

STATE OF ILLINOIS
97th GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

106th Legislative Day

4/25/2012

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PRESIDING OFFICER: (SENATOR CLAYBORNE)

The regular Session of the 97th General Assembly will please come to order. Will the Members be at their desks? Will our guests in the galleries please rise? The invocation today will be given by Reverend Jonathan Dixon of Riverton Methodist Church, Riverton, Illinois.

THE REVEREND JONATHAN DIXON:

(Prayer by the Reverend Jonathan Dixon)

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Pledge of Allegiance will be led by Senator Jacobs.

SENATOR JACOBS:

(Pledge of Allegiance, led by Senator Jacobs)

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Mr. -- Mr. Secretary, Journal.

SECRETARY ANDERSON:

Senate Journal of Tuesday, April 24th, 2012.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Senator Crotty.

SENATOR CROTTY:

Mr. President, I move to postpone the reading and the approval of the Journal just read by the Secretary, pending arrival of the printed transcript.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Senator Crotty moves to postpone the reading and approval of the Journal, pending the arrival of the printed transcripts. There being no objection, so ordered. Mr. Secretary, Resolutions.

SECRETARY ANDERSON:

Senate Resolution 722, offered by Senator Kotowski and all

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Members.

Senate Resolution 723, offered by Senator Dillard and all Members.

Senate Resolution 724, offered by Senator Forby and all Members.

Senate Resolution 725, offered by Senator Forby and all Members.

Senate Resolution 726, offered by Senator Forby, all -- and all Members.

Senate Resolution 728, offered by Senator Jacqueline Collins and all Members.

They're all death resolutions, Mr. President.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Committee Reports. Consent Calendar.

SECRETARY ANDERSON:

Senate Resolution 727, offered by Senator Martinez.

It's substantive.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Committee Reports, Mr. Secretary.

SECRETARY ANDERSON:

Senator Delgado, Chairperson of the Committee on Public Health, reports House Bills 4548, 4901, 5050, 5134, 5528 Do Pass; and Senate Resolution 630 Be Adopted.

Senator Frerichs, Chairperson of the Committee on Agriculture and Conservation, reports House Bill 5685 Do Pass; and House Bill 3611 Do Pass, as Amended; Senate Resolution 665 Be Adopted.

Senator Silverstein, Chairperson of the Committee on Judiciary, reports House Bills 3806 and 5266 Do Pass; House

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Bills 4190 and 5016 Do Pass, as Amended.

Senator Hunter, Chairperson of the Committee on Human Services, reports House Bills 3915, 3986, 4003, 4037, 4563, 4566, 4609, 5007, 5679 Do Pass; and House Bill 5592 Do Pass, as Amended.

Senator Lightford, Vice-Chairperson of the Committee on Education, reports House Bills 1473, 4602 and 5013 Do Pass; House Bill 5689 Do Pass, as Amended; House Joint Resolution 67 Be Adopted; and Senate Amendment 2 to Senate Bill 636 and Senate Amendment 2 to Senate Bill 3259 recommended Do Adopt.

Senator Sandoval, Chairperson of the Committee on Transportation, reports House Bills 3875, 3948, 4577, 4692 and 5180 Do Pass; and House Bill 3982 Do Pass, as -- Amended; Senate Joint Resolution 62 Be Adopted.

Senator Holmes, Chairperson of the Committee on State Government and Veterans Affairs, reports House Bills 2562, 5003, 5234, 5337, 5444, 5632 Do Pass.

Senator Haine, Chairperson of the Committee on Insurance, reports House Bill 5478 Do Pass; Senate Amendment 3 to Senate Bill 679 recommended Do Adopt.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

House Bills 1st Reading, Mr. Secretary.

SECRETARY ANDERSON:

House Bill 4083, offered by Senator Silverstein.

(Secretary reads title of bill)

House Bill 4670, offered by Senator Haine.

(Secretary reads title of bill)

House Bill 5114, offered by Senator McGuire.

(Secretary reads title of bill)

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1st Reading of these House bills.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Dean Williams, with WFLD-TV Chicago, requests permission to videotape. Seeing no objection, permission is granted. Terry Martin, with Illinois Channel, requests permission to videotape. Seeing no objection, permission is granted. Mr. Secretary, Appointment Messages.

SECRETARY ANDERSON:

Appointment Message 440

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Pat Quinn, Governor, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

To be a Member of the Southeastern Illinois Economic Development Authority:

Charles A. Crowder

Annual Compensation: Expenses

Appointment Message 441

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Pat Quinn, Governor, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

To be a Member of the Abraham Lincoln Presidential Library Advisory Board:

Gary Hammons

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Annual Compensation: Not Applicable

Appointment Message 442

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Pat Quinn, Governor, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

To be a Member of the Abraham Lincoln Presidential Library Advisory Board:

J. Steven Beckett

Annual Compensation: Not Applicable

To the Honorable -- Appointment Message 443

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Pat Quinn, Governor, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

To be a Member of the Abraham Lincoln Presidential Library Advisory Board:

Richard J. Meister

Annual Compensation: Not Applicable

Appointment Message 444

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Pat Quinn, Governor, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and

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consent of this Honorable Body is respectfully requested.

To be a Member of the Abraham Lincoln Presidential Library
Advisory Board:

Ranjan Karri

Annual Compensation: Not Applicable

Appointment Message 445

To the Honorable Members of the Senate, Ninety-Seventh
General Assembly:

I, Pat Quinn, Governor, am nominating and, by and with the
advice and consent of the Senate, appointing the following named
individual to the office enumerated below. The advice and
consent of this Honorable Body is respectfully requested.

To be a Member of the Abraham Lincoln Presidential Library
Advisory Board:

Candle Wester-Mittan

Annual Compensation: Not Applicable

Appointment Message 446

To the Honorable Members of the Senate, Ninety-Seventh
General Assembly:

I, Pat Quinn, Governor, am nominating and, by and with the
advice and consent of the Senate, appointing the following named
individual to the office enumerated below. The advice and
consent of this Honorable Body is respectfully requested.

To be a Member of the Abraham Lincoln Presidential Library
Advisory Board:

Sean Vinck

Annual Compensation: Not Applicable

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Senator Maloney, for what purpose do you seek recognition?

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SENATOR MALONEY:

A point of personal privilege, Mr. President.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Please state your point.

SENATOR MALONEY:

In the gallery directly behind you are my two grandkids, J.D. and Lucy, who yesterday did the Pledge so well, along with their mom and dad - my son, Dan, and his wife, Claire - and my wife, Norine. And I'd like the Senate to please give them a warm welcome.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Welcome to Springfield. Hope you enjoy your -- your time while you're here. Thanks for coming. Senator Crotty, for what purpose do you seek recognition?

SENATOR CROTTY:

For an introduction to people in the gallery.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Please state your introduction.

SENATOR CROTTY:

I'd also like to welcome to the Senate some persons from MHOAI. They're down here today to meet with their legislators. And I see Jim Dobrez and a few others from my area. And I'd also like to welcome them to Springfield. Please join me.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Welcome to Springfield. Thanks for coming today. Hope you enjoy your stay. Senator Schoenberg, for what purpose do you seek recognition?

SENATOR SCHOENBERG:

I rise on a point of personal privilege, Mr. President.

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PRESIDING OFFICER: (SENATOR CLAYBORNE)

Please state your point.

SENATOR SCHOENBERG:

Mr. President, Ladies and Gentlemen of the Senate, I'm delighted to be joined today by my Page for the Day, Zak Newbart. Zak is a senior at Niles North High School in Skokie. He has a particular interest in political science, specifically environmental issues. When he finishes at Niles North, he's going to spend a gap year in Israel in a program in the Galilee region. He's joined by his father, Dan, who's in the gallery directly behind the President's Podium. Could we please give the Newbarts a warm Senate greeting? Thank you.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Welcome to Springfield. Thanks for coming. Hope you enjoy your day. Senator LaHood, for what purpose do you seek recognition?

SENATOR LaHOOD:

A point of personal privilege.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Please state your point.

SENATOR LaHOOD:

Thank you, Mr. President and Members of the Senate. I'm joined here today by Matt Garrison, who is from my district. Matt is a senior at Morton High School and works as a clerk in the law firm of Miller, Hall & Triggs in Peoria. His parents are Bruce and Penelope Garrison. Matt is interested in history, politics, scouting, and camping. He's achieved the Eagle Scout designation. Matt will be attending college next year and he -- his future plans include getting a law degree and practicing law

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and also participating in public service. And I would ask the Senate to give Matt a warm welcome.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Welcome to Springfield, Matt. Hope you enjoy your stay. Thanks for coming. Senator Noland, for what purpose do you seek recognition?

SENATOR NOLAND:

Thank you, Mr. President. In the gallery on the Republican side are the Manufactured {sic} (Mobile) Home Owners Association of Illinois. Terry Nelson, President, here today. I would imagine that just about every Member here that is a downstate or suburban Member has a manufactured home site in their districts. And I'd like to welcome them, very warmly, to Springfield, if we may.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Welcome to Springfield. Hope you enjoy your stay. We are going to proceed to Senate Bills 2nd Readings, those whose -- those whose deadlines have been extended, on page 2, starting with Senate Bill 2527. Senator Sandoval. Senator Sandoval. Senator Sandoval. Out of the record. Senate Bill 2529 -- I'm sorry, 2915. Senator Crotty. Out of the record. Senate Bill 3259. Senator Lightford. Senator Lightford. Senator Lightford. Out of the record. Senator Koehler, for what purpose do you seek recognition?

SENATOR KOEHLER:

Thank you, Mr. President. A point of personal privilege.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Please state your point, Senator Koehler.

SENATOR KOEHLER:

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I have two Pages with me today. I want to introduce them. Atticus Francken, who is a student at Normal Community High School. He also has the distinction of being the president of the High School Democrats national organization. And with him, as well, somebody who has done an intern {sic} with my office, is Miles Sodowski, who is a student at Illinois Central College. And I'd like to have the Senate welcome both of these Pages to the Senate today.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Welcome to Springfield. Welcome to Springfield. Hope you enjoy your stay. Senate Bill 3362. Senator Lightford. Senator Lightford. Senator Lightford. Out of the record. Senate Bill 3387. Senator Noland. Senator Noland. Oh, I'm sorry, Sandoval. I'm sorry. Senator Sandoval. Senator Sandoval. Senator Sandoval. Out of the record. Senator Link, on Senate Bill 3667. Senator Link. Senator Link. Senator Link. Out of the record. Senator Frerichs, on Senate Bill 3688. Mr. Secretary, read the bill.

SECRETARY ANDERSON:

Senate Bill 3688.

(Secretary reads title of bill)

2nd Reading of the bill.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Are there any Floor amendments approved for consideration?

SECRETARY ANDERSON:

No amendments reported.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

3rd Reading. Senate Bill 3803. Senator Lightford. Senator Lightford. Senator Lightford. Out of the record.

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We're -- we're proceeding to page 49 on the Calendar, in the Order of 2nd -- Secretary's Desk, Resolutions to amend the Constitution of the State of Illinois. Mr. Secretary. Having first read the -- the 1st Reading on April 19th, 2012... I'm sorry, Senate Joint Resolution -- Senate Joint -- Senate Joint Resolution Constitutional Amendment 66. Mr. Secretary.

SECRETARY ANDERSON:

Senate Joint Resolution Constitutional Amendment 66.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Mr. Secretary, having had this -- having had its 1st Reading on April 19th, 2012, we will now proceed to 2nd Reading of Senate Joint Resolution Constitutional Amendment 66. Mr. Secretary, please read the resolution in full for a second time.

SECRETARY ANDERSON:

Senate Joint Resolution Constitutional Amendment.

(Secretary reads SJRCA No. 66)

2nd Reading in full of this Senate joint resolution constitutional amendment.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

3rd Reading. Senator Sandack, for what purpose do you seek recognition?

SENATOR SANDACK:

Good morning, Mr. President. A point of personal privilege, please.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Good morning to you too. You may state your point of personal privilege.

SENATOR SANDACK:

Thank you, Mr. President, Ladies and Gentlemen of the

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Senate. I have the distinct honor of introducing some friends of mine from my district, Sean Durkin and Cathy Grella. They were with me last night. They're observing our -- they're observing today's proceedings. They're good constituents and friends of mine, and I'm hoping they'll get a nice warm Senate welcome from my colleagues.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Welcome to Springfield. Glad you came. Enjoy your day. Senator Rezin, for what purpose do you seek recognition?

SENATOR REZIN:

Thank you, Mr. Chairman {sic}. Point of personal privilege.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Please state your point.

SENATOR REZIN:

I, too, have a guest today. Her name is Nikki Baltz. She is a -- from Shorewood; Special Education Major with a minor in ELS -- or, excuse me, ESL. She enjoys working out and any type of sports. Maybe we can recruit her for the softball game tonight. And she will be transferring to Aurora University. Eventually, she would like to travel the world. I'd like a warm Springfield welcome.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Welcome to Springfield. Thanks for coming. Hope you enjoy your stay. Senator Sullivan, for what purpose do you seek recognition?

SENATOR SULLIVAN:

Thank you. For a point of introduction, Mr. President. Ladies and Gentlemen, as you can see, I have a -- a very special

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guest with me here today. I have Miss Macomb 2012. Her name is Krista Shirley. She is a -- a freshman at Western Illinois University, where she's majoring in dietetics. And she is nineteen years old, the daughter of Greg and Barbara Shipley. Are your folks here with you today? All right, I'll introduce those folks in just a minute. She is from Washburn, Illinois, which is in Marshall County, and I don't know which Member represents -- Senator LaHood. Well, we'll come over there and say hi to you in just a minute, Senator LaHood. We weren't sure. She was crowned Miss Macomb March 31st of this year, was awarded a five thousand dollar scholarship for that honor. Her platform is "Nutrition's Role in Birth Defects" and she will be singing "If My Friends Could See Me Now" for her talent presentation at the Miss Illinois Pageant to be -- to be held the last week of June in Marion, Illinois. She has been a 4-H member most of her life, has shown hogs - and cattle, did you tell me, or just hogs? - hogs and cattle for many years. She is escorted here today by a couple that has been involved with the Miss Macomb Pageant for many, many years, Bob and Nancy Foote. They're up in the gallery, in the middle part of the gallery, up there. It's great to have them back here. And I'm also joined here today by Representative Norine Hammond from McDonough County and Macomb, and also represents Western Illinois University. I'd like everybody to welcome Miss Macomb here to the State Senate today.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Welcome to Springfield. Congratulations to you. Wish you the best of luck. Thank you for coming to Springfield. Senator Luechtefeld, for what purpose do you seek recognition?

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SENATOR LUECHTEFELD:

Point of personal privilege.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Please state your point.

SENATOR LUECHTEFELD:

Behind me, I have six young people - sixth, seventh and eighth grade - from -- they're actually going to end up at Mt. Vernon High School. And I -- again, I have to -- they presently are in Senator Jones' district, but thanks to the wonderful new map, they will -- they will be in my district in the future. So I guess I need to thank all of you for that. Would like to introduce those six people to you and if you would -- yes, thanks, Senator Jones, good job. Anyway, they are - from -- they'll end up in Mt. Vernon High School - Jase Lucas, Drew Hester {sic} (Meyer), Kalyn Baum, Quinton Kujawa, Wyatt Marks, and Trey Martinez. So, if you would, please, give them a warm Senate welcome. Thank you.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Welcome to Springfield. Hope you enjoy your stay. Thanks for coming. Turning to -- proceeding to page 50, House Joint Resolution Constitutional Amendment 29, 3rd Reading. Senator Steans, do you wish to proceed? Senator Steans, you wish to proceed? Mr. Secretary, read the resolution in full for a third time.

SECRETARY ANDERSON:

House Joint Resolution Constitutional Amendment 29.

(Secretary begins to read HJRCA No. 29, as amended by SA No. 1)

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Let's -- let's cut down some of our conversations so we can hear. Thank you.

SECRETARY ANDERSON:

(Secretary continues to read HJRCA No. 29, as amended by SA No. 1)

3rd Reading in full, as amended, of this House joint resolution constitutional amendment.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Senator Steans, to explain.

SENATOR STEANS:

Thank you, Mr. President, Members of the Senate. We are now talking about putting a constitutional amendment on the ballot in November. This is HJRCA 29, otherwise known as Marsy's Law - is in response to years of work and effort. Illinois first passed a crimes victim {sic} rights law in 1985. In November of 1992, the people of Illinois overwhelmingly adopted Article I, Section 8.1 of the Illinois Constitution. This actually gave crime victims various rights, including the right to be treated with fairness and respect; the right to notification of court proceedings; the right to attend proceedings on the same basis of the accused, unless the court made a specific finding; and the right to make a victim impact statement. Unfortunately, the victim's rights are frequently violated. Attorney General Lisa Madigan held five roundtables across the State in the spring of 2008 to hear from victims and advocates about their experiences with the criminal justice system. We're here today because of what we learned in those roundtables. Victims testified that they were not advised of their rights, that they were not provided timely notice in all

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cases of court proceedings, that there were no communications with a prosecutor until a plea agreement had been reached, that they were excluded from trials, and that they were not afforded the opportunity to present a victim impact statement. We have a number of victims with us in the gallery today, who you may have been hearing from. I just want to acknowledge them. We have Garrett Evans, who is a Chicago native who survived the Virginia Tech massacre. We have Mary Kay Mace, whose daughter, Ryanne, was killed at the NIU massacre; Marilyn Wagner, whose brother, Larry, was murdered here in Springfield in 2010. We have Jennifer Bishop-Jenkins, whose sister, brother-in-law and their unborn child were murdered in Winnetka, Illinois. We have Lisa Bobb, who's the mother of a murdered victim. There's been many more that you've probably been hearing from. To this day, we hear from victims that their rights have been violated. Now the problem and the reason that their rights get violated is because there's no enforcement mechanism. Victims in Illinois then feel that they get re-victimized when they're told they don't have -- that their constitutional rights, that we had already passed in the Constitution, that they cannot assert their rights and there's no remedy or recourse available when their rights are violated. That's why we're here today. Victims in other states have an enforceable right, and Congress provided for enforceable rights in federal cases in 2004. Victims in Illinois should also have these enforceable rights. This constitutional amendment that's before us today gives victims the ability to enforce their rights in two ways - first, by giving them standing in the courtroom to assert their rights. The second method is to revoke the existing constitutional language that

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bars appellate relief. This language is not found in other state constitutions governing victims' rights. It is also inconsistent with the United States Supreme Court recognition in 1803 in the landmark case of Marbury versus Madison, that where there is a legal right, there should be a legal remedy. HJRCA 29 removes this bar to appellate relief for victims, but retains the language that prevents the defendant from using a violation of a victim's right to vacate a conviction. States with similar language in their constitutions have amended their constitutions to provide for the enforcement and vindication of crime victims' right {sic}. We're the only state that has not removed this constitutional prohibition. Most importantly, experience shows that the defendants' rights are not diminished when the victims' rights are respected. Courts are fully capable and routinely balance constitutional rights, giving full effect to each. Procedures are established to ensure the continued efficiency of the trial and appellate courts. Now, I also want to assure folks - we heard testimony and concern from the State's Attorney's Office - the State's Attorney's Office is having much input. We've been spending a great deal of time working with them on the enabling statutes that will go along and that we will also be working on passing to -- to implement this constitutional amendment. And these -- legislation -- enabling legislation will clarify that the victims' attorneys in this only have standings on issues regarding the victims' rights. I want to thank -- a constitutional amendment is a very significant issue. I want to thank, very much, my colleagues, Senators {sic} Haine, Senator Harmon and Senate President Cullerton, who've spent a great deal of time working with all

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the parties on this -- on this issue of an interest and making this a place that I feel very confident will be done in a way that respects everybody's rights. I look very much forward to passing this bill with your input today and -- and happy to answer any questions.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Senator Haine. I mean, is there any discussion? Senator Haine.

SENATOR HAINE:

Thank you, Mr. President. Would the sponsor yield for a question?

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Sponsor indicates she will yield. Senator Haine.

SENATOR HAINE:

My question is this, Senator Steans: Can a victim veto or in any way obstruct a plea agreement reached between a prosecutor and the defense attorney?

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Senator Steans.

SENATOR STEANS:

No. Only the prosecutor and the defense attorney can agree to the terms of a plea agreement. The victim has the right to confer with the prosecutor prior to the entry of a plea agreement, as well as the right to notice and an opportunity to be heard when the court enters the plea agreement. While the victim has the right to state his or her sentiments about the offered plea agreement, the victim has no authority to alter or veto this agreement.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

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Senator Haine.

SENATOR HAINE:

To -- to the bill, Mr. President and Ladies and Gentlemen of the Senate. And I am very appreciative of all who worked on this important amendment, and just offer some thoughts about it -- the -- as a former State's Attorney of Madison County. The concerns of the bill from the State's Attorneys that I have spoken with never had to do with the premise that a victim is given a special status in our court system. Never was any opposition given to the idea that victims should have notice, should be spoken with, should be cared for. The State's Attorneys that I've spoken with over the years, including my own office, established protocols to deal with victims and their unique issues. The concerns that have been expressed had to do with the -- the constitutional premise that the State's Attorney only speaks for the people of Illinois. And -- the State's Attorney's primary duty is the faithful enforcement and execution of the laws of Illinois, especially the laws that prohibit violence against other citizens. The State's Attorney can never be removed from that position, except, according to law, in limited cases. The Supreme Court of Illinois has ruled that the State's Attorney is the chief law enforcement officer of the county - the chief - and in that role, has the duty to protect citizens, victims and citizens at large, through the faithful execution of the law. That means the State's Attorney's duty must see that justice is done. That it isn't a narrow interest of a plaintiff; it is the broader interest of justice. There could be situations where victims may be reluctant to pursue the full measure of law. The State's

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Attorney is the one who determines that it is. And these issues are very important to maintain, because the State's Attorney is accountable to the people of Illinois. That officer and those who serve under him or her are all accountable; they're employees at will. And they're employees at will because they have all the power of the State's Attorney. And what the concerns were, that this would diminish this authority. We all want and desire that victims be treated with care and compassion, and the people that represented them did so ably in the formation of this amendment and they do so ably around the courthouses of this great State. But it is -- it -- it must be kept in mind that the -- that the most compassionate thing to be done for a victim and the -- the most -- the -- the most care to be done for the community at large is to have evildoers punished. That is the primary therapy. No one who suffers a rape or murder of a loved one is going to be made whole by notice. They're never going to be made whole. The -- when -- when that terrible act occurs, it occurs against the victim, but as our informations and indictments say, they -- that act violates the peace and dignity of the people of Illinois and the people of Illinois wish to exact just punishment. And the officers that are commissioned by the Constitution and elected by the people go into the well of the court in this State every day to tell the truth, and nothing but the truth, to a jury or a judge and to exact punishment. That is what the -- the primary right of a victim is, to have that State's Attorney bring evildoers to the bar of justice and punish them. But we support this bill. We have moved as a society toward this. The State's Attorneys that I know and I've talked to support this. And I'm

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grateful for the -- the care with which this sponsor has maneuvered this bill through this deliberative Body. I would recommend an Aye vote. Thank you.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Senator Crotty, for what purpose you seek recognition?

SENATOR CROTTY:

To the bill.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

To the bill.

SENATOR CROTTY:

Victims and their families need a voice. People who have been battered, raped and abused, or lost loved ones to murders are part of every community. Too many times, they're denied the rights that they deserve while seeking justice for their incredible loss. Like Jamie from Perry County, Illinois, a victim of domestic violence whose estranged husband, a repeat offender, was released on a plea deal, without any notice to Jamie, who is still in grave danger. Like Pamela and Tommy from Chicago, whose only son was killed as an innocent passerby in a gang crossfire. These devastated parents endured two years of court proceedings, during which they were held in a small room with an unapologetic, unsympathetic and unruly family of the defendant. Their requests to be moved to a new space were declined. These parents report that the trauma of having to endure such horrific close quarters has been worse than any other aspect of their lives following their son's murder. Then there's Glenn, whose girlfriend was repeatedly violent. Law enforcement and others didn't take Glenn seriously because he was a man. When Glenn's girlfriend stabbed him, prosecutors

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didn't charge her with attempted murder, despite her admittance to the crime. After more than two years of continuances, trial proceedings finally began, and witnesses traveled from far and wide to testify on Glenn's behalf, only to be turned away when the trial was given another four-month continuance based on the defendant's schedule only. And just in the last two weeks, when we passed Julie's Law - when Julie's parents wanted to give an impact statement and were told that they could not give that impact statement until I inquired for them and told Rich and Pam that they do have that right. These are real stories of fellow Illinoisans. And these just brush the surface of folks in our State who are suffering. And that's why I urge you to vote Aye for Marsy's Law - an amendment that will make a difference in -- every day in the lives of individuals and families who are suffering enough.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Senator Harmon.

SENATOR HARMON:

Thank you, Mr. President. Will the sponsor yield?

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Sponsor indicates she will yield. Senator Harmon.

SENATOR HARMON:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. Senator Steans, when this amendment came over from the House, it was quite a bit longer, a bit more unwieldy, and, frankly, dealt on a level of detail not typical of a constitutional provision. I -- I applaud you for your work in -- in narrowing this down and -- and turning it into what I think is truly a constitutional amendment. I also would thank Senator

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Haine, our in-house State's Attorney, and -- and President Cullerton, our public defender in-residence, for their -- their expertise in -- in making sure that this is a fair and balanced constitutional amendment. I also applaud the advocates, who have worked so hard on this, and the State's Attorney and the Bar Associations, who have brought a -- a leveling voice. A -- a part of the -- the problem in -- in tailoring the constitutional amendment is we do lose some detail, and it has become obvious that we will be enacting enabling legislation that will deal with many of the concerns raised by the State's Attorneys and by the Bar Association. But I think, in particular, in light of that, both the Senate and the record would benefit from a slightly more expansive explanation of the legislative intent that we have developed in this. Would you be willing to -- to share that with the Senate?

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Senator Steans.

SENATOR STEANS:

Yes, thank you, Senator Harmon. And again, I -- I want to reiterate - he -- he -- he's thanking me, but it was really Senator Harmon, Senator Haine and President Cullerton who brought all the parties together to really make this workable. Many hours of work on something that he was not even carrying himself - so, many, many thanks. And the legislative intent - I would like to put on the Floor - for HJRCA 29 follows here: Subsection (b) of the proposed amendment expressly confers standing on the victim to assert the rights afforded to the victim in subsection (a). Subsection (b) further provides that the victim, the victim's lawyer, or the prosecuting attorney may

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assert the victim's rights on behalf -- on the victim's behalf. The reference to "the victim's lawyer" in this amendment is to a lawyer retained by the victim for the purposes of asserting the victim's constitutional rights. A lawyer retained by the victim means a lawyer who is hired to represent the victim at the victim's own expense or a lawyer who's agreed to provide pro bono representation. If the victim has grounds to allege legal malpractice, the victim may seek redress in the form of a civil malpractice action against the lawyer. Section {sic} (subsection) (d) provides that the victim is not entitled to any cause of action against the prosecutor. HJRCA 29 does not confer upon the victim the right to a court-appointed lawyer or a lawyer at public expense. Had the General Assembly wanted to afford a victim the right to court-appointed counsel or counsel at the public's expense, it would have included the right to counsel in the list of rights enumerated in subsection (a). We should note that since January 1st, 1994, Illinois Statutes has -- have expressly provided that a crime victim has the right to be represented by a lawyer at the victim's own expense, and that State's Attorneys are obligated to tell victims that they have this right. The scope of the representation of a victim is specifically delineated in subsection (b). "A victim, the victim's lawyer, or the prosecuting attorney may assert the rights enumerated in subsection (a) in any court with jurisdiction over the case as a matter of right." This means that the lawyer asserting the victim's rights, whether that is a privately retained lawyer or the prosecutor, may invoke the Constitution, laws, and court rules of this State in any trial or appellate court in which a victim's right is at issue. The

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lawyer's representation of the victim does not extend beyond asserting the specifically enumerated rights. To assert the victim's rights, the victim, the victim's lawyer, or the prosecuting attorney may file a motion or orally assert a right at a court proceeding. Experience in other states and the federal courts tell us that the vast majority of those motions will be filed and ruled on prior to trial, thus avoiding any delay in the trial process. With this provision, the General Assembly should insure in the enabling statute that if a victim's rights issue arises during trial, it should be disposed of outside the presence of a jury. Practically speaking, a lawyer's representation of a victim under this amendment does not involve or contemplate making the victim the equivalent of a named party in the case. Specifically, the victim's lawyer would not have the right to, one, dictate or control the prosecutor's discretionary decisions; two, direct the prosecutor to file specific charges; three, veto a plea agreement; four, present or object to evidence at trial; five, call, question, or cross-examine witnesses at trial; or, six, impose a particular trial strategy on the prosecutor or defendant. Finally, the only real non-distinction between a victim's lawyer and the other lawyers of record in a criminal case is that each of the lawyers would receive copies of all notices, motions, and court orders filed in the case. In section {sic} (a) paragraph 4, the victim's right to "communicate" with the prosecution has been changed to the right to "confer" with the prosecution. The right to "confer" is broader than the right to "communicate". "Confer" means more than the transmission of information. It means to consult together, compare opinions, and carry on a

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discussion or deliberation. A prosecutor "conferring" with the victim or the victim's lawyer, however, does not mean that the victim or the victim's lawyer would have the ability to dictate prosecutorial decisions or trial strategy, as these rest in the sole province of the prosecuting attorney. In section {sic} (a) paragraph 6, the victim is given the right to access information in a report, but not necessarily a copy of the entire report, prepared prior to a defendant's sentence. This right is limited as the General Assembly may provide by law. In the companion enabling legislation, the General Assembly is to insure that the victim does not have access to confidential medical and mental health information about the defendant; the defendant's sex offender evaluation; information that would identify other victims; privileged, confidential, or irrelevant information about persons other than the defendant; or information that compromises anyone's safety or invades a person's reasonable expectation of privacy.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Any further discussion? Senator Raoul.

SENATOR RAOUL:

First, I'd like to commend the sponsor and -- and Senator Harmon and Senator Haine for their work on this. I think most of the Members of this Chamber know the role that I play on the Criminal Law Committee. There's one concern that I do have with this and -- and -- and the analysis refers to the right to refuse to disclose information based on it being characterized as privileged or confidential. I can understand the desire to protect information that -- is genuinely privileged or confidential that has no relevance to the -- the matter being

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prosecuted. But the -- the terms "privileged" and "confidential" can be -- we're putting this in our -- our State Constitution, right? And so they can be broadly applied to some relevant evidence that could be exculpatory evidence. Is there something by way of legislative intent or the trailer legislation that will deal with such evidence?

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Senator Steans.

SENATOR STEANS:

Yes. Part of the legislative intent I just read directly spoke to that and we are working with all parties on the enabling legislation to provide clarity. And that's part of the reason why we did enabling legislation, so - and reduce how much was going into the constitutional amendment - so, as there are issues, you can come back and change the statutes that are implementing this part of the Constitution.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Senator Raoul.

SENATOR RAOUL:

So -- so it is not the intent to prohibit a judge presiding over a case from deeming information that would otherwise seem as privileged or confidential admissible or -- or subject to subpoena or -- or -- or disclosure in discovery?

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Senator -- Senator Steans.

SENATOR STEANS:

Yeah, excellent question. Now, one thing, I'm -- I'm going to read the full paragraph here, too, because it's very clear that it's totally under judicial discretion. "The right to

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refuse to disclose to the defendant information that is privileged or confidential by law, as determined by a court of law with jurisdiction over the case." Very much want to maintain that discretion, as it belongs with the -- with the judge in the case.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Senator Steans, to close.

SENATOR STEANS:

I really want to just close by saying that what this constitutional amendment does is ensure that folks who have been victims of molestation, of rape, whose family members have been murdered, will now be confident that their rights can, in fact, be enforced; that their right to have a voice and to be informed of what's happening in trial proceedings are enforceable at this point. I really want to just acknowledge and thank the victims, their advocates, Lyn Schollett and others from ICASA, and Cindy Hora and others from the Attorney General's Office, Jennifer Jenkins-Bishop {sic} (Bishop-Jenkins), who have been spending so much time over a number of years bringing us to this point, and then the many folks in this Chamber who really have made sure that we are being fair, we're being balanced in the way we're approaching this. I look forward to getting this on the ballot and letting the people of Illinois have the final say in being able to provide the rights to our victims and now making sure that those rights actually can get enforced. Thank you very much and I would appreciate your support on -- and a Aye vote on this constitutional amendment.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

The question is, shall House Joint Resolution

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Constitutional Amendment 29 pass. All those in favor will vote Aye. Opposed will vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 55 voting Yea, 1 voting Nay, 1 voting Present. House Joint Resolution Constitutional Amendment 29, having received the required constitutional majority -- having received the required three-fifths constitutional majority, is adopted and declared ratified. Senator Murphy, for what purpose do you seek recognition?

SENATOR MURPHY:

Point of personal privilege, Mr. President.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Please state your point.

SENATOR MURPHY:

We -- we have in our midst a rather proud and relieved colleague in Senator Bivins, who just received word from his son, Ryan, that he has left Afghanistan and is not going back. He's left safely and is on his way home. Ryan was recently promoted to Captain and won the -- was awarded the Bronze Star. And it is -- we hear the stories in here often of ones that don't go quite as well as this. And -- and Tim has lived with a lot of grace and the stress of that for the last year, as has his wife, and this is really great news at a time in this building where we could use a little bit. So I wanted to take the opportunity to congratulate Tim and his wife on the safe return home of their son.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Congratulations, Senator Bivins. Senator Koehler, for what

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purpose you seek recognition?

SENATOR KOEHLER:

A point of personal privilege, Mr. President.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Please state your point.

SENATOR KOEHLER:

On that note, we're certainly grateful for the return of your -- your son, Senator Bivins. Unfortunately, the Shaffer family in Pekin did not have such luck. The family of Pekin Community High School graduate Dean Shaffer was notified last week that a -- military helicopter crashed in southwestern Afghanistan and that he was killed while serving in the U.S. Army. Dean Shaffer was a 2007 graduate of Pekin and is the second graduate of the high school to die in military service in a decade of U.S. military involvement in both Afghanistan and Iraq. He was -- officials reported, Thursday night, a Black Hawk helicopter carrying four passengers crashed as an apparent result of bad weather. It appeared unlikely that it was downed by any enemy fire, although the crash remains under investigation. Shaffer was a devoted member of the high school's Junior ROTC program and enlisted in the Army before his graduation. I would like to take a moment and, in silence, remember this courageous warrior. (Moment of silence observed)

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Thank you. The Senate will stand at ease for a few minutes to allow the Committee on Assignments to meet. The members on the Committee on Assignments will come to the President's Anteroom immediately. The Senate will stand at ease. (at ease) Senator Sullivan in the Chair. (at ease)

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PRESIDING OFFICER: (SENATOR SULLIVAN)

Senator Clayborne back in the Chair.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Senator Clayborne back in the Chair. Mr. Secretary,
Committee Reports.

SECRETARY ANDERSON:

Senator Clayborne, Chairman of the Committee on Assignments, reports the following Legislative Measures have been assigned: Refer to Criminal Law Committee - Floor Amendment 1 to House Bill 5122, Committee Amendment 1 to House Bill 5451; refer to Education Committee - House Bill 2984; refer to Executive Committee - Floor Amendment 1 to Senate Bill 2761, Floor Amendment 3 to Senate Bill 2900, Committee Amendment 1 to House Bill 3779, and Senate Joint Resolution 70; refer to Higher Education Committee - House Bill 5248; refer to Licensed Activities Committee - House Bill 4479; refer to Local Government Committee - House Bill 4545; refer to Pensions and Investments Committee - Committee Amendment 1 to House Bill 4996; refer to Revenue Committee - House Bill 1605; refer to Transportation Committee - House Bill 4468; re-refer from Transportation Committee to Executive Committee - Floor Amendment 1 to Senate Bill 2651, Floor Amendment 1 to Senate Bill 2652.

Signed, Senator James F. Clayborne, Chairman.

PRESIDING OFFICER: (SENATOR CLAYBORNE)

Ladies and Gentlemen, the following committees will be taking up Floor amendments: Executive Committee will meet in Room 212 at 3:02 p.m. today. Again, Executive Committee will meet in Room 212 at 3:02 p.m. today. Criminal Law will meet in

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Room 212 at 1:35 p.m. today. Criminal Law will meet in Room 212 at 1 -- at 1:35 p.m. today. Also, Pension {sic} (Pensions) and Investments Committee, scheduled for today at 2 p.m., has been canceled. Again, Pension {sic} and Investments Committee scheduled for today has been canceled. There -- there being no further business to come before the Senate, pursuant to the adjournment resolution, the Senate stands adjourned. The -- the Senate stands adjourned until the hour of 10 a.m. on the 26th day of April, 2012. The Senate stands adjourned.