

# COMMONWEALTH OF PENNSYLVANIA

## LEGISLATIVE JOURNAL

TUESDAY, FEBRUARY 28, 1995

FIRST SPECIAL SESSION OF 1995

No. 15

### HOUSE OF REPRESENTATIVES

The House convened at 10:05 a.m., e.s.t.

#### THE SPEAKER (MATTHEW J. RYAN) PRESIDING

#### PRAYER

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

REV. CLYDE W. ROACH, pastor of Riverside United Methodist Church, Harrisburg, Pennsylvania, offered the following prayer:

Let us pray:

Lord God, on this last day of February and on the eve of the month of spring, we give You special thanks for all of Your goodness and tender mercies. By Your grace, You have kept us, and we ask Your forgiveness for all of our boasting and presumptuous sins of pride and arrogance.

We need Your help, O God, and we seek it humbly, for we want to do what is pleasing in Your sight.

Deliver us from the tyranny of the meaningless, which saps our strength, frays our nerves, shortens our lives, and adds nothing to the building of Your kingdom and the work of this legislature.

Send down Your light and Your truth. Let them lead us from one degree of grace to another.

Bless, O God, the leadership of this House and each legislator, and, O God our Saviour, be with me and them until we meet again.

For it is in Your name we pray. Amen.

#### PLEDGE OF ALLEGIANCE DISPENSED WITH

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

#### JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, the approval of the Journal of Monday, February 27, 1995, will be postponed until printed. The Chair hears no objection.

#### LEAVES OF ABSENCE

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

#### MASTER ROLL CALL

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

The Chair hears no objections.

#### CALENDAR

#### BILL ON SECOND CONSIDERATION

#### BILL PASSED OVER

The SPEAKER. SB 2 is over for the day.

#### BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 9, PN 12**, entitled:

An Act amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for sentencing.

On the question,

Will the House agree to the bill on third consideration?

#### BILL RECOMMITTED

The SPEAKER. The Chair recognizes the gentleman, Mr. Perzel. Mr. PERZEL. Mr. Speaker, I move that HB 9 be recommitted to the Committee on Appropriations.

On the question,

Will the House agree to the motion?

Motion was agreed to.

#### PHOTOGRAPHS TAKEN

The SPEAKER. Will the members please take their seats so the photographers can see just how bad or how good the subject matter is.

I am about to turn the reins over to the official photographer. I want everyone to smile. In keeping with the austerity program, smile.

(Official photographs were taken.)

### REPUBLICAN CAUCUS

The SPEAKER. The Chair recognizes the majority caucus chairman, Mr. Fargo.

Mr. FARGO. Thank you, Mr. Speaker.

I would like to announce a caucus. The caucus will be held at 10:45 in the majority caucus room for the Republicans. We will caucus, have lunch, and come back at 1:30, at which time we will reconvene. Thank you.

The SPEAKER. Mr. Majority Leader, we have to do the second half of the photography show.

The cameramen need an hour to make the transfer, so I would appreciate it if after caucus and prior to lunch everyone return to the floor at 11:30, if that is all right, Mr. Fargo.

Mr. FARGO. That is fine.

### STATEMENT BY MRS. MILLER

The SPEAKER. Before we get over to the gentleman, Mr. Cohen, I would like to at this time, for reasons that will become obvious, recognize the lady from Berks, Mrs. Miller.

Mrs. MILLER. Good morning, everyone, and happy Fastnacht Day.

For a few minutes I would like to share with you some local folklore from Ruth Hutchison's "Pennsylvania Dutch Cook Book," in which she writes:

"Every year, on Shrove Tuesday, the Pennsylvania Dutch eat their celebrated fastnachts. Nowadays these are doughnuts, a survival of the burnt offerings their primitive ancestors along the Rhine made to the spring goddess Ostara.

"When the Germanic tribes became Christian they substituted the Easter rites for the spring festival and ate their little cakes on Shrove Tuesday. The custom continued—"

The SPEAKER. Will the lady yield.

Will the House be in order. You should understand why you are getting fat.

Mrs. MILLER. Right, and if you are not good, you will not get the treats, right?

But anyway, going back to this: "The custom continued through the centuries, with little thought for its origin, so that by the time the Rhinelanders reached America they simply ate doughnuts to make sure of living until the next Shrove Tuesday.

"And to this day the Pennsylvania Dutch eat fastnachts on 'Fastnacht Day' every year. The last one down to breakfast on Shrove Tuesday is called a 'lazy fastnacht' and finds nothing on his or her plate but a huge doughnut."

Pennsylvania is famed for its large Amish community, which draws thousands of tourists to the Commonwealth in all seasons, but especially in the summertime.

We rank first in the Nation in the number of citizens reporting Amish, Mennonite, Hutterite, and Pennsylvania Dutch ancestry, according to the Penn State Data Center. Berks County also comes in second, with 15,500 residents having Pennsylvania German ancestry.

And so now I invite all of you to join with me in celebrating Fastnacht Day, whetting your Pennsylvania Dutch appetites and taking advantage of the treat that Berks County brings you with fastnachts on Fastnacht Day. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the lady.

### DEMOCRATIC CAUCUS

The SPEAKER. The Chair recognizes the gentleman, Mr. Cohen. Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, the Democrats will caucus at 10:45. I urge all members of the Democratic Caucus to be there at that time.

### JUDICIARY COMMITTEE MEETING

The SPEAKER. The Chair recognizes the gentleman, Mr. Piccola, for the purpose of making an announcement.

Mr. PICCOLA. Thank you, Mr. Speaker.

There will be a meeting of the House Judiciary Committee in special session tomorrow morning at 9 o'clock in room 302 of the South Office Building.

The SPEAKER. The Chair thanks the gentleman.

At this time we would respectfully request that the members vacate the chamber so that the photographers can go to work. Apparently there is a requirement under their insurance policies that they work essentially in an empty chamber.

### RECESS

The SPEAKER. So with no more business to be done between now and 11:30, this House stands in recess, and I would request that at your very, very soonest opportunity members and staff vacate the chamber.

### RECESS EXTENDED

The time of recess was extended until 11:45 a.m.

### AFTER RECESS

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

### SENATE MESSAGE

#### ADJOURNMENT RESOLUTION FOR CONCURRENCE

The clerk of the Senate, being introduced, presented the following extract from the Journal of the Senate, which was read as follows:

In the Senate  
February 27, 1995

RESOLVED, (the House of Representatives concurring), That when Special Session No. 1 adjourns this week it reconvene on Monday, March 6, 1995, unless sooner recalled by the President Pro Tempore of the Senate; and be it further

RESOLVED, That when Special Session No. 1 of the House of Representatives adjourns this week it reconvene on Monday, March 6, 1995, unless sooner recalled by the Speaker of the House of Representatives.

Ordered, That the clerk present the same to the House of Representatives for its concurrence.

On the question,

Will the House concur in the resolution of the Senate?

Resolution was concurred in.

Ordered, That the clerk inform the Senate accordingly.

### HOUSE BILLS INTRODUCED AND REFERRED

**No. 90** By Representatives BAKER, FICHTER, FLEAGLE, FLICK, TRUE, COY, FARGO, LYNCH, SATHER, ITKIN, DENT, WAUGH, BARLEY, BEBKO-JONES, E. Z. TAYLOR, BLAUM, PETTIT, D. W. SNYDER, CLARK, BUNT, STURLA, KING, ARMSTRONG, HUTCHINSON, DeLUCA, HENNESSEY, TIGUE, SURRA, STEELMAN, GEIST, TRICH, BATTISTO, SERAFINI, PITTS, M. N. WRIGHT, ALLEN, WOGAN and STERN

An Act amending the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, providing for additional duties of the Department of Corrections in relation to prison inmate medical needs.

Referred to Committee on JUDICIARY, February 28, 1995.

**No. 91** By Representatives HANNA, CLARK, KREBS, TRUE, TIGUE, ROONEY, FAJT, KELLER, SATHER, BATTISTO, SURRA, FARMER, FICHTER, BAKER, READSHAW, KING, LYNCH, BELARDI, COY, TRELLO, BROWNE, MUNDY, LEH, SCHULER, CAPPABIANCA, ARMSTRONG, STISH, THOMAS, MAITLAND, BUNT, DeLUCA, CARONE, LEDERER, COLAIZZO, HALUSKA, ITKIN, RUDY, LAUGHLIN, SERAFINI, GIGLIOTTI and BELFANTI

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for the use of handcuffs when transporting certain delinquent juveniles.

Referred to Committee on JUDICIARY, February 28, 1995.

The SPEAKER. Members will please report to the floor of the House for the second half of the photography show. We will take the picture in 5 minutes. Please report to the floor of the House.

In the meantime, the House will be at ease.

### PHOTOGRAPHS TAKEN

The SPEAKER. The Chair would at this time repeat the earlier instructions of the photographer, that your desks should be cleared. Any white papers, particularly, should be removed from the desk, and frankly, the only thing on the desk should be the black binders.

If you would cooperate with the photographer, your photograph should be better as a result of it. Most of us need all the help we can get.

(Official photographs were taken.)

The SPEAKER. At this time the Chair is going to recess until 1:30 for the purpose of taking lunch.

Now, I would request that the members return promptly at 1:30. We have an unusually large group of guests who will be here at that time. We have the Penn State football team, and we certainly want to pay our due respects to this group of fine young people, so let us show them proper respect at the beginning by being here promptly. Thank you.

### RECESS

The SPEAKER. Does the majority leader or minority leader have any further business?

Hearing none, this House is in recess until 1:30 p.m.

### AFTER RECESS

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

### LEAVE OF ABSENCE

The SPEAKER. The Chair recognizes the minority whip, who requests that the gentleman from Philadelphia, Mr. CARN, be granted a leave of absence for today's session. Without objection, the leave is granted. The Chair hears no objection.

### FILMING PERMISSION

The SPEAKER. The Chair wishes to advise the House that the Chair has given permission to the Democratic Information Office to have photographers on the floor to take still photographs during the period when the Penn State football team is present on the floor.

The Chair has also given permission to WGAL-TV to be present with videotape during that same period.

### GUEST INTRODUCED

The SPEAKER. The Chair is pleased to welcome to the hall of the House, as a guest page and a guest of Representative Matt Baker, Sara Fay. She is from Lawrenceville, Pennsylvania, Tioga County, and attends Williamson Junior High School. Will Sara Fay please stand up.

### FILMING PERMISSION

The SPEAKER. The Chair advises the members that permission has been granted to Paul Vathis to take pictures during the Penn State portion of today's session.

### CALENDAR CONTINUED

### BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **SB 16, PN 16**, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for attempted murder and for sentencing.

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

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

The question is, shall the bill pass finally?

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

(Members proceeded to vote.)

#### VOTE STRICKEN

Mr. RICHARDSON. Mr. Speaker?

The SPEAKER. The clerk will strike the vote.

For what purpose does the gentleman, Mr. Richardson, rise?

Mr. RICHARDSON. Mr. Speaker, if this is SB 16, I am prepared to debate the bill, and I ask for a moment to be able to speak on the bill.

The SPEAKER. The gentleman is in order. The board will be stricken.

The gentleman may proceed to debate the bill.

Mr. RICHARDSON. Thank you very much, Mr. Speaker.

The SPEAKER. Mr. Richardson, with all due respect, at some point, if the debate is a lengthy debate, I may ask the gentleman to yield for the purpose of going through — no, no — I may ask the gentleman to yield if the Penn State football team comes in. I am just trying to get the members up here on the floor right now, frankly.

Go ahead. The gentleman is in order and may proceed.

Mr. RICHARDSON. Thank you very much, Mr. Speaker.

This is SB 16, PN 16, in our special session, which proposes to increase the applicable fine and limits on the length of imprisonments for persons who have been convicted of murder or attempted murder when the mandatory sentence is not life.

Currently if a person is convicted of a murder of the first degree, they shall be sentenced to death or life. If a person is convicted of a second-degree murder, they shall be sentenced to life imprisonment, and if a person is convicted of a lesser degree than second, they are usually subject to the \$25,000 maximum fine for being convicted of a first-degree felony, which also carries a 20-year maximum prison.

The special session Senate bill would increase the maximum fine for any conviction of murder or attempted murder to \$50,000. This legislation also has a provision that calls for a person to be in prison for not more than 40 years if that person has been convicted of attempted solicitation or conspiracy to commit murder where serious bodily injury results, and if serious bodily injury does not happen, the person convicted of murder may be sentenced to a term of not more than 20 years.

Mr. Speaker, there are major concerns that I have regarding this legislation, and I would like to ask that the person who is on the Judiciary Committee who is leading the charge on the special session bills at least be available for a brief interrogation.

The SPEAKER. Mr. Richardson, SB 16, of course, is a Senate bill. I am asking if there is anyone prepared to stand for interrogation in the matter of SB 16? I see no takers.

I would suggest to the gentleman to go ahead with his debate.

Mr. RICHARDSON. It is quite obvious, Mr. Speaker, that every time we try to get some answers relevant to some very serious matters on this floor concerning what we believe are major pieces of

legislation that are a part of the fast track, questions come to mind as to, number one, what were the Senate amendments and why would we not have an opportunity to hear the input—

The SPEAKER. Will the gentleman yield.

It may be, Mr. Richardson, that one of the members who is familiar with the crimes package will be available shortly.

I wonder if the gentleman would yield and I can recognize him when we conclude, as I had said to you earlier, in another 20 minutes — 15, 20 minutes.

Mr. RICHARDSON. That is fine, Mr. Speaker.

The SPEAKER. Thank you.

#### GUESTS INTRODUCED

The SPEAKER. It is my pleasure right now to introduce three guests of the Speaker — Ambassador John Wood, his wife Mrs. Rose Newell, and Mr. Fred Radewagen.

Mr. Wood is the Ambassador from New Zealand to the United States and Mr. Radewagen is the executive director of the United States/New Zealand Council. They are sitting here to my right, and I would ask them to please rise.

For the information of the House, the Ambassador was speaking to us earlier with respect to making arrangements for a delegation from the Parliament, from the legislature of New Zealand, to visit with us. We expect that that will take place probably in May, so we look forward to meeting with the Speaker of that chamber and a number of their members and wives.

#### PENN STATE FOOTBALL TEAM PRESENTED

The SPEAKER. Now, fortunately, Ambassador Wood has been in the United States long enough to understand the high tension and spirit of this hall with the other guests who are in this House and that the excitement that is present is excitement that is due to two facts.

First, present in the hall of the House are approximately 100 young men who are all heroes of ours, who all got gypped out of first place — do you agree with that? — but who are in first place in our hearts and in our minds and in our poll.

At this time I am going to ask that the— What is going on now is everybody is pestering for signatures, and I am going to stop that, as long as I got mine signed. I am going to ask the gentleman, Mr. Herman, to come forward at this time, take the lower dais, and take over for the purpose of making a presentation.

Would Representatives Hanna, George, and Rudy come to the rostrum.

Mr. HERMAN. Mr. Speaker, never did I think that I would ever break out of a huddle, that gauntlet that is so big.

But thank you, ladies and gentlemen of the House of Representatives, guests, and staff.

It certainly is a great pleasure that we provide a team effort, as Centre County legislators, to present to you the number one championship team, the Penn State Nittany Lion football team. How about a round of applause for them.

I was remiss in introducing the rest of the team, which is in the back of the hall of the House. Would you please stand, the rest of the team.

It is truly an honor to represent the Pennsylvania State University in this General Assembly, and I have to say thank you, on behalf of

this team and this administration, for the effort you provide in providing the State funding, the necessary educational support, for these fine young men to get the education that is going to prepare them for adult life.

On the first day of session, on January 17, you as members of this chamber took action to pass HR 6, which I sponsored and many of you cosponsored, to honor this team on its national championship winning season, its undefeated season, Big 10 championship, and Rose Bowl victory. During that day I pointed out in that House resolution and remarks on the floor, and I will repeat today, that in a 1994 Time magazine article dated in September, Time magazine pointed out that the 1994 Penn State football team was number one in the Nation in the graduation rate among the 25 top football teams in the country, and you can take credit for that.

These fine young men have not only exhibited their prowess on the gridiron but also in the classroom, and they certainly deserve to be commended not only for their athletic achievement but also for their academic achievement.

As such, I have prepared a citation for the House of Representatives, which reads as follows:

WHEREAS, The Penn State Nittany Lion Football Team is being recognized upon the completion of its undefeated and untied 1994 football season; and

WHEREAS, The Nittany Lions finished the season with a perfect twelve wins, zero losses record, which culminated in an outstanding Rose Bowl victory over the Oregon Ducks, whom they defeated by a score of thirty-eight to twenty. Additionally, the team had the distinction of being the first team to capture the Big Ten Conference and the Rose Bowl Championship with a perfect season since 1968. The Penn State Nittany Lion Football Team is truly deserving of praise and recognition for its exceptional ability, diligence and dedicated pursuit of athletic excellence.

NOW THEREFORE, The House of Representatives of the Commonwealth of Pennsylvania congratulates the Penn State Nittany Lion Football Team upon its magnificent season; heartily commends the team and its coaches for the hard work and commitment required for such a praiseworthy accomplishment; offers best wishes for continued success in all future endeavors;

AND DIRECTS That a copy of this citation, sponsored by Representatives Lynn B. Herman, Ruth C. Rudy, Camille George and Michael K. Hanna on January 6, 1995, be transmitted to the Penn State Nittany Lion Football Team, The Pennsylvania State University, University Park, Pennsylvania 16802.

The team has selected Kyle Brady to be their spokesman.

I have also prepared a citation for Coach Paterno, my constituent, and I am not going to read that at this time since it says much of the same language, but I would like both of these gentlemen to step forward to receive their recognitions.

And now Coach Paterno, the legendary coach from Penn State University.

(Mr. Paterno rapped the Speaker's gavel.)

Mr. PATERNO. Hey, this is kind of fun. I ought to use this in one of our squad meetings, you guys.

I want to thank everybody for this wonderful presentation, Lynn and everybody else that is involved with it and all you folks out there.

This has been a very heady day for us. I only wish my entire squad could have been with us. We are in the middle of midterms, and a lot of the youngsters could not come down here because they have midterm exams and could not miss class, so we do not have everybody we would like to have had come down.

I think it is a wonderful, wonderful day for them. I think it is a great tribute to a great bunch of young people who truly have represented themselves and their institution and their family and their State as well as anybody could possibly represent them. They have played football with a lot of recklessness and enthusiasm, and they did it at all times as gentlemen and good sportsmen. They were a great group of people to be around.

I have been in coaching a long time, as many of you know. I have never had as much fun as I have had coaching this group of people. They did everything anybody could ever want them to do. They were just magnificent game in and game out. They never flinched from any challenge. They met every challenge, and I think it is only proper that we here back home, in our own State, recognize that they are a national championship football team, and I appreciate you folks coming to the front and agreeing with me.

I may be up here for a couple of hours.

Sincerely, and I hope, and I do not want to be flippant about this, this is a very, very great moment for me, this football team, and for Penn State, and all of the people in Pennsylvania, and I deeply appreciate it. Thank you very, very much.

Mr. BRADY. On behalf of the players of the Penn State football team, I would just like to thank all of you here in the House of Representatives for having us out today and honoring the team.

I would like to introduce a couple of the leaders of the team we brought up here today. We have tackle Keith Conlin, guard Marc Rivera, defensive lineman Eric Clair, wide receiver Freddie Scott, and next year's quarterback, Wally Richardson. It is a great honor for all of us really to be here.

We go out there and play every Saturday, and it all started back last January. We just dedicated in our hearts and minds that we were going to be the best possible football team we could be. We are thankful to God that He gave us the ability to play football, and we just went out and utilized all the abilities He gave us to the best we possibly could and ended up being one of the most amazing years. I think none of us will ever forget it, and it will live on in Pennsylvania sports history for many years to come in all of our memories.

I would just like to thank you all once again for taking the time to honor us, and it was great to come down here to the State Capitol to be recognized. So thank you.

### CONSIDERATION OF SB 16 CONTINUED

The SPEAKER. Members will please take their seats.

I apologize to the gentleman, Mr. Richardson, for having interrupted his debate on SB 16.

At this time the gentleman may continue.

Mr. RICHARDSON. Mr. Speaker, my understanding is that there is now a person in the hall of the House who may be able to respond to the questions relevant to SB 16.

The SPEAKER. The gentleman, Mr. Piccola, has indicated that he will stand for interrogation on the questions.

Mr. RICHARDSON. Thank you very much, Mr. Speaker.

Mr. Speaker, before I get into the interrogation, I would like to ask whether or not you can explain the amendments placed in the bill by the Senate.

Mr. PICCOLA. Mr. Speaker, the bill was not amended in the Senate. The bill was passed by the Senate as it was introduced, so there were no Senate amendments inserted into this SB 16.

Mr. RICHARDSON. I am sorry, Mr. Speaker.

Mr. PICCOLA. I said, Mr. Speaker, there were no amendments inserted in the Senate. The bill was reported from committee and passed by the Senate without amendments.

Mr. RICHARDSON. My understanding was that there was a committee meeting. I thought there were some amendments inserted from the committee and that there were some amendments offered to this bill, and I stand corrected. Then I have some questions.

If a person has been convicted under current law of a first-degree felony and does the 20-year maximum time in prison, is that person still required to pay the victim \$50,000?

Mr. PICCOLA. If you are referring to the \$50,000 that is referenced in the bill, there is no mandatory requirement that the amount be \$50,000, first of all, and then second of all, it is not a restitution order; it is a fine. The \$50,000, if it is ordered by the court, is a fine, and it is only a fine not exceeding \$50,000, so it is not restitution as the gentleman has characterized it in his question.

Mr. RICHARDSON. This is a technical question. If a person has a movie made about the crime that they participated in or if a book was written and they were in line to receive any royalties, would those royalties go to the victim or their families?

Mr. PICCOLA. Well, not under this bill, Mr. Speaker. That was the subject of another bill the House passed several weeks ago in special session dealing with mandatory restitution, and I believe there was an amendment offered by the gentleman, Mr. Lloyd, if I am not mistaken, that dealt with that issue, but that issue is not in this bill.

Mr. RICHARDSON. I guess the confusion, Mr. Speaker, is the reference made directly to— If you are clarifying that the \$25,000, now \$50,000, is in fact a fine as opposed to an actual restitution, then I have an understanding better of specifically that point.

Then I guess the other areas of concern would be briefly, Mr. Speaker, to identify, with respect to the issue of grading, in the section on page 1 that changes "section" to "title." When a fine is actually applied to an individual person convicted of an attempted murder and it is broken down to indicate that we are talking about \$50,000, does this bill clarify how that \$50,000 is paid or is there a particular procedure to how one is paid?

Mr. PICCOLA. There is already a procedure outlined in the law as to how the authorities would go about collecting a fine once a judge orders a fine paid.

Mr. RICHARDSON. Do you know what that is? It is not in this bill, and I just wanted to know if you know what that is. It does not refer to the section.

Mr. PICCOLA. There is a percentage breakdown of the fine in terms of how much goes to the Commonwealth, how much goes to the county. I do not think the municipality is involved in these, but in the case of a municipality, sometimes a municipality gets a portion of the fine.

In terms of collection, the probation office is charged with the responsibility to try to collect restitutions and fines from defendants, so they have a variety of procedures that they could use under the

various statutes to collect these obligations owed to the Commonwealth.

Mr. RICHARDSON. Mr. Speaker, thank you very much for the explanation. I have no further questions on this. I would like to be recognized to speak on the bill.

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

Mr. RICHARDSON. Thank you very much, Mr. Speaker.

Mr. Speaker, very briefly, I rise to oppose SB 16.

In the same context and the same manner that we have been talking about in special session, the grading of criminal attempts and solicitations and conspiracy, increasing the fines does not seem to deter crime. What it does is it indicates that you are raising the actual amounts of moneys that fines will actually apply to the individual person who has been convicted of the particular crime, but it does not talk in terms of how a person who already is as poor as poor is actually going to pay it.

What I have been trying to do is to look at whatever the current law is that relates to the issues that the gentleman did explain, but even though the law breaks it down, it does not seem to actually be affixed to this new section that in fact has been put into SB 16.

I think that a number of us are concerned with, of course, bodily injury, serious bodily injury, and the concerns of anyone else that may commit any other attempted murders for the purposes of sentencing. But I think, again, this goes far afield from where we are with respect to the issuing of actual law and order that applies to individual people that are being sentenced on a daily basis, and I come up with consistent understanding and misconceptions about how we are applying these particular bills to actually deal with prevention, education, and at the same time dealing with trying to be tough.

I think we need to be tough. I think we need to be as tough as we possibly can. I think that these issues are very important, and I think at the same time there has got to be some realistic approach to handling these issues as they impact directly on the community that we are going after.

And when I look at page 3 when it talks about attempt, solicitation, and conspiracy to commit murder, it says that notwithstanding this section, "... (relating to sentence of imprisonment for felony), a person who has been convicted of attempt, solicitation or conspiracy to commit murder, where serious bodily injury results, may be sentenced to a term of imprisonment which shall be fixed by the court at not more than 40 years."

I look at that, Mr. Speaker, and I am saying to myself, 40 years. In our Commonwealth of Pennsylvania, does that mean that those 40 years then are 40 solid years? Does it mean that it complies with the law as it relates to a person being able to be considered for parole at some point? It does not specify that.

And when you talk about serious bodily injury, it says, "Where serious bodily injury does not result, the person may be sentenced to a term of imprisonment which shall be fixed by the court at not more than 20 years."

It just seems to me that what we are doing is we are making these harsh decisions about changing the law from what it is now to increase the number of years in prison, as if that will solve the problem, and I have noted and will continue to repeat on the floor of this House that increasing the number of years in jail based on who goes to court will always be determined at this point based on a person's income and ability to be able to have representation at the time they go to court.

Without the proper representation going to court, you will see a continuation of the disproportionate individuals that commit the same

crime, whether they are black or white or Hispanic or others. When they go to court, there is a difference in terms of the sentencing that is applied to those individuals here in this Commonwealth, and I can repeatedly, over and over again, say that African-Americans by and large, Latinos by and large, are convicted at a higher rate, even though they may be arrested at the same level as other individual races within this Commonwealth.

Until that is cleared up, Mr. Speaker, you will never have justice but a continuation of injustice, and therefore, I am voting against SB 16.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,  
Shall the bill pass finally?

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

YEAS—199

|              |            |           |                  |
|--------------|------------|-----------|------------------|
| Adolph       | Evans      | Maitland  | Saylor           |
| Allen        | Fairchild  | Major     | Schroder         |
| Argall       | Fajt       | Manderino | Schuler          |
| Armstrong    | Fargo      | Markosek  | Scrimenti        |
| Baker        | Farmer     | Marsico   | Semmel           |
| Bard         | Feese      | Masland   | Serafini         |
| Barley       | Fichter    | Mayernik  | Shaner           |
| Battisto     | Fleagle    | McCall    | Sheehan          |
| Bebko-Jones  | Flick      | McGeehan  | Smith, B.        |
| Belardi      | Gamble     | McGill    | Smith, S. H.     |
| Belfanti     | Gannon     | Melio     | Snyder, D. W.    |
| Birmelin     | Geist      | Merry     | Staback          |
| Bishop       | George     | Michlovic | Stairs           |
| Blaum        | Gigliotti  | Micozzie  | Steelman         |
| Boscola      | Gladeck    | Mihalich  | Steil            |
| Boyes        | Godshall   | Miller    | Stern            |
| Brown        | Gordner    | Mundy     | Stetler          |
| Browne       | Gruitza    | Nailor    | Stish            |
| Bunt         | Gruppo     | Nickol    | Strittmatter     |
| Butkovitz    | Habay      | Nyce      | Sturla           |
| Buxton       | Haluska    | O'Brien   | Surra            |
| Caltagirone  | Hanna      | Olasz     | Tangretti        |
| Cappabianca  | Harhart    | Oliver    | Taylor, E. Z.    |
| Carone       | Hasay      | Perzel    | Taylor, J.       |
| Cawley       | Hennessey  | Pesci     | Thomas           |
| Chadwick     | Herman     | Petrarca  | Tigue            |
| Civera       | Hershey    | Petrone   | Travaglio        |
| Clark        | Hess       | Pettit    | Trello           |
| Clymer       | Hutchinson | Phillips  | Trich            |
| Cohen, L. I. | Itkin      | Piccola   | True             |
| Cohen, M.    | Jadlowiec  | Pistella  | Tulli            |
| Colafigliola | James      | Pitts     | Vance            |
| Colaizzo     | Josephs    | Platts    | Van Horne        |
| Conti        | Kaiser     | Preston   | Veon             |
| Cornell      | Keller     | Ramos     | Vitali           |
| Corpora      | Kenney     | Raymond   | Walko            |
| Corrigan     | King       | Readshaw  | Washington       |
| Cowell       | Kirkland   | Reber     | Waugh            |
| Coy          | Krebs      | Reinard   | Williams         |
| Curry        | Kukovich   | Rieger    | Wogan            |
| Daley        | LaGrotta   | Roberts   | Wozniak          |
| DeLuca       | Laughlin   | Robinson  | Wright, D. R.    |
| Dempsey      | Lawless    | Roebuck   | Wright, M. N.    |
| Dent         | Lederer    | Rohrer    | Yewcic           |
| Dermody      | Leh        | Rooney    | Youngblood       |
| DeWeese      | Lescovitz  | Rubleby   | Zimmerman        |
| DiGirolamo   | Levdansky  | Rudy      | Zug              |
| Donatucci    | Lloyd      | Sainato   |                  |
| Druce        | Lucyk      | Santoni   |                  |
| Durham       | Lynch      | Sather    |                  |
| Egolf        |            |           | Ryan,<br>Speaker |

NAYS—1

Richardson

NOT VOTING—1

Horsey

EXCUSED—2

Carn

Jarolin

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

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

\* \* \*

The House proceeded to third consideration of **SB 20, PN 59**, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for juvenile records.

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

Mr. **PRESTON** offered the following amendment No. **A0885**:

Amend Sec. 1 (Sec. 9123), page 2, lines 13 and 14, by striking out “the attorney for the Commonwealth consents to the expungement”

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

The SPEAKER. The Chair recognizes the gentleman from Allegheny County, Mr. Preston.

Mr. **PRESTON**. Thank you very much, Mr. Speaker.

My amendment 0885 basically takes the final consent rights from the local district attorney or the Attorney General as far as his option to be able to override a decision for a judge who may be recommending that a record be expunged.

I have done this particularly because I do not believe that a district attorney, depending on the time and the position that the district attorney may be in office, should institute what I feel is politics, whether he is up for election or not. What I want to be able to do is give the authority to the judge to be able to make this decision. I do not think that it should be in the purview of a local district attorney to be able to override a judge's decision. There are only one or two other small instances where this may be the case.

So basically what I am trying to do is keep the authority within the court system and not be able to give an elected politician per se, as a district attorney, a chance to override a judge's decision.

I would ask for an affirmative vote.

The SPEAKER. The Chair thanks the gentleman.

On the question of the Preston amendment, the Chair recognizes the gentleman from Dauphin County, Mr. Piccola.

Mr. **PICCOLA**. Thank you, Mr. Speaker.

I would urge a negative vote on the Preston amendment.

First of all, I would point out to the members of the House that if the juvenile remains crime free for a period of 5 years, the right to expungement is left solely to the court, as the gentleman would have it. What we are suggesting in this bill is that if an individual who has not had that 5-year period elapse after they had been adjudicated delinquent and if they wish to have their records expunged, that the only way that can be done or even considered by the court is if the district attorney of that county approves or consents.

Now, the reason we are doing that is because we want the district attorney, as the chief law enforcement officer of the county—

The SPEAKER. The gentleman, Mr. Piccola, will yield.

I think the members should listen to this debate. Conversation on the floor should cease.

The gentleman may proceed.

Mr. PICCOLA. The reason we are doing that is because the district attorney, as the chief law enforcement officer in the county, elected by the people of your particular county, is charged with the responsibility of helping to insure public safety, and these records may be valuable for law enforcement purposes. And so if a record is to be expunged before that period of time in which a 5-year timeframe elapses in which the person is crime free, we feel, I feel, and the sponsors of this bill feel that it is entirely appropriate that the chief law enforcement officer in the county put his or her stamp of approval on that petition.

We leave the door open. We have reduced the age, as you know, to 18 for those juveniles who may have an opportunity to go into the armed services at a younger age than 21, but we feel that even in that case, a district attorney should review that particular record and, before that record is expunged, have the opportunity to say no, we need that information on the record for legitimate law enforcement purposes.

It is strictly a question of public safety, and I urge that the House reject the gentleman's amendment.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the lady from Philadelphia, Ms. Manderino. Ms. MANDERINO. Thank you, Mr. Speaker.

Mr. Speaker, I rise to support the Preston amendment.

If the intent is only to give notice to the court about what concerns the law enforcement or the district attorney has, we have in this bill already given provision for that. As a matter of fact, we have extended the time period during which the district attorney has to respond from what is current law of 10 days to 30 days. So we have given enough time for input from our chief prosecutor if there is concern about public safety and what the expungement of this juvenile record does.

But to go further and to include an absolute consent for the attorney for the Commonwealth is in essence giving the district attorney a veto power over a judge's discretion. So if you are at all concerned about keeping the discretion where at least I would argue that it belongs, with the judge to make the final determination, I would urge you to vote "yes" on the Preston amendment.

The 30 days, I believe, is very sufficient time to give notice to a judge. I hardly think that if notice of public safety by our chief law prosecutor is given to a judge, that it is something that is going to be dismissed out of hand. I think it is something that is going to be given very serious consideration, and the final determination, I believe, should rest with the judge. The Preston amendment will allow it to stay there, and I would ask for your support.

The SPEAKER. The Chair thanks the lady.

The Chair recognizes the gentleman from Cumberland County, Mr. Masland.

Mr. MASLAND. Thank you, Mr. Speaker.

I rise to oppose the Preston amendment, and I will try to answer some of the concerns that have been raised by Ms. Manderino and possibly Mr. Preston.

I think it is important to not just look at paragraph (4) in isolation. You really have to look at subparagraph (4) in conjunction with paragraph (3). That is the key thing.

In paragraph (3), there are three things that have to happen in order to have an expungement: You have to have 5 years elapse without any problems; the person has not been convicted of a felony, or 5 years elapse and no conviction of a felony; or no proceedings pending. That is the difference between (3) and (4). Paragraph (4) is an automatic expungement without that lapse of time, without further conviction, and I think for that reason alone it is important for us to allow the D.A. to have this kind of input, to have this kind of authorization for consent. In practice, my suggestion would be that this is not something that is going to be unreasonably withheld by the district attorney's office.

Another point that I would like to make, though, let us look at what happens in the adult system. In the adult system you do not need the consent of the district attorney, but the fact is, once you have a conviction, once you have a conviction, that record is in the Pennsylvania State Police repository forever. Unless there is a pardon, it is in that repository.

You have the same thing here now with juveniles. They have been adjudicated, which is almost the same as a conviction, so I do not think this is something that we should just, with a short lapse of time, allow them to have an automatic expungement. We are trying to get tough on juveniles. I think this is appropriate. This is an appropriate way to hold them accountable. The Pennsylvania District Attorneys Association says it is. The Juvenile Court Judges Commission agrees with it. We listened to the testimony of Judge Max Baer out in Allegheny County, and he was supportive of this.

I think that this is an important bill, and it should go in without this amendment. Thank you.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Allegheny County for the second time, Mr. Preston.

Mr. PRESTON. Thank you, Mr. Speaker.

Will the gentleman, Mr. Piccola, stand for interrogation?

The SPEAKER. The gentleman indicates he will. You may proceed.

Mr. PRESTON. The previous speaker mentioned paragraph (3) and paragraph (4) in relationship to the makeup of the bill. Does the district attorney currently within the system have a chance to be able to discuss, make recommendations, and/or object before the judge's decision?

Mr. PICCOLA. I think that is one of the problems with the current system. I do not think there is a uniform approach to this subject county to county. Perhaps in some counties they do; in other counties they do not.

Mr. PRESTON. Let me ask the same question, maybe again in the same way.

Does the district attorney have the authority to be able, before the judge makes his decision, to be able to make his comments and to be able to object to an expungement under the current system that we have in the Commonwealth of Pennsylvania?



Mr. PICCOLA. Under the existing law as I understand it, Mr. Speaker, there is a requirement that the court give the district attorney notice of all applications for expungement of juvenile records. What the district attorney does with that notice and assuming they take action on it and file an objection or file a counterpetition, that is up, of course, to the district attorney.

Further, whatever the court decides to do with that involvement by the district attorney is strictly up to the court, and as I said, that could probably vary from county to county. The only thing I am aware of is that notice of an expungement application has to be given to the district attorney, but there is no requirement that the court needs to hear from the district attorney one way or the other.

Mr. PRESTON. And if your bill passes as it is now with my amendment, this will give a district attorney the authority to veto the decision of a judge. Am I correct?

Mr. PICCOLA. No; that is not true.

As Mr. Masland pointed out, there is paragraph (3) in the bill, which is existing law, which does not give district attorney veto, as you characterize it. In other words, if the applicant has been crime free and out of trouble for 5 years, while the district attorney will have notice of the application and could object to the court, it will be up to the court to decide whether or not the application is to be granted.

The only time that the district attorney has, which as you characterize, a veto power is where the individual is 18 years of age or older and the 5 years has not elapsed. In that case, if he or she wishes to have his records expunged earlier than that 5-year period, he must get the district attorney's consent before he can even get before the court. So the court probably will not even take the matter up until the district attorney has consented.

Mr. PRESTON. So what you are telling me then is if the district attorney objects, therefore, the judge cannot do the expungement. Am I correct?

Mr. PICCOLA. That is correct, on the fast track. Now, if it is beyond the 5-year period, even if the district attorney objects, then it is strictly within the discretion of the judge.

Mr. PRESTON. So it is possible for the district attorney then in your bill to be able to veto, not all the process, but be able to veto a judge's decision—

Mr. PICCOLA. No.

Mr. PRESTON. —and expungement.

Mr. PICCOLA. No.

Mr. PRESTON. That is not what you are saying.

Mr. PICCOLA. No. There will be no judge's decision that a district attorney will veto. The matter will not even come before the judge unless the district attorney consents.

In other words, the applicant, if he is 18 years of age or older and has not been crime free for a period of 5 years, before he can even file his application, he is going to have to get the district attorney to sign off on it, and there is no decision for the judge to make at that point in time.

If you will, the General Assembly has made that decision. We have said that the district attorney will decide, in those cases that are within that 5-year period, whether or not the applicant even gets before the judge. So there is no veto of a judge's decision.

I might point out to the gentleman, as Mr. Masland indicated, we held a public hearing on this bill, and the Juvenile Court Judges Commission, as well as Judge Baer in Allegheny County, testified in favor of this, had no objections to this, and felt that it was entirely appropriate under the circumstances.

Mr. PRESTON. So in other words then, instead of veto, if the district attorney objects, then the judge cannot make a decision.

Mr. PICCOLA. Right. There is no decision for the judge to make.

At that time; at that time, Mr. Speaker. If the juvenile remains crime free for 5 years, they can go before the court, and then it is up to the judge — if the D.A. objects — it is up to the judge to make the decision.

Mr. PRESTON. Are there any other instances in Pennsylvania law where the district attorney has this authority to prevent a judge from making a decision?

Mr. PICCOLA. Well, Mr. Speaker, as I said, I do not think this is a case where the D.A. is preventing a judge from making a decision. You only bring decisions that have to be made before a judge. This is not a judge asking to make a decision and we are saying, no, you cannot make it.

Mr. PRESTON. And I ask the question again: Is there any case history or any other instances in Pennsylvania where the district attorney can prohibit a judge from being able to make a decision? Can you give me some examples? I think there might be one or two.

Mr. PICCOLA. One very common example is the situation with ARD (accelerated rehabilitative disposition) where the district attorney would recommend ARD for a criminal defendant. And I believe in the case of DUI's (driving under the influence), the court must accept onto ARD someone recommended for DUI under certain factual circumstances.

Mr. PRESTON. Okay. Thank you.

Mr. Speaker, if I could address my amendment?

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

Mr. PRESTON. Mr. Speaker, I get very nervous sometimes when we start taking power away from someone who has been elected to do one thing, and as the gentleman said, to be able to give a law enforcement officer, the chief law enforcement officer in a county, with this bill, it will possibly prohibit a judge from being able to offer a decision in some instances.

The gentleman basically was able to give one other instance in all of case history as far as Pennsylvania is concerned dealing with ARD. A judge is to be there to be able to make a decision. District attorneys run every 4 years. I do not want politics to be playing and making a decision, in some cases on our youth, when a judge basically has the authority to be fair, to be objective, and hopefully not to be influenced, and that is why we have given them the term of approximately 10 years in the Commonwealth of Pennsylvania.

Sometimes different politicians run on particular issues, and especially when we are talking about dealing and being tough on crime, here basically we are trying to prohibit a judge, whether appointed or elected in this Commonwealth, and to be able to give another elected official power who has to run and be more political than that individual. I get very nervous when we talk about this form of elitism, and I think that the judge should have that authority and we should not prohibit that, no matter what, and that is our function, to be able to give the people representation.

But to be able to give the power to a district attorney to prohibit a judge or to hold a judge back from making a decision I think is unfair, and I would not want to deal with that whether it was dealing with youth or adults, and I hope that we will support my amendment. Thank you very much.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS-79

|             |           |            |            |
|-------------|-----------|------------|------------|
| Battisto    | Gigliotti | Melio      | Santoni    |
| Bebko-Jones | Gordner   | Michlovic  | Shaner     |
| Belardi     | Gruitza   | Mihalich   | Staback    |
| Belfanti    | Haluska   | Mundy      | Steelman   |
| Bishop      | Hennessey | Olasz      | Stetler    |
| Boscola     | Horsey    | Oliver     | Sturla     |
| Caltagirone | Itkin     | Pesci      | Tangretti  |
| Cawley      | James     | Petrarca   | Thomas     |
| Cohen, M.   | Josephs   | Petrone    | Travaglio  |
| Colafranca  | Kaiser    | Pistella   | Trello     |
| Corpora     | Kirkland  | Preston    | Trich      |
| Cowell      | Kukovich  | Ramos      | Van Horne  |
| Curry       | LaGrotta  | Readshaw   | Veon       |
| Daley       | Laughlin  | Richardson | Vitali     |
| DeLuca      | Lescovitz | Rieger     | Walko      |
| Dermody     | Levdansky | Roberts    | Washington |
| DeWeese     | Lucyk     | Robinson   | Williams   |
| Evans       | Manderino | Roebuck    | Wozniak    |
| Fajt        | Markosek  | Rooney     | Youngblood |
| Gamble      | McCall    | Sainato    |            |

NAYS-121

|              |            |          |               |
|--------------|------------|----------|---------------|
| Adolph       | Druce      | Leh      | Schuler       |
| Allen        | Durham     | Lloyd    | Scrimenti     |
| Argall       | Egolf      | Lynch    | Semmel        |
| Armstrong    | Fairchild  | Maitland | Serafini      |
| Baker        | Fargo      | Major    | Sheehan       |
| Bard         | Farmer     | Marsico  | Smith, B.     |
| Barley       | Feese      | Masland  | Smith, S. H.  |
| Birmelin     | Fichter    | McGeehan | Snyder, D. W. |
| Blaum        | Fleagle    | McGill   | Stairs        |
| Boyes        | Flick      | Merry    | Steil         |
| Brown        | Gannon     | Micozzie | Stern         |
| Browne       | Geist      | Miller   | Stish         |
| Bunt         | George     | Nailor   | Strittmatter  |
| Butkovitz    | Gladeck    | Nickol   | Surra         |
| Buxton       | Godshall   | Nyce     | Taylor, E. Z. |
| Cappabianca  | Gruppo     | O'Brien  | Taylor, J.    |
| Carone       | Habay      | Perzel   | Tigue         |
| Chadwick     | Hanna      | Pettit   | True          |
| Civera       | Harhart    | Phillips | Tulli         |
| Clark        | Hasay      | Piccola  | Vance         |
| Clymer       | Herman     | Pitts    | Waugh         |
| Cohen, L. I. | Hershey    | Platts   | Wogan         |
| Colaizzo     | Hess       | Raymond  | Wright, D. R. |
| Conti        | Hutchinson | Reber    | Wright, M. N. |
| Cornell      | Jadlowiec  | Reinard  | Yewcic        |
| Corrigan     | Keller     | Rohrer   | Zimmerman     |
| Coy          | Kenney     | Rubley   | Zug           |
| Dempsey      | King       | Rudy     |               |
| Dent         | Krebs      | Sather   | Ryan,         |
| DiGirolamo   | Lawless    | Saylor   | Speaker       |
| Donatucci    | Lederer    | Schroder |               |

NOT VOTING-1

Mayernik

EXCUSED-2

Cam Jarolin

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

On the question recurring,

Will the House agree to the bill on third consideration?

The SPEAKER. It is my understanding, Mr. Preston, that your second amendment has been withdrawn. The Chair thanks the gentleman.

Are there any further amendments to SB 20? The Chair understands there are none.

On the question recurring,

Will the House agree to the bill on third consideration?

Bill was agreed to.

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

The question is, shall the bill pass finally?

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

YEAS-198

|              |            |           |               |
|--------------|------------|-----------|---------------|
| Adolph       | Egolf      | Maitland  | Saylor        |
| Allen        | Fairchild  | Major     | Schroder      |
| Argall       | Fajt       | Manderino | Schuler       |
| Armstrong    | Fargo      | Markosek  | Scrimenti     |
| Baker        | Farmer     | Marsico   | Semmel        |
| Bard         | Feese      | Masland   | Serafini      |
| Barley       | Fichter    | Mayermik  | Shaner        |
| Battisto     | Fleagle    | McCall    | Sheehan       |
| Bebko-Jones  | Flick      | McGeehan  | Smith, B.     |
| Belardi      | Gamble     | McGill    | Smith, S. H.  |
| Belfanti     | Gannon     | Melio     | Snyder, D. W. |
| Birmelin     | Geist      | Merry     | Staback       |
| Bishop       | George     | Michlovic | Stairs        |
| Blaum        | Gigliotti  | Micozzie  | Steelman      |
| Boscola      | Gladeck    | Mihalich  | Steil         |
| Boyes        | Godshall   | Miller    | Stern         |
| Brown        | Gordner    | Mundy     | Stetler       |
| Browne       | Gruitza    | Nailor    | Stish         |
| Bunt         | Gruppo     | Nickol    | Strittmatter  |
| Butkovitz    | Habay      | Nyce      | Sturla        |
| Buxton       | Haluska    | O'Brien   | Surra         |
| Caltagirone  | Hanna      | Olasz     | Tangretti     |
| Cappabianca  | Harhart    | Oliver    | Taylor, E. Z. |
| Carone       | Hasay      | Perzel    | Taylor, J.    |
| Cawley       | Hennessey  | Pesci     | Thomas        |
| Chadwick     | Herman     | Petrarca  | Tigue         |
| Civera       | Hershey    | Petrone   | Travaglio     |
| Clark        | Hess       | Pettit    | Trello        |
| Clymer       | Hutchinson | Phillips  | Trich         |
| Cohen, L. I. | Itkin      | Piccola   | True          |
| Cohen, M.    | Jadlowiec  | Pistella  | Tulli         |
| Colafranca   | James      | Pitts     | Vance         |
| Colaizzo     | Josephs    | Platts    | Van Horne     |
| Conti        | Kaiser     | Preston   | Veon          |
| Cornell      | Keller     | Ramos     | Vitali        |
| Corpora      | Kenney     | Raymond   | Walko         |
| Corrigan     | King       | Readshaw  | Washington    |
| Cowell       | Kirkland   | Reber     | Waugh         |
| Coy          | Krebs      | Reinard   | Williams      |
| Curry        | Kukovich   | Rieger    | Wogan         |
| Daley        | LaGrotta   | Roberts   | Wozniak       |
| DeLuca       | Laughlin   | Robinson  | Wright, D. R. |
| Dempsey      | Lawless    | Roebuck   | Wright, M. N. |
| Dent         | Lederer    | Rohrer    | Yewcic        |
| Dermody      | Leh        | Rooney    | Youngblood    |
| DeWeese      | Lescovitz  | Rubley    | Zimmerman     |
| DiGirolamo   | Levdansky  | Rudy      | Zug           |
| Donatucci    | Lloyd      | Sainato   |               |
| Druce        | Lucyk      | Santoni   | Ryan,         |
| Durham       | Lynch      | Sather    | Speaker       |

NAYS-3

Evans                      Horsey                      Richardson

NOT VOTING-0

EXCUSED-2

Carn                      Jarolin

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

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

**GUESTS INTRODUCED**

The SPEAKER. The Chair at this time is pleased to welcome to the hall of the House the following interns from the Institute of Politics at the University of Pittsburgh, here as legislators for a day, and they certainly picked a fine day, being from the University of Pittsburgh, here celebrating Penn State's football victories. It is almost like we had it planned that way for them.

But in any event, as the guest of the gentleman, Mr. Fajt, Nick Pietrowicz; the guest of Representative Michlovic, Jodi Leibowitz; the guest of Representative Pistella, Sue Heinemann; the guest of Representative Preston, Creighton Morehead; the guest of Representative Itkin, the minority whip, Jenny Wolsk Bain; and the guest of Representative Cowell, Regis Griffin. Will the guests please rise.

**BILL ON THIRD CONSIDERATION**

The House proceeded to third consideration of **SB 14, PN 51**, entitled:

An Act amending the act of April 9, 1929 (P. L. 177, No. 175), entitled "The Administrative Code of 1929," further providing for rights of crime victims and local correctional facilities.

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

Mr. **LEH** offered the following amendment No. **A1122**:

Amend Sec. 2 (Sec. 479.3), page 4, line 11, by striking out "sentenced" and inserting

committed

Amend Sec. 2 (Sec. 479.3), page 4, line 13, by inserting after "to"

bail.

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

The SPEAKER. The Chair recognizes the gentleman, Mr. Leh, on the amendment.

Mr. LEH. Thank you very much, Mr. Speaker.

The reason I had this amendment drafted was to clear up what I believe to be a misunderstanding of SB 14. Right now, as it exists, there is a crack which certain victims of domestic crimes may fall through. As SB 14 is written, it only addresses those alleged criminals after sentencing and thereby notifying their victims only if they are released after sentencing. My amendment would simply delete the word "sentenced" and replace it with the word "committed," and also on page 4, after the word "to," add the word "bail." In other words, it would require the notification of victims of the release of those alleged criminals who are released on bail.

I realize that such an amendment could cause an undue burden on our local governments and policing officials because it would require them to probably notify not only those victims of domestic violence but also victims of petty theft and whatever, and it is not the intent of this amendment to do that. However, I do believe - and I firmly believe this - that it is the responsibility of government to protect victims, and I think we need to protect the victims of domestic violence, and I think that issue needs to be addressed.

**AMENDMENT WITHDRAWN**

Mr. LEH. However, after speaking with the Governor's Office, after speaking with the chairman of the Judiciary Committee, I am willing to withdraw my amendment, in the hopes that the Judiciary Committee will consider legislation which I will introduce to amend the Domestic Crimes Act that we passed last session to get at this issue, because believe me, we spend about \$20 billion in this State every year for our budget on a lot of things that I do not consider are necessary, but one thing government is absolutely responsible for is for the protection of lives and property of its citizens. I want to see this bill introduced, I want to see it addressed by the Judiciary Committee, and if I can have that commitment from the chairman, I will withdraw this amendment.

The SPEAKER. The Chair recognizes the gentleman, Mr. Piccola.

Mr. PICCOLA. Thank you, Mr. Speaker.

In discussing this amendment with the gentleman, Mr. Leh, we did discover that his intent was to address a more narrow range of victims than the amendment actually addressed - namely, those victims who are the victims of domestic violence and have not yet been picked up by the domestic relations statutes, the domestic abuse statutes, that we have passed and that we have on the books right now.

This State has always been a leader in this particular area of protecting victims of domestic violence, and I feel certain that with the assistance of Mr. Leh and the assistance of people on the other side of the aisle like Mr. Veon, who helped me last year in getting that bill passed into law, with the victims groups around the Commonwealth, that we will be able to take the narrow range of victims that he is concerned about, put it into a bill in the appropriate title, and deal with it in a separate piece of legislation other than the one before us now.

So I would thank the gentleman for his indulgence and for his agreement to withdraw the amendment.

The SPEAKER. The Chair thanks the gentleman.

Does the gentleman, Mr. Williams, seek recognition ?

Mr. WILLIAMS. Yes, I do, Mr. Speaker.

The SPEAKER. There is nothing before the House right now. For what purpose does the gentleman seek recognition ?

Mr. WILLIAMS. Well, if he is in fact going to withdraw his amendment, I wanted to thank him for doing that, because I was in agreement with Mr. Piccola's comments that it would provide an undue burden upon our population with regard to administrative processing, and I, too, want to support him in his efforts with that population of people that he wants to deal with, and I will stand with him to do that. Thank you, Mr. Speaker.

The SPEAKER. Thank you.

On the question recurring,

Will the House agree to the bill on third consideration?

Mr. LESCOVITZ offered the following amendment No. A0967:

Amend Sec. 2, page 3, line 2, by striking out "479.7(d)" and inserting 479.6, 479.7(d) and (e)

Amend Sec. 2, page 4, by inserting between lines 22 and 23

Section 479.6. Responsibilities of Law Enforcement Agencies under Basic Bill of Rights.—(a) All law enforcement agencies are responsible for providing basic information on services available for crime victims. The information shall be in writing and shall be provided to the victim within twenty-four hours of the agency's first contact with the victim in a form to be developed by the Pennsylvania Commission on Crime and Delinquency within one year of the effective date of this act.

(b) The form developed by the Pennsylvania Commission on Crime and Delinquency shall be attached to the police report and include a victim checkoff signifying that the information has been provided to the crime victim.

(c) In personal injury crimes, law enforcement agencies shall make reasonable efforts to notify the victim of the arrest of the suspect as soon as possible. Unless the victim cannot be located, notice of the arrest shall be provided not more than twenty-four hours after the preliminary arraignment.

(d) In personal injury crimes, all law enforcement agencies, sheriffs, deputy sheriffs and constables shall notify the victim of an inmate's escape from the custody of the law enforcement agency, sheriff, deputy sheriff or constable.

(e) In personal injury crimes where the prosecutor's office does not have advance notice of a dispositional proceeding, law enforcement agencies shall make reasonable efforts to notify the victim.

Amend Sec. 2 (Sec. 497.7), page 4, by inserting after line 30

(e) In personal injury crimes when the prosecutor's office has advance notice of any dispositional proceeding, the prosecutor shall make reasonable efforts to notify [a] the victim [who has requested notice of the time and place of the proceeding].

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes the gentleman on the question of the adoption of the amendment.

Mr. LESCOVITZ. Thank you, Mr. Speaker.

This amendment further clarifies the responsibilities regarding notification of victims of personal injury crimes by providing that the law enforcement agencies must make reasonable efforts to notify the victim of a dispositional proceeding where the prosecutor's office does not have advance notice of the proceeding.

The SPEAKER. The Chair recognizes the gentleman, Mr. Piccola, on the issue.

Mr. PICCOLA. Thank you, Mr. Speaker.

With all due respect to the gentleman, this is a proposal that goes much further than simply clarification.

Right now, under the "responsibilities" section for law enforcement agencies under this statute, under the victims' bill of

rights, there is a responsibility to the prosecutor's office to notify victims in advance of dispositional proceedings. However, we have placed that burden on the prosecutor in those cases where there is a victim who has, and if you look at the last line of the first page of the amendment, those victims who have requested notice of the time and place of those proceedings. Mr. Lescovitz' amendment is deleting that qualifying portion and is requiring that the prosecutor's office notify all victims, all victims, of the dispositional proceeding.

Then he is adding language that in the cases of personal injury crimes where the prosecutor does not have advance notice of the dispositional proceedings, the law enforcement agencies make reasonable efforts to notify the victim. What that would mean would be that the Pennsylvania State Police or the local police department would have to make a notice to the victim of these proceedings when the district attorney does not even know when these proceedings are going to take place. This would place an absolutely incredible and probably impossible burden upon local law enforcement to make notification efforts, take them off the street. They are not going to be able to do the normal crime-fighting things that our local police and our State Police are supposed to be doing. They are going to have to go around and, first of all, find out when these proceedings are, and then if they do find out, they have to notify the victims of these, even the victims who do not care whether they are notified.

The system works very well right now. If a victim wants notification of these proceedings, they file a notice with the district attorney, and then they receive notification. Those victims who do not care to know do not file that request.

The system works very well now. I do not think it should be fixed because it is not broken, and I would urge that we defeat the Lescovitz amendment.

Mr. LESCOVITZ. Mr. Speaker?

The SPEAKER. The Chair recognizes the gentleman on his amendment.

Mr. LESCOVITZ. Would the gentleman, Mr. Piccola, stand for a brief interrogation?

The SPEAKER. The gentleman indicates he will stand for interrogation. The gentleman may proceed.

Mr. LESCOVITZ. Mr. Speaker, the main purpose of this amendment, there was a situation in my legislative district where the victims did notify the district attorney that they wanted to be notified of any preliminary hearings. During a preliminary hearing, the district attorney's office did not know of the preliminary hearing, and the case was dismissed in a murder trial and the victims' families did not know that there was even a preliminary hearing. That is why this amendment is drafted — in the case that even though the district attorney's office was notified by the victims of the case, the only ones who showed up at the preliminary hearing or knew about it were the law enforcement officers. Therefore, that is why I am requiring—

What would happen in the case though where the district attorney's office did not know about the preliminary hearing? Who notifies the victim?

Mr. PICCOLA. I cannot imagine, Mr. Speaker, that in a murder case the district attorney does not know of the preliminary hearing. I cannot imagine that, but assuming that is what occurred, there has to be another way to address that particular victim notification situation than to totally destroy the whole victim registry system that we have set up right now, because that is what you are doing.

We have a system now where the victims register their desire to be notified, and you are eliminating that; you are eliminating that. You are requiring that all victims be notified by the district attorney,

and then if the district attorney does not know about the case, you are then putting the burden on local law enforcement or State law enforcement.

I have no problem with working with the gentleman to try to fix up whatever deficiency or wherever the system broke down in that particular case. I cannot imagine that there was a murder case where the district attorney did not know of the preliminary hearing. That seems to me to be a breakdown with the court system as opposed to our system dealing with victim notification. I would be more than happy to deal with that situation and find out what the specifics of that case are, but I would urge the House not to destroy the whole victim registry system that we have right now just to address one breakdown in what might have been a problem with the courts.

Mr. Speaker, if I could add to my answer, I am advised by staff that, apparently, this amendment will not even address your problem, because if your problem was a preliminary hearing, according to the definition of "dispositional proceeding," a dispositional proceeding only occurs in open common pleas court, and a preliminary hearing occurs before a district magistrate, a district justice, and so the preliminary hearing is not a dispositional proceeding, according to the definition that the staff has advised me of.

So I am not sure your amendment even addresses your particular problem, but as I said earlier, it is killing a flea with a sledgehammer, and I would urge the gentleman not to do that, and I would urge the House to defeat the amendment.

Mr. LESCOVITZ. Mr. Speaker, I am going to disagree with that position.

My whole point of this is that when a district attorney does not notify the victims, someone should be responsible to notify the victims in the case of a preliminary hearing, and if the district attorney does not notify them, the only other persons that can notify the victims are the police officers.

Now, is it your understanding that this amendment does not do that?

Mr. PICCOLA. That is correct, and I am quoting from the "definitions" section of the Administrative Code which defines "dispositional proceeding." It means "...any proceeding which occurs in open common pleas court which potentially could dispose of the case, including, but not limited to, Accelerated Rehabilitative Disposition, pleas, trial and sentence." A preliminary hearing is not and does not take place in common pleas court; it takes place before the district justice.

I am also advised that even if the district magistrate dismisses it at a preliminary hearing, the prosecution can always refile either before that magistrate or another magistrate and have another preliminary hearing, so that is not even a dispositional case. It does not finally dispose of the matter.

AMENDMENT WITHDRAWN

Mr. LESCOVITZ. Okay. Mr. Speaker, I am going to go ahead and withdraw this amendment, but I do believe that some preliminary hearings do take place in front of common pleas court, but at this time I will withdraw this amendment and try to work with the speaker on trying to deal with that.

The SPEAKER. The Chair thanks the gentleman.

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

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

The question is, shall the bill pass finally?

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

YEAS-201

|              |            |            |               |
|--------------|------------|------------|---------------|
| Adolph       | Evans      | Maitland   | Saylor        |
| Allen        | Fairchild  | Major      | Schroder      |
| Argall       | Fajt       | Manderino  | Schuler       |
| Armstrong    | Fargo      | Markosek   | Scriminti     |
| Baker        | Farmer     | Marsico    | Semmel        |
| Bard         | Feese      | Masland    | Serafini      |
| Barley       | Fichter    | Mayernik   | Shaner        |
| Battisto     | Fleagle    | McCall     | Sheehan       |
| Bebko-Jones  | Flick      | McGeehan   | Smith, B.     |
| Belardi      | Gamble     | McGill     | Smith, S. H.  |
| Belfanti     | Gannon     | Melio      | Snyder, D. W. |
| Birmelin     | Geist      | Merry      | Staback       |
| Bishop       | George     | Michlovic  | Stairs        |
| Blaum        | Gigliotti  | Micozzie   | Steelman      |
| Boscola      | Gladeck    | Mihalich   | Steil         |
| Boyes        | Godshall   | Miller     | Stern         |
| Brown        | Gordner    | Mundy      | Stetler       |
| Browne       | Gruitza    | Nailor     | Stish         |
| Bunt         | Gruppo     | Nickol     | Strittmatter  |
| Butkovitz    | Habay      | Nyce       | Sturla        |
| Buxton       | Haluska    | O'Brien    | Surra         |
| Caltagirone  | Hanna      | Olasz      | Tangretti     |
| Cappabianca  | Harhart    | Oliver     | Taylor, E. Z. |
| Carone       | Hasay      | Perzel     | Taylor, J.    |
| Cawley       | Hennessey  | Pesci      | Thomas        |
| Chadwick     | Herman     | Petrarca   | Tigue         |
| Civera       | Hershey    | Petrone    | Travaglio     |
| Clark        | Hess       | Pettit     | Trello        |
| Clymer       | Horsey     | Phillips   | Trich         |
| Cohen, L. I. | Hutchinson | Piccola    | True          |
| Cohen, M.    | Itkin      | Pistella   | Tulli         |
| Colafella    | Jadlowiec  | Pitts      | Vance         |
| Colaizzo     | James      | Platts     | Van Horne     |
| Conti        | Josephs    | Preston    | Veon          |
| Cornell      | Kaiser     | Ramos      | Vitali        |
| Corpora      | Keller     | Raymond    | Walko         |
| Corrigan     | Kenney     | Readshaw   | Washington    |
| Cowell       | King       | Reber      | Waugh         |
| Coy          | Kirkland   | Reinard    | Williams      |
| Curry        | Krebs      | Richardson | Wogan         |
| Daley        | Kukovich   | Rieger     | Wozniak       |
| DeLuca       | LaGrotta   | Roberts    | Wright, D. R. |
| Dempsey      | Laughlin   | Robinson   | Wright, M. N. |
| Dent         | Lawless    | Roebuck    | Yewcic        |
| Dermody      | Lederer    | Rohrer     | Youngblood    |
| DeWeese      | Leh        | Rooney     | Zimmerman     |
| DiGirolamo   | Lescovitz  | Rublely    | Zug           |
| Donatucci    | Levdansky  | Rudy       |               |
| Druce        | Lloyd      | Sainato    | Ryan,         |
| Durham       | Lucyk      | Santoni    | Speaker       |
| Egolf        | Lynch      | Sather     |               |

NAYS-0

NOT VOTING-0

EXCUSED-2

am Jarolin

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

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

### HOUSE BILLS INTRODUCED AND REFERRED

**No. 92** By Representatives SCRIMENTI, HENNESSEY, CALTAGIRONE, MAYERNIK, CURRY, HERMAN, CAPPABIANCA, LEDERER, WOGAN, BELARDI, KAISER, J. TAYLOR, STABACK, JOSEPHS, TRELLO, SAYLOR, BELFANTI, ITKIN, CIVERA, DeLUCA, TRICH, VEON, GORDNER, COLAIZZO, MICHLOVIC, BATTISTO, McCALL, FAIRCHILD, LaGROTTA, STURLA, MELIO, TIGUE, McGEEHAN, YOUNGBLOOD, GIGLIOTTI, MANDERINO, READSHAW, BEBKO-JONES, MILLER, RUDY, LAUGHLIN and BOSCOLA

An Act amending the act of June 16, 1994 (P.L. , No.6A), known as the General Appropriation Act of 1994, providing an additional appropriation to the Pennsylvania State Police.

Referred to Committee on APPROPRIATIONS, February 28, 1995.

**No. 93** By Representatives PICCOLA, CALTAGIRONE, L. I. COHEN, DERMODY, FEESE and CLARK

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for delays in relation to certain juvenile hearings.

Referred to Committee on JUDICIARY, February 28, 1995.

**No. 94** By Representatives MAITLAND, FAIRCHILD, GODSHALL, DALEY, E. Z. TAYLOR, L. I. COHEN, RAYMOND, ITKIN, MERRY, WAUGH, BATTISTO, KING, TRELLO, HALUSKA, FLEAGLE and FICHTER

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for public disclosure of law enforcement records relating to juveniles.

Referred to Committee on JUDICIARY, February 28, 1995.

The SPEAKER. Does the majority leader or the minority leader have any further business in special session?

Are there any bills or notices of committee meetings in special session?

### JUDICIARY COMMITTEE MEETING

The SPEAKER. Does the gentleman, Mr. Piccola, have an announcement in connection with the special session?

Mr. PICCOLA. I believe I made the announcement this morning, but I would reiterate, the House Judiciary Committee will meet tomorrow morning at 9 o'clock, room 302, South Office Building, for a special session committee meeting.

The SPEAKER. The Chair thanks the gentleman.

Are there any further announcements in connection with the special session?

Are there any bills to be introduced, amendments to be filed, bills to be referred?

Does the majority leader or minority leader have any further business in special session? The Chair hears none.

The Chair recognizes the gentleman, Mr. Fargo.

Mr. FARGO. Mr. Speaker, will we be back in regular session so that I can announce a caucus?

The SPEAKER. Yes.

Mr. FARGO. Thank you, sir.

### ADJOURNMENT

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. McGill.

Mr. MCGILL. Mr. Speaker, I move that Special Session No. 1 of 1995 do now adjourn until Wednesday, March 1, 1995, at 11 a.m., e.s.t., unless sooner recalled by the Speaker.

On the question,

Will the House agree to the motion?

Motion was agreed to, and at 3:18 p.m., e.s.t., the House adjourned.