an exceptionally laudable objective. But even the most compelling end cannot be furthered by an unconstitutional means. To the extent H.B. 1947 would revive time-barred civil claims for such abuse, it would, in my opinion, violate the Remedies Clause of the Commonwealth Constitution.

Respectfully submitted,

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And the question recurring,  
Will the Senate agree to the amendment?

The yeas and nays were required by Senator KEARNEY and were as follows, viz:

YEA-20

Blake	Dinniman	Iovino	Schwank
Boscola	Farnese	Kearney	Street
Brewster	Fontana	Leach	Tartaglione
Collett	Haywood	Muth	Williams, Anthony H.
Costa	Hughes	Santarsiero	Williams, Lindsey

NAY-28

Argall	DiSanto	Mastriano	Stefano
Aument	Gordner	Mensch	Tomlinson
Baker	Hutchinson	Phillips-Hill	Vogel
Bartolotta	Killion	Pittman	Ward, Judy
Brooks	Langerholc	Regan	Ward, Kim
Browne	Laughlin	Scarnati	Yaw
Corman	Martin	Scavello	Yudichak

Less than a majority of the Senators having voted "aye," the question was determined in the negative.

Without objection, the bill, as amended, was passed over in its order at the request of Senator CORMAN.

PERMISSION TO ADDRESS

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator CORMAN.

Senator CORMAN. Mr. President, a moment of personal privilege, we just dealt with two very emotional bills, House Bill No. 963, which we passed, and House Bill No. 962, which we will pick up on a supplemental Calendar in a few moments. The two sponsors of that bill, Representative Jim Gregory and Representative Mark Rozzi, are with us today, as well as other survivors, and no matter how you voted on these issues, I think it is



important that we all, as a Senate, stand and salute them for their courage for bringing this issue before us. If we could all give them a moment to thank them.

(Applause.)

Senator CORMAN. Thank you, Mr. President.

**CONSIDERATION OF CALENDAR RESUMED**

**THIRD CONSIDERATION CALENDAR RESUMED**

**HB 1051 CALLED UP**

**HB 1051 (Pr. No. 1457)** -- Without objection, the bill, which previously went over in its order temporarily, was called up, from page 5 of the Third Consideration Calendar, by Senator CORMAN.

**BILL THIRD CONSIDERATION  
AND FINAL PASSAGE**

**HB 1051 (Pr. No. 1457)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, in child protective services, further providing for penalties.

Considered the third time and agreed to,

On the question,

Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

**YEA-47**

Argall	Dinniman	Laughlin	Schwank
Aument	DiSanto	Leach	Stefano
Baker	Farnese	Martin	Street
Bartolotta	Fontana	Mastriano	Tartaglione
Blake	Gordner	Mensch	Tomlinson
Boscola	Haywood	Muth	Vogel
Brewster	Hughes	Phillips-Hill	Ward, Kim
Brooks	Hutchinson	Pittman	Williams, Anthony H.
Browne	Iovino	Regan	Williams, Lindsey
Collett	Kearney	Santarsiero	Yaw
Corman	Killion	Scarnati	Yudichak
Costa	Langerhole	Scavello	

**NAY-1**

Ward, Judy

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate return said bill to the House of Representatives with information that the Senate has passed the same without amendments.

**HB 1171 CALLED UP**

**HB 1171 (Pr. No. 2892)** -- Without objection, the bill, which previously went over in its order temporarily, was called up, from page 5 of the Third Consideration Calendar, by Senator CORMAN.

**BILL ON THIRD CONSIDERATION  
AND FINAL PASSAGE**

**HB 1171 (Pr. No. 2892)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in particular rights and immunities, providing for contracts or agreements for nondisclosure of certain conduct.

On the question,

Will the Senate agree to the bill on third consideration?

**FARNESE AMENDMENT A3972 OFFERED**

Senator FARNESE offered the following amendment No. A3972:

Amend Bill, page 1, line 2, by inserting after "Statutes,":  
in preliminary provisions, providing for commencement of action alleging childhood sexual abuse; and,

Amend Bill, page 1, lines 7 and 8, by striking out all of said lines and inserting:

Section 1. Title 42 of the Pennsylvania Consolidated Statutes is amended by adding sections to read:

§ 5112. Commencement of action alleging childhood sexual abuse.

(a) Nondisclosure.--A party commencing a civil action that alleges childhood sexual abuse may file the action without disclosing the identity of the victim and the names of each parent or guardian filing the civil action on behalf of the minor child.

(b) Petition.--

(1) Subject to paragraph (2), a party against whom a civil action under subsection (a) has been filed may petition the court for determining the victim's identity and the names of each parent or guardian who made the filing.

(2) Except for disclosure under paragraph (1), the information shall remain confidential and may not be disclosed.

(3) Each reference in a pleading or other filing in a civil action under subsection (a) shall refer to the alleged victim as designated in the victim's original filing.

On the question,

Will the Senate agree to the amendment?

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Farnese.

Senator FARNESE. Mr. President, this amendment seeks to effectuate the true purpose of the statute, which is to shield the names of child victims of sexual abuse from public view. Under the current law, the names of parents filing lawsuits on behalf of their minor children are not shielded, which creates a loophole that easily allows perpetrators to discover and disclose the names of the affected children. This amendment will protect child victims of sexual abuse by automatically redacting the name of a parent or guardian who files a civil suit for damages on behalf of an injured child. This amendment would still permit, Mr. President, a judge to release the name to the defendant. However, those names must remain confidential, thus eliminating the risk of harm and the public scrutiny it may cause on an already traumatized child.

Mr. President, please join me in supporting this important amendment to protect our most vulnerable children and their families.

Thank you, Mr. President.

And the question recurring,  
Will the Senate agree to the amendment?

The yeas and nays were required by Senator FARNESE and were as follows, viz:

YEA-20

Blake	Dinniman	Iovino	Schwank
Boscola	Farnese	Kearney	Street
Brewster	Fontana	Leach	Tartaglione
Collett	Haywood	Muth	Williams, Anthony H.
Costa	Hughes	Santarsiero	Williams, Lindsey

NAY-28

Argall	DiSanto	Mastriano	Stefano
Aument	Gordner	Mensch	Tomlinson
Baker	Hutchinson	Phillips-Hill	Vogel
Bartolotta	Killion	Pittman	Ward, Judy
Brooks	Langerholc	Regan	Ward, Kim
Browne	Laughlin	Scarnati	Yaw
Corman	Martin	Scavello	Yudichak

Less than a majority of the Senators having voted "aye," the question was determined in the negative.

And the question recurring,  
Will the Senate agree to the bill on third consideration?

It was agreed to.

And the amendments made thereto having been printed as required by the Constitution,

On the question,  
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEA-48

Argall	Dinniman	Laughlin	Schwank
Aument	DiSanto	Leach	Stefano
Baker	Farnese	Martin	Street
Bartolotta	Fontana	Mastriano	Tartaglione
Blake	Gordner	Mensch	Tomlinson
Boscola	Haywood	Muth	Vogel
Brewster	Hughes	Phillips-Hill	Ward, Judy
Brooks	Hutchinson	Pittman	Ward, Kim
Browne	Iovino	Regan	Williams, Anthony H.
Collett	Kearney	Santarsiero	Williams, Lindsey
Corman	Killion	Scarnati	Yaw
Costa	Langerholc	Scavello	Yudichak

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate return said bill to the House of Representatives with information that the Senate has passed the same with amendments in which concurrence of the House is requested.

**MOTION PURSUANT TO SENATE RULE 12**

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, as a special order of business, I call up Senate Supplemental Calendar No. 1, House Bill No. 962, and move the Senate proceed to consider House Bill No. 962, notwithstanding the provisions of Senate Rule 12(m)(2).

On the question,  
Will the Senate agree to the motion?

A voice vote having been taken, the question was determined in the affirmative.

**SPECIAL ORDER OF BUSINESS  
SUPPLEMENTAL CALENDAR No. 1**

**BILL ON THIRD CONSIDERATION  
AND FINAL PASSAGE**

**HB 962 (Pr. No. 2938)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, reforming remedies for victims of sexual abuse: in limitation of time, further providing for six months limitation, for infancy, insanity or imprisonment, for no limitation applicable and for other offenses; in matters affecting government units, further providing for exceptions to sovereign immunity, for limitations on damages in actions against Commonwealth parties, for exceptions to governmental immunity and for limitations on damages in actions against local parties; in sentencing alternatives, providing for counseling services for victims of sexual abuse; and transferring money from the General Fund into the Crime Victim's Compensation Fund.

Considered the third time and agreed to,  
And the amendments made thereto having been printed as required by the Constitution,

On the question,  
Shall the bill pass finally?

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Kearney.

Senator KEARNEY. Mr. President, justice delayed is justice denied. We have put ourselves into a predicament here. The grand jury investigative report made four recommendations, but this bill is not one of them. The vote for this bill feels like a move in the right direction, but, in reality, it is not what the grand jury recommended. If my colleagues on the other side of the aisle wanted to insure that the grand jury recommendations were met, they could have agreed with my colleague, Senator Haywood, and pursued a dual path to providing these measures. But now, the very Pennsylvanians for whom this legislation was drafted will have to wait, and wait, and wait.

This sends a bad signal to survivors of child sexual abuse at the hands of the church and other institutions that we were supposed to be able to trust. It sends a signal that we have forgotten them and that we are leaving them out in the cold for at least 3 years, because justice delayed is justice denied. But, at the same time, to vote against this bill is to delay the improvements that it makes to our statutes and for our citizens going forward. This bill is not perfect, but it makes significant improvements to our justice system that many of our citizens will benefit from. Since we have the opportunity to make that happen, at the very least, we must act. But justice delayed is justice denied.

I stand behind our legislation, Senate Bill No. 540, and I stand with the survivors that this bill leaves behind. Those who think that this package will make the problems go away are sorely mistaken. I will keep fighting for all survivors of sexual assault. I will keep fighting for the survivors of heinous acts by rapists and the institutions that enable them. We will not take the pressure off our legislative leaders, and we will not stop until we have insured justice for all victims, because justice delayed is justice denied. We have waited long enough on these reforms, and we have a moral imperative to enact them. I will be voting "yes" on this bill, but we could do better. We must keep fighting for equal justice for all. Thank you.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Farnese.

Senator FARNESE. Mr. President, on October 2, as you heard, the chair of the Committee on Judiciary, Senator Baker, held a hearing on this issue. During that hearing, we heard from survivors of horrific sexual abuse and assault. I recall that entire day like it was yesterday because I know that there was never a day, in the time that I have been serving, that I was ever so moved by the testimony at the end of that hearing by the survivors and the victims who came forward. It was nothing short of incredible to hear them pour out their hearts and their souls and talk about how they have been denied justice, denied the opportunity to speak, and to be heard.

Mr. President, they were denied the opportunity to grow and to experience life the way that each and every one of us deserves to experience it. These survivors have had their lives, childhoods, futures ripped from them. I could never and I would never attempt to try to understand, but I remember, and it has stayed with me each and every day. I think about it. I think about their faces. I think about their testimony. I think about how hard we worked to do more. I think about how they asked us that day for help, they asked us for relief, and, today, we are not giving them what they need. We are not giving them what they deserve. I wish we could do more. I wish I could have done more. I tried. We tried. You know that.

It is not over. We will come back, and we will continue the fight. I will not forget that day. I will not forget those survivors who came in that day, who have more guts than anybody in this building, they told their stories, and they asked us to help them. You saw people here today, Senator Muth, Senator Kearney, with their amendments fighting, and fighting, and fighting, unwilling to say no. Unwilling to say we cannot do it, because we know we can. If they can, we can. I am sorry. So tonight, I promise, like all of us here, we are not going to stop fighting until they get everything they need.

To that end, Mr. President, I want to tell a story. It is not my story. It belongs to a friend, a colleague. Throughout this entire experience, this whole process, my inspiration, Representative Movita Johnson-Harrell. These are her words: In the fall of 1985, I was 19 years old. On this particular day, I worked the 4 p.m. to midnight shift where I was training six new staff. All were girls, and they were high school students who worked part time. Upon closing, we completed all of the rounds and checklist together. At some point, I asked everyone how they were getting home. They informed me that they would be catching the Market-Frankford line and then the 11 and 13 trolleys. Because all the girls were going the same way and they were all new to traveling this distance and it was late, I decided not to get a cab and

to take public transportation with them instead. Listen to these people. Listen. Listen. Listen. By now, it was after 1 a.m., and the streets were barren with the exception of the bar on the corner. When I got off the trolley, I began to walk the two blocks home up 60th Street, looking around me to make sure I was safe. By the time I was about a block away from home, I noticed two men were walking behind me. I sped up my pace, and they did too. In a flash, they had run up on me and pulled me into the alley a half a block from my house. One held a gun to my face and told me that if I screamed, he would kill me. If I screamed, he would kill me. Then one at a time they raped me.

Mr. President, this is who we stood up for today to protect. This is who we stood up for to protect. This is who we will continue to fight to protect. She and too many more like her can tell these stories, but far too many have not. For too long, they have been silenced, traumatized, and re-victimized. Many came here that day and talked about how they were victimized over and over again, and they asked for our help. Today, I rise to make the future better, and I pledge to continue to fight until we return to every victim their voice. Again, I thank my colleague on the other side of the aisle, the Majority chair, for her willingness, her integrity, the way that she runs the committee, and her willingness to have people be heard. Thank you, Senator.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentlewoman from Montgomery, Senator Muth.

Senator MUTH. Mr. President, as we close tonight on this final vote, it is a step in the right direction, but we are leaving many behind. I remind everyone that every 2 minutes in the United States someone is sexually assaulted. Seventeen percent of those will be men and 25 percent women who will be victimized in their lifetime. Less than 10 percent of victims report their assault to law enforcement. Less than 4 percent of college sexual assault victims report them to police or campus security. Only 3 percent, if that, of rapists will spend a day in jail. If you are a man, you are more likely to be raped than falsely accused. Rape is the most underreported crime in the United States.

As we move forward to continue this fight, I thank the survivors who have been fighting for justice. For those who feel left out right now, or maybe overlooked, I want you to know this, that every single one of you is worthy of being heard, is worthy of being protected, and having your rightful pathway to justice and healing now. Every single one of you has kept me brave. You have kept me strong, and I am honored to fight alongside you in this continued battle for justice. This survivor army leaves no one behind. I am never going to stop fighting for us, and I specifically point out my colleague, Senator Collett, who is also a rape survivor.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentlewoman from Luzerne, Senator Baker.

Senator BAKER. Mr. President, I thank my colleagues for their commitment to support the amendment that I believe strengthens this bill. I also thank the Members of the Caucus across the aisle. Senator Farnese, Senator Muth, and I did meet to discuss our mutual interests in finding a comprehensive and legally viable remedy for this horrific problem of abuse and assault. We agreed on many things, and they advocated for many things that are now included in this legislation. The same for Members on this side of the aisle, Senator Langerholc and others

who brought forward differing views on an approach to the solution. I do not believe any Member of this Senate treated this as just another issue. Some Members, as we have heard, experienced trauma personally or within their own family. Some Members, and I am among them, have long worked and volunteered with victims' assistance and resource organizations. The revelations of such pervasive evil tear at our conscience and our soul. What we learn is that the common assumptions about the responsibility of victims, the reactions, their path to recovery, are often quite wrong. As we discover, to our dismay and frustration, that the law, decisions, and policies are sometimes built on misconceptions. Today, we are moving forward to make that fix.

We have taken a House bill, which has been strenuously championed by another abuse survivor, received substantial testimony about it, and moved to strengthen it. This week we have added significant counseling provisions, and extended age limits based upon what victims and service providers have asked and recommended. So I stand before you asking for an affirmative vote on this important piece of legislation.

Thank you, Mr. President.

And the question recurring,  
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEA-48

Argall	Dinniman	Laughlin	Schwank
Aument	DiSanto	Leach	Stefano
Baker	Farnese	Martin	Street
Bartolotta	Fontana	Mastriano	Tartaglione
Blake	Gordner	Mensch	Tomlinson
Boscola	Haywood	Muth	Vogel
Brewster	Hughes	Phillips-Hill	Ward, Judy
Brooks	Hutchinson	Pittman	Ward, Kim
Browne	Iovino	Regan	Williams, Anthony H.
Collett	Kearney	Santarsiero	Williams, Lindsey
Corman	Killion	Scarnati	Yaw
Costa	Langerhole	Scavello	Yudichak

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate return said bill to the House of Representatives with information that the Senate has passed the same with amendments in which concurrence of the House is requested.

**UNFINISHED BUSINESS  
BILLS REPORTED FROM COMMITTEE**

Senator BROWNE, from the Committee on Appropriations, reported the following bills:

**HB 355 (Pr. No. 2110) (Rereported)**

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, in preliminary provisions, providing for advertising; and, in charter schools, further providing for definitions, for charter school requirements and for powers of board of trustees and providing for fund balance limits.

**HB 1542 (Pr. No. 2889) (Rereported)**

An Act amending the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, in preliminary provisions, further providing for definitions; and, in licenses and regulations relating to liquor, alcohol and malt and brewed beverages, further providing for special occasion permits and for wine and spirits auction permits.

**HB 1982 (Pr. No. 2895) (Rereported)**

An Act amending Title 71 (State Government) of the Pennsylvania Consolidated Statutes, in preliminary provisions, further providing for definitions; in membership, credited service, classes of service, and eligibility for benefits, further providing for credited State service; in contributions, further providing for shared-risk member contributions and shared-gain adjustments to regular member contributions, for contributions to the system by the Commonwealth and other employers and for actuarial cost method and providing for advance payment of accrued liability contributions; in administration, funds, accounts and general provisions, further providing for administrative duties of the board, for duties of heads of departments and for State accumulation account; providing for obligations of the board, for exercise of legislative power and for liability.

**BILLS ON FIRST CONSIDERATION**

Senator SCHWANK. Mr. President, I move that the Senate do now proceed to consideration of all bills reported from committees for the first time at today's Session.

The motion was agreed to by voice vote.

The bills were as follows:

**SB 276, SB 377, SB 952, SB 957, HB 102, HB 584, HB 617, HB 630 and HB 1050.**

And said bills having been considered for the first time,  
Ordered, To be printed on the Calendar for second consideration.

**PETITIONS AND REMONSTRANCES**

The PRESIDENT. The Chair recognizes the gentleman from Monroe, Senator Scavello.

Senator SCAVELLO. Mr. President, this evening I rise to once again to call on my colleagues to join me in doing something to address the critical issue of school property tax reform within the Commonwealth. Every week we are in the Capitol is another week where citizens in my district and across our Commonwealth, especially our seniors, are suffocating under the weight of ever-increasing school property taxes. Our local papers print countless properties up for tax sale, many of them belonging to elderly residents who can no longer afford to live in their childhood homes due to the skyrocketing property tax. The State underfunded schools in my district for years, while our student population was exploding. This is taking its toll on our homeowners, and I know that my district is not alone in having these problems.

Again, I will repeat, we have had enough studies, commissions, working groups, town halls, and conversations about school property taxes. We know the issue, we know the increasing school property taxes are shackling people, especially our seniors, to their homes. I have not met a person yet who has not been willing to pay their fair share to educate our youth, but the question becomes when is enough, enough? How many have to lose their homes to unsustainable school property taxes? How many people, with their mortgages already paid off, have to lose

their homes to school property taxes? I have with me today newspapers with listings of sheriff's sales in my county and across the Commonwealth. You will see numerous pages of listings for unpaid taxes. Many of these listings are seniors, and our housing market is still not fully caught up from the market crash largely due to the high school property tax burden on these properties.

Just last week I received a message from a senior. She said that she and her husband are the adoptive parents of their grandchildren. They, like many grandparents today, found themselves stepping into the role of primary caregivers for children whose parents suffer from addiction. If they receive any stipends at all, it is nowhere near enough to cover the cost of food, clothing, school supplies, and everything else children need. Her words to me were, imagine the financial relief that will be lifted from our shoulders for seniors who are raising grandchildren if the school property tax could be eliminated, or at the very least greatly reduced. Grandparents becoming primary caregivers for their grandchildren is an increasing trend statewide.

Again, Mr. President, I call on my colleagues in both the Senate and the House to join me in this fight to provide the relief that is greatly needed. Some individuals have reached out to me to say that school property taxes should be eliminated for all. I agree with them. However, to date, those proposals have not had the votes to pass. I would vote on school property elimination tomorrow if it came up for a vote. Unfortunately, we find ourselves in the same place over and over again. We know the problems and still cannot muster the votes to pass the real proposal. That is why I have said, if we continue to not have the votes for full elimination, then we need to start with our most vulnerable population, our seniors. For those citizens who support full elimination, please contact your Senator or Representative. Remember, the magic number is 26 votes in the Senate and 102 in the House of Representatives, and the Governor, of course, to pass the proposal. To my Senate colleagues, join me in this effort. It is past time for action. We need property tax reform now. I will not stop fighting this fight, and will not stop being a voice for those suffering. Enough is enough.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Venango, Senator Hutchinson.

Senator HUTCHINSON. Mr. President, I rise with a personal congratulations and thanks to a very understanding wife, Mary Beth. Tonight is our 26th wedding anniversary, and, unfortunately, in this line of business, over the years, I have been here far more than I have been with my wife on our anniversary. But my congratulations, my love, and thanks for her understanding. God bless you, Mary Beth.

The PRESIDENT. The Chair extends a happy anniversary.

The Chair recognizes the gentlewoman from Philadelphia, Senator Tartaglione.

Senator TARTAGLIONE. Mr. President, today marks 4,882 days since the Pennsylvania legislature last raised the minimum wage. That is more than 13 years, and it is far too long. Nevertheless, today is also an historic day here in the Senate. By adopting Senate Bill No. 79, we have made a statement that we are capable of working together to advance legislation that provides Pennsylvania's low-wage workers with much-needed and long-awaited relief. For someone who makes \$7.25 an hour, a raise of \$2.25 can make a big difference. For a full-time worker,

that is \$90 per week. It can help pay for extra groceries, a better place to live, or better healthcare. Senate Bill No. 79 will boost the paychecks of 385,000 Pennsylvania workers and will indirectly help about 400,000 others whose pay rates are likely to rise as employers adjust pay scales to the new wage floor. Yet, a minimum wage of \$9.50 an hour adds up to less than \$20,000 a year. That means we still have a lot more work to do. I welcome the minimum wage increase contained in Senate Bill No. 79, but our job is not finished. I encourage our counterparts in the House to support this bill, and I look forward to working on additional legislation that will continue the progress we have made here today.

Thank you, Mr. President.

**HOUSE MESSAGES**

**HOUSE CONCURS IN SENATE AMENDMENTS TO HOUSE BILL**

The Clerk of the House of Representatives informed the Senate that the House has concurred in amendments made by the Senate to **HB 947**.

**SENATE BILL RETURNED WITH AMENDMENTS**

The Clerk of the House of Representatives returned to the Senate **SB 572**, with the information the House has passed the same with amendments in which the concurrence of the Senate is requested.

The PRESIDENT. Pursuant to Senate Rule 13(c)(2)(i), the bill will be referred to the Committee on Rules and Executive Nominations.

**ANNOUNCEMENTS BY THE SECRETARY**

The following announcements were read by the Secretary of the Senate:

SENATE OF PENNSYLVANIA

COMMITTEE MEETINGS

THURSDAY, NOVEMBER 21, 2019

10:45 A.M.	TRANSPORTATION (to consider Senate Bill No. 773)	Rules Cmte. Conf. Rm.
Off the Floor	RULES AND EXECUTIVE NOMINATIONS (to consider Senate Bill No. 572; House Bill No. 49; and certain Executive Nominations)	Rules Cmte. Conf. Rm.

THURSDAY, DECEMBER 12, 2019

10:00 A.M.	INTERGOVERNMENTAL OPERATIONS (public hearing on regulatory reform, red tape reduction and transparency)	1000 Potato Roll Lane Chambersburg
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**APPOINTMENTS BY THE MINORITY LEADER**

The PRESIDENT. The Chair wishes to announce the Minority Leader has made the following appointments:

Senator Pam Iovino as a member of the Joint State Government Task Force on Veterans Services, pursuant to Senate Resolution No. 170 of 2019.

Senator Katie Muth as a member of the Joint State Government Task Force on Veterans Services, pursuant to Senate Resolution No. 170 of 2019.

**BILL SIGNED**

The PRESIDENT (Lieutenant Governor John K. Fetterman) in the presence of the Senate signed the following bill:

**HB 947.**

**RECESS**

The PRESIDENT. The Chair recognizes the gentleman from Venango, Senator Hutchinson.

Senator HUTCHINSON. Mr. President, I move that the Senate do now recess until Thursday, November 21, 2019, at 11 a.m., Eastern Standard Time, unless sooner recalled by the President pro tempore.

The motion was agreed to by voice vote.

The Senate recessed at 9:17 p.m., Eastern Standard Time.