

STATE OF ILLINOIS
94th GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES
TRANSCRIPTION DEBATE

90th Legislative Day

2/7/2006

Speaker Madigan: "The House shall come to order. The Members shall be in their chairs. We ask the Members and our guests in the gallery to turn off laptop computers, cell phones, and pagers and we ask the guests in the gallery to rise and join us for the invocation and the Pledge of Allegiance. We shall be led in prayer today by Pastor Melvin Jones of the Gorham United Methodist Church in Chicago, Illinois. Pastor Jones is the guest of Representative Ken Dunkin."

Pastor Jones: "A reflection from Meditations of the Heart. There are periods when all the margins of my awareness fade and I seem to be a wanderer lost in an unfamiliar land. Hard it is to focus, to make direction with my thoughts, my plans, my dreams. There are times when all clouds lift and before me looms in brightest radiance the goal so long sought. As I watch it and move more and more in the path of which it describes before me, something happens. I do not know how, but the goal seems tawdry, less worthy than when first sent me on my way. Now I seem more than lost, seem deserted, betrayed, not by the evil mechanizations of my mind, not by the willfulness of my own stubborn heart and mind, I seem betrayed by the vision, the goal itself. Be Thou my vision that I may have always before me and within the test, the checking point, of all of my dreams, however whole, however glorious, however true they may seem to be. Be Thou my vision this day. I seek Thy vision not for tomorrow, not for some future day when I am more worthy and more prepared to know and understand, I seek Thy vision this day. Grant to me the flooding of my wholeself with the light of Thy continence that I may know directly when I have

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missed the way, when I have drifted out of the channel of Thy purpose. Be Thou my vision this day."

Speaker Madigan: "We shall also be led in prayer by the Reverend Doris Green, the Director of the Community Affairs of the AIDS Foundation of Chicago. Reverend Green is the guest of Representative Graham."

Reverend Green: "Thank you. I was blessed with the honor to provide the spiritual invocation today. As I look upon this powerful chamber, I pray that the power vested in you lead to inspiration and good deeds upon all the people of Illinois, for it is the spirit and soul of the body of this great State of Illinois and the people you represent who work you carry forth. May you be blessed to make the best decisions as public servants and leaders of our General Assembly. I am an ordained minister. I am also in the spir... inspirational line of work in prayers. I can draw on the vested power granted unto me, in the spirit and the soul of the higher power, to advance a mission for all of God's people. Therefore, since we all are in the blessing business in some form or another, it is appropriate to proceed as followed. Oh Divine Higher Power, thank You for the inspirational presence among this honorable General Assembly. I humble my spirit and beseech You to manifest Your awesome blessin' in the mind, body, and soul of this distinguished House of Representatives and those of whom they represent. As we assemble here today on the National Black HIV and AIDS Awareness and Information Day and in recognition of the social decay caused by HIV and AIDS crisis among Africans and the descendents of Africa, I pray

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that the fact not escape us that HIV/AIDS is not an African disease. It is not a white disease. It is not a gay disease. It is not a Latino disease. It is not a drug disease. But it is a human disease. HIV/AIDS is also not a foregone conclusion, but a condition we can change if we work together to spread education, health care, housing, testing, prevention, and hope. The very existence of HIV/AIDS anywhere is a direct threat to humanity everywhere. And it is equally threatening to allow ourselves to become trapped within the political web of entanglement at the expense of those who are dying. We must combine our collective intelligence and energy to combat this global enemy which is HIV/AIDS or we will all suffer the consequences. I am absolutely convinced that each life circumstance has come our way as part of a perfect plan, to convert the image of our faith into physical reality. So, I advise you here today to keep up the good fight for all people living with the affliction of HIV/AIDS, including those in the African-American community who remains disproportionately affected, by advancing science-based, compassionate, and sound policy and solutions. We must keep the faith. May God continue to bless you."

Speaker Madigan: "We shall be led in the Pledge of Allegiance by Representative D'Amico."

D'Amico - et al: "I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all."

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Speaker Madigan: "Roll Call for Attendance. Representative... Representative Hannig."

Hannig: "Yes. Thank you, Mr. Speaker. Let the record reflect that Representative Currie and Representative Patterson are excused today."

Speaker Madigan: "Mr. Bost. Bost."

Bost: "Thank you, Mr. Speaker. Let the rec... reflect that all Republicans are present today."

Speaker Madigan: "The Clerk shall take the record. There being 116 Members responding to the Attendance Roll Call, there is a quorum present. Mr. Clerk."

Clerk Mahoney: "Referred to the House Committee on Rules: House Resolution 878, offered by Representative Daniels. House Resolution 881, offered by Representative Pritchard. House Joint Resolution 93, offered by Representative Phelps. And House Joint Resolution 96, offered by Representative Currie."

Speaker Madigan: "Mr. Turner in the Chair."

Speaker Turner: "The Gentleman from Vermilion, Representative Black, for what reason do you rise?"

Black: "Yes, thank... thank you very much, Mr. Speaker. Point of personal privilege."

Speaker Turner: "State your point."

Black: "Thank you. Mr. Speaker and Ladies and Gentlemen of the House, you'll notice that everybody on our side of the aisle has a 50 in front of us. I wish I could say that was because it was my birthday. I'd like to be 50, again. But what it is, Mr. Speaker and Ladies and Gentlemen of the House... and this is no celebration. This is absolutely no

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celebration. We have just gotten the news that Illinois now ranks fiftieth in public pension funding. We are dead last, or do you wanna say, we're finally number one at something. We're the leading deadbeat state in the country when it comes to funding public pensions. Our side of the aisle is willing to work with you in the rest of this Session to address this pension... the great pension raid that happened last year and the pension raid that's going to happen this year. We'll work with you to come up with a repayment schedule. This cannot continue. Somebody's gonna have to pay this debt sooner or later. And I know you think you can put it off, but you've all learned from your credit card bills, at some point, you have to pay the bill. So, all I can tell you, Ladies and Gentlemen, when life... when life hands you lemons, try and make lemonade. So, what we've done today, we've commissioned a fiftieth cake. So, come on our side of the aisle and have a piece of fiftieth place cake. Dead last in pension funding. I hope that what transpired last year was not what fomented the French Revolution. When some of us said, 'You should not go down that path,' did one of you perhaps say, 'Let them eat cake'? Well, come on over and have some of your cake."

Speaker Turner: "The Gentleman from Macon, Representative Mitchell, for what reason do you rise?"

Mitchell, B.: "Thank you, Mr. Speaker. Point of personal privilege."

Speaker Turner: "State your point."

Mitchell, B.: "If I could elaborate on Representative Black's talk. A week from tomorrow the Governor of the State of

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Illinois will be here, one of his rare visits to the City of Springfield, and he's gonna talk about health care, he's gonna talk about roads, he's gonna talk about bridges, and he's gonna say, 'It's all just so easy. We can do it. There's no sacrifice.' But it's not just going to be one of the Governor's usual speeches when it's... what he calls proudly, 'political puffery'. This is going to be a hoax, a hoax on the hard-working people of the State of Illinois. Mr. Speaker, if I could read a letter... part of a letter from my district from a person. 'Dear Representative Mitchell, I don't live in your district but I live in Representative Flider's district, but I teach District 61 in Decatur. My family has been Democrats all their lives: my grandparents, parents, uncles, aunts. They proudly believed in the Party of Franklin Roosevelt and Harry Truman. They believed that they were there to protect workers' rights. What happened to the great Democratic Party of Illinois and in this country? What happened? Sixty-two Members last year took money from the retirees of the people of Illinois, stole money, and promised it's all going to be so easy.' It's not too late, Ladies and Gentlemen of the House. It's not too late. We can pass a budget this year based on facts and not fiction. We do not have to steal \$1.2 billion from the retirees, the state employees, the teachers, the university employees. We can stay here 'til the end of May and pass a budget based on facts. My friends, let's get to work. Thank you."

Speaker Turner: "The Lady from Cook, Representative Mulligan, for what reason do you rise?"

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Mulligan: "Thank you, Mr. Speaker. I, too, rise to a point of personal privilege. And as..."

Speaker Turner: "State your point."

Mulligan: "...one of my previous colleagues said, I, too, would like to see 50 again. Unfortunately, I think that by the time my granddaughter's 50 she won't be able to afford to live in Illinois. So, as a mother and a grandmother, I'm really concerned about where we find ourselves in this pension. Ya know, as we come up on a budget address with obligations of Medicaid growing each year, our grandchildren are going to have to work every day just to pay that debt. Either that or we may find future Legislators trying to obliterate that debt by going to a Constitutional Amendment. I would find that abhorrent because then people would lose their pensions. We've added to our bond debt and our growing Medicaid obligation and our grandchildren and children are going to pay for that. I can't understand why 2 years ago the Speaker had very sound ideas on pension, debt, and all of a sudden now he's going along with the Governor. I would hope he would change his mind as we come on to this year and not go there, because what we've done with this Medicaid debt is unconscionable and now we've put it into a pension debt to pay off our Bills, and we didn't even pay off the people that we owe on Medicaid. What we did is we spent it on new projects that this Governor has. I would say, sincerely, do not do that again in this coming budget year. Do not increase our pension debt. Figure out a way to start getting it back in hand again. Please do that."

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Speaker Turner: "The Lady from Kane, Representative Lindner. I have one question. Is it okay if we cut the cake before you speak?"

Lindner: "You may have some cake whenever you would like."

Speaker Turner: "Thank you, Representative."

Lindner: "Thank you, Mr. Speaker. I rise on a point of personal privilege."

Speaker Turner: "State your point."

Lindner: "Thank you. I hope that all of you read this editorial in the Tribune this morning entitled, 'The Blob That Ate Illinois.' And in this article, they say, 'The problem is, the fiscal crisis is not over. Not by a long shot. It is so not over. It is downright scary.' The past year, we raided the pension fro... according to 1.2 billion. I'm really upset and so are my constituents that our children and grandchildren are going to be paying for this forever. We have long-term pension obligations expected to reach \$320 billion and we've heard no plans how to get out of this mess. I don't know how anyone can entertain any new programs, a capital budget or any other programs, when we can't face this pension debt. There is just no money to do this. My constituents are sending me letters. They're afraid about their pensions, the government pensions. Employees are afraid that what'll happen with the private pensions is going to be happening with them, destroyed by total mismanagement, and we are responsible for the mismanagement of that. We have constituents who are angry that their grandchildren are gonna be paying for this.

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Please remember what the Tribune article said, it's such a scary deal. 'It is so not over. It is so not over.'"

Speaker Turner: "The Gentleman from Winnebago, Representative Sacia, for what reason do you rise?"

Sacia: "Thank you, Mr. Speaker. Also a point of personal privilege."

Speaker Turner: "State your point."

Sacia: "Mr. Speaker, Ladies and Gentlemen of the House, you have heard several Members on our side of the aisle speak passionately about something that we are hearing a great deal about in our districts of our underfunded pension systems. I'm not much of a pilot, nor am I much of a boat person, but I know when you make a course correction of 1 degree for a mile or two it doesn't take you very far off course, but over 20 or 30 miles it's very significant. You could draw an analogy with our underfunded pension system. It didn't hurt much last year; it probably won't hurt much next year. But our children and their children and their children after them are going to be paying back horrendous sums of money simply because we didn't stand up to the plate and fund our pension system. Right now, we have a \$38 billion liability. Our five pension systems have assets of 58 billion; they have liabilities of 97 billion. We have an opportunity with our budget address coming up, our budget negotiations coming up, to rectify this problem and we have an obligation to our constituents to fix it now. We must stand together. Being fiftieth in the nation is shameful. And all of us, on both sides of the aisle, need to work

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together to fix this deplorable situation. Thank you, Mr. Speaker, for your indulgence."

Speaker Turner: "The Gentleman from DuPage, Representative Meyer, for what reason do you rise?"

Meyer: "Thank you, Mr. Speaker. I rise on a point of personal privilege. La..."

Speaker Turner: "State your point."

Meyer: "La... Ladies and Gentlemen of the House, I would like to share with you some information today. I... I have a board here that is a good demonstration of what we are talking about here. If you direct your attention to the graph, it shows one red line compared to blue lines. This represents the Midwest states' liabilities over the assets of our state pension funds. The red line is not good, folks. The red... the red line is bad. And you can see, there is a clear representation that we are in trouble and we have to stand together today to correct it. I am inviting you on the other side of the aisle to join us on this side of the aisle to address this problem. I've introduced a Bill, it's Bill #5572, which reverses in fiscal year 7... '07, the portion of the government... Governor's 5-year pension raid. It reinstates a continuing pension appropriation for fiscal year '07 and beyond and returns the law to the 1995 50-year payback so that we achieve 90 percent funding by the year 2045. This Bill also creates a four-Member legislative task force. One Member to be appointed by each of the four Legislative Leaders and to be staffed by the Commission on the Government Forecasting Accountability to study the FY06 pension raid and to help us come up with a... with a solution

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that will pay back over the... a 10-year period that... the deficit that was created because of that raid. Ladies and Gentlemen of the House, I believe it's incumbent upon us to set this state's lia... liabilities and assets in a... in a good stead. It's incumbent upon us to find a solution to the Governor's raid on the pension system. I also invite you to read today's Tribune... the Chicago Tribune editorial which lays out this problem and it lays it out in language that all of us can understand. And if we do not, if we do not address this problem, I believe that we are foregoing our responsibilities as Legislators in this state. I ask you, I beg you to join with us to come up with a common solution that will put us back on a good payback schedule for this pension."

Speaker Turner: "The Gentleman from Jackson, Representative Bost, for what reason do you rise?"

Bost: "Point of personal privilege, Mr. Speaker."

Speaker Turner: "State your point."

Bost: "Ya know, I set in this House and I look around and I see everybody not paying attention and, 'Oh, this is nice. The Republicans are over here making their statements.' And the cake, by the way, I'm sure is very good. But what it represents is not very good. Not very good at all, Ladies and Gentlemen. Everybody that has stood on this floor over the years and said, 'Oh, how terrible Enron was,' are people from Southern Illinois that know what took place with the insurance for some of our mines down there and how that was not provided after they retired and after those facilities closed down. What are you gonna say... oh wait, no, by the

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time this all comes up you're not gonna be around. What are the other Members of this House going to say when all of a sudden the people that have retired from doing the work of the people in the State of Illinois receive a little yellow slip, 'I'm sorry, we don't have any more money to pay for your retirement.' Folks, just set there, just ignore it, because it's gonna be on somebody else's back. And you wanna know the difference between a politician and a statesman? A politician votes for the next election; a statesman votes for the next generation. You're rippin' off the next generation. Stand with us, come over, let's work together, let's find an answer to this, and let's cure this problem before we, all of a sudden, have to figure out how in the world a state files bankruptcy."

Speaker Turner: "I believe that's the last editorial for this morning. We will now proceed to page 2 of the Calendar, on the Order of Second Readings, House Bill... We'll start at the top of the Calendar and work our way down. The first Bill on the Calendar is House Bill 1295. Representative Froehlich. Read the Bill, Mr. Clerk."

Clerk Mahoney: "House Bill 1295 has been read a second time, previously. Amendment #1 was approved in committee. No Floor Amen..."

Speaker Turner: "Out of the record. The Gentleman from Bond, Representative Stephens, for what reason do you rise?"

Stephens: "A point of personal privilege, Mr. Speaker. I'd like to introduce... make an introduction of a gentleman, a city councilman, Mike McElroy, who is from the City of Decatur from Representative Mitchell's district. Mike McElroy,

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councilman from the City of Decatur. He's in the Democrat gallery with Representative... oh, I forget that guy's name."

Speaker Turner: "He's with Representative Flider. Welcome to Springfield, Mike. On the Order of Second Readings, we have House Bill 1371. Representative McCarthy. 1371. Read the Bill, Mr. Clerk."

Clerk Mahoney: "House Bill 1371, a Bill for an Act concerning State Government. Second Reading of this House Bill. No Committee Amendments. No Floor Amendments. All notes have been filed."

Speaker Turner: "Third Reading. We have Representative Acevedo on House Bill 2414. Out of the record. Representative Burke on House Bill 4121. Read the Bill, Mr. Clerk."

Clerk Mahoney: "House Bill 4121, a Bill for an Act concerning criminal law. Second Reading of this House Bill. No Committee Amendments. No Floor Amendments. No Motions filed."

Speaker Turner: "Third Reading. Representative Flowers on House Bill 4125. Out of the record. Representative Burke on House Bill 4132. Out of the record. Representative Schmitz on House Bill 4197. Out of the record. Representative Brady on House Bill 4203. Out of the record. Representative Franks on House Bill 4205. Out of the record. Representative Delgado on House Bill 4242. Read the Bill, Mr. Clerk."

Clerk Mahoney: "House Bill 4242, a Bill for an Act concerning State Government. Second Reading of this House Bill. No Committee Amendments. No Floor Amendments. All notes have been filed."

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Speaker Turner: "Third Reading. Representative Beiser on House Bill 4296. Out of the record. Representative Rose on House Bill 4300. Out of the record. Representative Krause on House Bill 4313. Out of the record. Representative Pritchard on House Bill 4322. Out of the record. Representative Reis on House Bill 4334. 4334. Out of the record. Representative Collins on House Bill 4339. Read the Bill, Mr. Clerk."

Clerk Mahoney: "House Bill 4339, a Bill for an Act concerning education. Second Reading of this House Bill. Amendment #2 was approved in committee. No Floor Amendments. No Motions filed."

Speaker Turner: "Third Reading. Representative Jefferson on House Bill 4342. Out of the record. Representative Lang on House Bill 4350. Out of the record. Representative Brauer on House Bill 4370. Out of the record. Representative Bellock on House Bill 4383. Read the Bill, Mr. Clerk."

Clerk Mahoney: "House Bill 4383, a Bill for an Act concerning families. Second Reading of this House Bill. Amendment #1 was approved in committee. No Floor Amendments. No Motions filed."

Speaker Turner: "Third Reading. Representative Wait on House Bill 4397. Read the Bill, Mr. Clerk."

Clerk Mahoney: "House Bill 4397, a Bill for an Act concerning State Government. Second Reading of this House Bill. Amendment #1 was approved in committee. No Floor Amendments. No Motions filed."

Speaker Turner: "Third Reading. Representative Wait on House Bill 4398. Out of the record. Representative Winters on

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House Bill 4412. Out of the record. Representative Miller on House Bill 4414. Out of the record. Representative Ramey on House Bill 4438. Out of the record. Representative Hannig on House Bill 4442. Out of the record. Representative Bost on House Bill 4444. Out of the record. Representative Holbrook on House Bill 4449. Out of the record. Representative Howard. Out of the record. Representative Sacia on House Bill... Out of the record. Representative Phelps on House Bill 4525. Out of the record. Representative Jefferson on House Bill 4561. Read the Bill, Mr. Clerk."

Clerk Mahoney: "House Bill 4561, a Bill for an Act concerning transportation. Second Reading of this House Bill. No Committee Amendments. No Floor Amendments. No Motions filed."

Speaker Turner: "Third Reading. Representative Berrios on House Bill 4606. Read the Bill, Mr. Clerk."

Clerk Mahoney: "House Bill 4606, a Bill for an Act concerning criminal law. Second Reading of this House Bill. No Committee Amendments. No Floor Amendments. No Motions filed."

Speaker Turner: "Third Reading. Representative Chapa LaVia on House Bill 4711. Out of the record. Representative Wyvetter Younge on House Bill 4714. Read the Bill, Mr. Clerk."

Clerk Mahoney: "House Bill 4714, a Bill for an Act concerning safety. Second Reading of this House Bill. No Committee Amendments. No Floor Amendments. All notes have been filed."

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Speaker Turner: "Third Reading. Representative Acevedo on House Bill 4719. Out of the record. Representative Golar on House Bill 4727. Representative Golar, 4727. Out of the record. Representative May on House Bill 4752. Read the Bill, Mr. Clerk."

Clerk Mahoney: "House Bill 4752, a Bill for an Act concerning civil procedure. Second Reading of this House Bill. Amendment #1 was adopted in committee. No Floor Amendments. No Motions filed."

Speaker Turner: "Third Reading. Representative Krause on Hou... House Bill 4756. Out of the record. Representative Flider on House Bill 4789. Read the Bill, Mr. Clerk."

Clerk Mahoney: "House Bill 4789, a Bill for an Act concerning property tax. Second Reading of this House Bill. No Committee Amendments. No Floor Amendments. All notes have been filed."

Speaker Turner: "Third Reading. Representative Hannig on House Bill 4813. There's been a fiscal note request, Representative. Hold the Bill. Representative Pihos on House Bill 4864. Read the Bill, Mr. Clerk."

Clerk Mahoney: "House Bill 4864, a Bill for an Act concerning education. Second Reading of this House Bill. No Committee Amendments. No Floor Amendments. No Motions filed."

Speaker Turner: "Third Reading. We'll go back to Representative Acevedo's Bill, 4719. Read the Bill, Mr. Clerk."

Clerk Mahoney: "House Bill 4719, a Bill for an Act concerning business. Second Reading of this House Bill. No Committee Amendments. No Floor Amendments. No Motions filed."

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Speaker Turner: "Third Reading. The Gentleman from Macon, Representative Mitchell, for what reason do you rise?"

Mitchell, B.: "Thank you, Mr. Speaker. Point of personal privilege."

Speaker Turner: "State your point."

Mitchell, B.: "Over in the Democratic balcony, if I'd like the 4-H group from DeWitt County and Macon County to stand up and let the Illinois House give them a big welcome. We're proud to have you here."

Speaker Turner: "Welcome to Springfield. On page 5 of the Calendar, Third Reading... We'll start at the top of the Calendar and move down. The first Bill to be called is House Bill 4293. Representative Beaubien. Out of the record. On Third Reading we have House Bill 4315. Out of the record. Representative Burke on House Bill 4345. This Bill's on Third Reading. Read the Bill, Mr. Clerk."

Clerk Mahoney: "House Bill 4345, a Bill for an Act concerning regulation. Third Reading of this House Bill."

Speaker Turner: "The Gentleman from Cook, Representative Burke."

Burke: "Thank you, Mr. Speaker and Ladies and Gentlemen of the House. This matter is very basic. It simply gives parity to savings and loan institutions with reference to unsolicited advertisements. Currently, banks enjoy the freedom of not having their accountholders receive unsolicited advertisements for insurance and other matters. This simply says that the banks and savings and loans customers, at this point, would not be receiving these unsolicited advertisements that appear to be sanctioned by

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the financial institution. I'd be happy to answer any questions."

Speaker Turner: "The Gentleman from Vermilion, Representative Black, for what reason do you rise?"

Black: "Thank you very much, Mr. Speaker. Will the Sponsor yield?"

Speaker Turner: "Indicates he will."

Black: "Thank you. Representative, Committee Amendment #1 was adopted... Committee Amendment #1 was adopted, becomes the Bill? All right. So, if the Amendment becomes the Bill, I'm... I'm not clear on the prohibition of using a name that is similar. Do you... have you defined 'similar' or is there a understanding of... of what... what does that concept mean? If I wanna go into business as a savings and loan, what... what names could I not use?"

Burke: "I don't understand the question, Representative."

Black: "I'm not sure I do either. We'll try again. No person or group of persons may use the name of or a name similar to the name of an existing association when marketing or soliciting business from customers or prospective customers."

Burke: "Okay. I can respond to that."

Black: "Okay."

Burke: "The... the point of the legislation is to preclude a organization, a profit organization, from indicating to a potential client that they are sanctioned by the financial institution, that they are, in fact, a part of that financial institution. So, in other words, if you take out a mortgage and you start to receive advertising material

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with names similar to your financial institution, you might well believe that it was your financial institution that was recommending that you take out an insurance policy, that you buy credit life insurance, or something of that nature. So, we're trying to make it clear. The banks, currently, enjoy the freedom of not having their clients, their customers receive these unsolicited advertisements. So, let me say further, we have savings and loan 'XYZ'. You have applied for a loan, you have... you've gained it, you then receive mail from insurance company 'XYZ'. You might believe that they were associated with your financial institution and engage, but unwittingly, engage with an all... an organization that has nothing whatsoever to do with your financial institution. We're trying to prevent the customer from being misled and engaging in these contracts that the financial institution does not recommend to their clientele."

Black: "So, then it would go... it would go without saying that you could not, on that solicitation, say in any way, shape, or form that you are affiliated with 'XYZ' or a division of 'XYZ', or even use the name in your solicitation?"

Burke: "That's correct."

Black: "And the penalty would be a business offense?"

Burke: "Yes."

Black: "Criminal offense or just civil?"

Burke: "Civil."

Black: "All right. Fine. And all of the financial institutions have been contacted? Our files indicate they have no objection to what you're attempting to do."

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Burke: "Yes. At the point of introduction before the committee, all the organizations... financial..."

Black: "Okay."

Burke: "...organizations have..."

Black: "All right."

Burke: "...committed to this."

Black: "Representative, as always, thank you very much."

Speaker Turner: "Seeing no further questions, Representative Burke to close."

Burke: "Thank you, Mr. Speaker and Ladies and Gentlemen. The matter is very, very simple. It is clear. It offers customers of savings and loans the same protections that customers of banks enjoy today. And I would like to think that those in this Body would prefer to have our constituents not bothered by unsolicited mail and certainly unsolicited believing that there was an association with their financial institution. It's just very, very clear and simple that savings and loan customers should have the same protections as those that engage with a bank in our state. And I would ask for your favorable consideration."

Speaker Turner: "The question is, 'Shall the House pass House Bill 4345?' All those in favor should vote 'aye'; all those opposed vote 'no'. The voting is now open. Have all voted who wish? Have all voted who wish? Have all voted who wish? The Clerk shall take the Roll. On this question, there are 116 voting 'aye', 0 'noes', 0 'presents'. And this Bill, having received the Constitutional Majority, is hereby declared passed. On the Order of Third Readings, we have Representative Bradley on House Bill 4529."

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Representative Bradley. Out of the record. On the Order of Third Readings, we have House Bill 4607. Representative Mendoza. Read the Bill, Mr. Clerk."

Clerk Mahoney: "House Bill 4607, a Bill for an Act concerning criminal law. Third Reading of this House Bill."

Speaker Turner: "The Lady from Cook, Representative Mendoza."

Mendoza: "Thank you, Mr. Speaker. Ladies and Gentlemen of the House, House Bill 4607 is the exact same Bill that we've passed out of this chamber overwhelmingly two consecutive times. It's the DNA fingerprint analysis Bill. Quite simply, it would require that we take a DNA sample, through a saliva swab, of anyone who's arrested for a felony. I'd be happy to answer any questions and would ask for your support."

Speaker Turner: "The Gentleman from Vermilion, Representative Black, for what reason do you rise?"

Black: "Thank you, Mr. Speaker. Will the Sponsor yield?"

Speaker Turner: "She indicates she will."

Black: "Representative, we've seen this Bill before, have we not?"

Mendoza: "Yes, we have, Representative."

Black: "This Bill passed... was it last year?"

Mendoza: "Yes, the last two... two Sessions in a row. Or 2 years in a row, I should say."

Black: "Wha... what happened to the Bill when it left the House?"

Mendoza: "It's finding a quick death over in Senator Jones' desk, but I'm not about to give up yet. We're gonna keep bringing this Bill until we finally get passage in the Senate."

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Black: "Well... let me... let me try and figure out why there's opposition to the Bill. It did not pass unanimously, as you well know, being the Sponsor. What objections are being raised by the various groups, such as the... I think the Cook County... is it the State's Attorney of Cook County or..."

Mendoza: "No."

Black: "No, I'm sorry."

Mendoza: "No, no, no. No, no."

Black: "The Cook County Public Defender and the Illinois State Bar. Where... where is their opposition focused to your Bill?"

Mendoza: "The primary points of opposition would be challenges to the Fourth Amendment, invasion of privacy components, but the courts have upheld that it's not an unlawful invasion of that privacy and that it's not overreaching. I would tend to believe that this... that this Bill is absolutely balanced both in terms of convictions and also the potential for exoneration. So, if I were a defense attorney, I'd be very much in favor of this Bill."

Black: "Let... let me try to focus. When talking to staff, your Bill says everybody who is arrested must submit a DNA sample."

Mendoza: "For a felony."

Black: "Arrested for a felony?"

Mendoza: "Yes."

Black: "Even though they may not be convicted."

Mendoza: "That's correct."

Black: "Even though they may not be indicted."

Mendoza: "That's correct."

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Black: "Doesn't the Fifth Amendment kind of come into play here? I mean, you can be arrested, not indicted, not ever officially charged, but you must submit a DNA sample upon your arrest. Why wouldn't you have the right to say, 'Not at this time. I haven't been... I haven't been indicted. I haven't been officially charged with anything.'"

Mendoza: "Thank you for your question. This is a great opportunity for me to talk about how great this Bill is because currently, under the law, whether you're arrested, not convicted, but arrested for any crime, whether it's misdemeanor or murder, we take your mug shot and we take your fingerprints and we keep 'em on file. They're identification tools. That's why this Bill... and DNA, in today's day and age, is nothing more than the fingerprint of the 21st century. This Bill will allow us to add one more identification tool to law enforcement arsenal. And I think it's just as important, if not more important in today's day and age, to make sure that we have the right people behind bars, that we don't have innocent people sitting wrongfully accused, and that we have dangerous people taken off of the streets through the use of this technology, which is more reliable than fingerprints, much more reliable than people's pictures which can change over time, but your DNA will never change. DNA doesn't see race, it doesn't see economic status, it just sees the truth. And that's why I think it's so important that we embrace this technology and move this Bill forward."

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Black: "And I appreciate that amplification, but I don't see anything in the Bill... What if the arrestee says, 'No, I'm not gonna do that'?"

Mendoza: "Well..."

Black: "'I absolutely refuse to let you take a DNA sample.'"

Mendoza: "It would be the same scenario if the arrestee refuses to give up fingerprints. They're treated in exactly the same way as fingerprints are under the law. So, it becomes part of the booking procedure. And Representative, it's not uncommon to believe that a person can refuse to stand for a picture of a mug shot or refuse to get fingerprints. But at some point, they are going to have to give fingerprints, have to stand for a picture, and have to submit to a simple saliva swab if they are going to be processed and put into the system."

Black: "But... but let's just focus on... on the point that I wanna focus on."

Mendoza: "Sure."

Black: "What if the person says, 'No, I will not. You can't force me to give you a DNA sample.' What happens?"

Mendoza: "Well, they can't say 'no'. They can say 'no', but eventually they have to be processed and so they don't have an option of saying 'no'. It's part of the law that during the booking process they have to give a mug shot, they have to give fingerprints, and they would have to submit their saliva swab. So, if we write... we wrote it into the law as part of the booking process so that it's not up to a... up to the discretion of the detainee, but up to the discretion of law enforcement."

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Black: "I... the only thing I'm still confused about, Representative... and I realize this is a good law enforcement Bill, but I... I guess I'm concerned if somebody says 'no'... just like roadside sobriety check. If the police officer says, 'I want you to do a breathalyzer,' you have the right to say 'no'. Now, you'll have your license suspended..."

Mendoza: "Right."

Black: "...but you'll... you can still say 'no'. If you say, 'No, I'm not taking the DNU... you are not taking my DNA sample,' are they going to force you to do that? I mean, literally by force or do they have to get some kind of a court order? I've had... I'm... I'm having trouble..."

Mendoza: "Well, again, Representative, I... I appreciate your question, but we are treating the DNA saliva swab in the exact same way as fingerprints. That's why it's called the DNA fingerprint analysis Bill. So, right now, you do not have a right to not give your fingerprints upon arrest. You have to submit fingerprints. If you don't submit fingerprints then you sit until you're willing and ready to do so. So, it's not an option. It's not up to the discretion of the detainee whether or not to submit fingerprints. So, we're writt... writing this and treating it in the exact same way. It's completely different than getting pulled over for a DUI and blowing or not blowing. This is a scenario of the person's arrested, by law they have to submit to a picture, they have to submit fingerprints, and they have to submit a DNA saliva swab."

Black: "All right. My guess is that eventually this may be decided by court of law as... as to what..."

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Mendoza: "Well, a court of law has... has upheld that. It's not..."

Black: "All right."

Mendoza: "...an unlawful invasion to take a DNA saliva swab."

Black: "Should your Bill become law, Representative, what happens to the existing DNA backlog that we already have? Now, you're adding exponentially thousands of people to the lab that's already backed up... I don't know... 90 days, something like that."

Mendoza: "Um hmm. Oh, that's a great question."

Black: "Now, what happens?"

Mendoza: "And as a matter of fact, I have another Bill that I'll be bringing before this chamber that deals specifically with that DNA backlog. So, I think it's extremely critical that we use this technology, but that we also at the same time get rid of that backlog because it doesn't do us any good to have this if we're not employing it. So, thank you."

Black: "All right. As always, Representative, thank you very much."

Mendoza: "Thank you."

Speaker Turner: "The Lady from Cook, Representative Davis, for what reason do you rise?"

Davis, M.: "Will the Lady yield?"

Speaker Turner: "She indicates she will."

Davis, M.: "Thank you. Representative..."

Mendoza: "Yes."

Davis, M.: "...what is the cost of a DNA test?"

Mendoza: "It's roughly around... there's various estimates, but I'll go on the high end and say that it's..."

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Davis, M.: "What... Excuse me. I wanna hear what you're saying.
I really do. I wanna hear you."

Mendoza: "On average, around \$200, Representative."

Davis, M.: "About \$200..."

Mendoza: "Yes."

Davis, M.: "...per DNA test."

Mendoza: "Yes."

Davis, M.: "So, you're asking that each person who is accused or
arrested, but not found guilty necessarily, you're asking
that we keep a DNA sample from those individuals."

Mendoza: "Um hmm."

Davis, M.: "Is that correct?"

Mendoza: "That's correct."

Davis, M.: "So, Representative, are you familiar with the fact
that people have been found..."

Mendoza: "Innocent."

Davis, M.: "...to tamper with some DNA tests?"

Mendoza: "I'm sure that is a possibility, Representative, which
is why, and I'm glad you bring that up, we have written very
strong penalties associated with any kind of tampering in
this Bill."

Davis, M.: "Representative, what exactly were you trying to
solve by this legislation? What effect do you think this
will have on our criminal justice system, on our budget, on
the files that have to be kept? Exactly what is it you want
to get to?"

Mendoza: "Well, thank you for your question. There's three main
points to this."

Davis, M.: "I can't hear you."

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Mendoza: "Well, there's three main points. There are three main benefits to passing this legislation. Can you understand me?"

Davis, M.: "Barely."

Mendoza: "Okay. I'm trying to enunciate here."

Davis, M.: "Talk a littler slower."

Mendoza: "Okay. There's three main points. Number one, we can solve outstanding crimes that we have DNA evidence on but no perpetrator by having samples that we could run through a existing database, potentially have a... a hit, and maybe take off violent... take violent sex offenders or repeat... either repeat sex offenders or repeat serial killers off the streets. Point number one. Point number two, there's lots of people, Representative, as you well are aware, that have been sitting behind bars, wrongfully convicted of crimes, when DNA evidence years later comes back to exonerate them. So, under my Bill, a defendant would have access... or a prosecu... I mean, a... both the prosecution and a defense attorney would have access to that individual's DNA evidence either to prove or disprove. We can make sure that a person is guilty or we can also make sure that that person who is behind bars is innocent of the crime that they've been accused of on the front end instead of on the back end. I don't think it's possible or it's certainly not right... It is possible. Unfortunately, we've seen it happen in Illinois. Two weeks ago, we just came up with a \$9 million settlement for a man who was wrongfully convicted. If you're able to have access to your DNA on the front end, Representative, you would never have to be sitting behind

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bars for years for a crime that you didn't commit. So, this is a very good and balanced Bill in the sense that we convict guilty people, but you're also able to exonerate people who have been wrongfully convicted of a crime. So, I mean, we are talking about conviction, exoneration..."

Davis, M.: "My fear... my fear, Susanne (sic-Susana)..."

Mendoza: "...fairness. Um hmm."

Davis, M.: "...my fear... my fear is..."

Mendoza: "Sure."

Davis, M.: "...when you just arbitrarily take someone's DN... DNA, they're accused of a crime, they're now a part of the system. And I just... my fear is if a prosecutor who is not a very good person wants to say you did it when you really didn't, now he has the ability to plant evidence. And part of that planting could include your DNA."

Mendoza: "No. And that's a good point. It cannot include your DNA because all they do is take a saliva sample, which is processed, put into the computer as a code, and the actual sample is destroyed. I mean, there is no such thing as... When we talk DNA bank, we're not talking about physical DNA evidence. It's just that a code of numbers and digits that mean..."

Davis, M.: "Okay."

Mendoza: "Yeah, nothing to anyone."

Davis, M.: "Let me ask you this."

Mendoza: "I can't spray it anywhere."

Davis, M.: "Are you familiar with the black... backlog..."

Mendoza: "Yes. And we're trying to address that."

Davis, M.: "...of DNA?"

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Mendoza: "As a matter of fact, I have a Bill..."

Davis, M.: "Wait. You're trying to address it, but yet we're gonna give them a bigger backlog?"

Mendoza: "Yeah. I think we can do both. We can address an issue that's of a critical importance that we address in the state, which is to get... reduce that backlog and at the same time move forward and embrace technology that will help convict or exonerate people that deserve such."

Davis, M.: "If a person is accused of a crime..."

Mendoza: "Yes."

Davis, M.: "...does he or she have the right today to ask that the DNA test be given?"

Mendoza: "Excuse me. Can you repeat that, Representative?"

Davis, M.: "If a person is accused of a crime today..."

Mendoza: "Okay."

Davis, M.: "...do they have a right to request that a DNA sample be taken from them?"

Mendoza: "They can request it, but unless if a judge orders the court to do so, they don't have that right. But under this Bill, they would."

Davis, M.: "But the judge has... the judge has the right to order it."

Mendoza: "Yes. And unfortunately, you know, Representative, that not every judge will do that. So, that's why we've had these cases of people who have been sitting behind bars, who get convicted, and never even had a chance to have that DNA test taken. So, if you're innocent, you're going to want your DNA to be tested to prove that you're innocent."

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Unfortunately, that's not an addic... it's not an automatic right unless we pass this Bill."

Davis, M.: "Okay, okay. Thank you. I just wanna read the opponents to this Bill. The Cook County Public Defender is an opponent. The Illinois State Bar Association is an opponent. The American Civil Liberties Union is an opponent. The Office of the State Appellate Defender is an opponent. The Illinois State Police is not a proponent. I know that this Representative has a very noble idea of solving serious crimes that are felonies. I know you have an excellent idea, but I think, as Americans, we... we are subject to giving up a freedom that we have today, and that's not having a medical procedure performed on us if we choose not to. Now, a lot of people are arrested and accused of a crime, but once a jury takes place and the case is heard, those people are exonerated and they're sent home and they're free. And there are a number of people who commit crimes who, if they have committed one crime they may go on to commit others. But because you have a DNA test with a large backlog today... I mean, the backlog is so great, ya know, it may be I don't know how many years before the DNA is ever processed the way it should amply be. I think with this large number of opponents, Susanne (sic-Susana), we need to work with this group and see if we can't get a better... a Bill that does not violate the rights of innocent citizens. Now, I know you talked about the fact that the Bill would also help those who are innocent of a crime, but that can happen today if a judge orders it. This is a very costly Bill and I don't think it'll do exactly what you say.

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I'm really concerned about that backlog of DNA tests that have already been given that are not processed before we add a larger pool of DNA tests. I think it's gonna be harmful and those who are in opposition to your Bill, I think maybe we should meet with them, Representative Mendoza, meet with them and try and get some consensus, because this is a group of people who work with the laws and work with the criminal aspect of our system and they see also the dangers of this kind of legislation. And with all due regret, Representative, whom I respect dearly, I urge a 'no' vote."

Speaker Turner: "The Gentleman from Cook, Representative Dunkin, for what reason do you rise? The Gentleman from Winnebago, Representative Sacia, for what reason do you rise?"

Sacia: "Thank you, Mr. Speaker. Will the Lady yield?"

Speaker Turner: "She indicates she will."

Sacia: "Ladies and Gentlemen of the House, I think what we have before us today is an outstanding opportunity for positive identification, both at the time of a crime and any other time. We have in this chamber... Every one of us lived through 9/11 of '01. Tragically, the results of 9/11 of '01 still leave many, many people not identified. Oh, there's a lot of DNA evidence there, but the fingerprints are gone. I would like to ask this Body to just stop for a moment and think back the many years ago when they instituted fingerprinting, when they instituted foot printing at time of birth. Every child born today is foot printed the moment it is born. What a wonderful identification tool. The tool that Representative Mendoza is asking for will clear as many crimes... probably many more crimes than it will ever put

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someone away for. It is a noninvasive procedure; it is not a medical procedure. It is a simple swab, a simple swab. This is an opportunity to take identification into the 21st century. I am so fearful that if we were asked to make a determination on foot printing or fingerprinting today, we would have a tendency to turn it away. Ladies and Gentlemen, we must be practical; we must think this through. We have a driver's license to identify us, we have a Social Security number. God perish the thought of another 9/11, but if we have one, DNA is what's going to identify those that cannot be identified otherwise. I stand in strong support of this Lady's legislation and I encourage an 'aye' vote. Thank you, Mr. Speaker."

Speaker Turner: "The Gentleman from Cook, Representative Fritchey, for what reason do you rise?"

Fritchey: "Thank you, Speaker. Will the Sponsor yield?"

Speaker Turner: "She indicates she will."

Fritchey: "I understand the concepts and I understand the passion on both sides of the concept. Let me ask a substantive question that I'm puzzled by. The Bill provides for expungement in the event an individual's found innocent, correct?"

Mendoza: "It's treated exactly the same way as the current expungement Bill under fingerprints. So, if your fingerprints are expungeable, your DNA would go along... right along with it."

Fritchey: "But if you're innocent and committed no... well..."

Mendoza: "So, under..."

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Fritchey: "If you're innocent and you committed no crime, why is the burden upon you, the innocent person, to file a petition and pay the fees to have the information expunged?"

Mendoza: "Because we're keeping it consistent with the fingerprinting law, Representative. We wanted to make sure that everything that we do for fingerprints is exactly recogable... replicable with the DNA statute. So, if your prints... under current law, which is the case, whether you're completely innocent or not, you still have that process to go through. In which case, you wouldn't have to go through a separate process, your DNA would go along with those prints."

Fritchey: "I would respectfully submit that if an idea wasn't good the first time, replicating it may not be the best as well. I don't understand the logic in having an innocent person file... bear the responsibility of going through the petitioning and paying the cost to have their information expunged."

Mendoza: "They need to do that under current law, Representative."

Fritchey: "And I don't think it's a good idea."

Mendoza: "So, we're not adding another step to that."

Fritchey: "I don't think... Do you think it's a good idea, under current law, that the innocent person bear that responsibility?"

Mendoza: "Well, I think that there is a... a case to be made with making sure that we keep DNA on file in as many cases as we can, because whether there was a conviction or not, we could have the situation where maybe charges were dropped and

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maybe the person wasn't necessarily found to be innocent, but maybe charges just weren't... they were dropped or the person ended up not having to go through the whole trial system. In which case, many times some of these repeats or serial rapists that have been convicted, that we've been able to catch after 9 or 10 rapes, with the average rapist raping 7 times before he's caught, had been picked up, charged with home invasions, not been convicted of... of and..."

Fritchey: "Represen... Representative..."

Mendoza: "This is a perfect case, Representative, of the situation in which we'd be able to take a, ya know, serial rapist off the street because we had him in the system."

Fritchey: "I understand the value of DNA testing. I understand having the database. I would say that this Bill is inconsistent from this standpoint. If you want to maintain a DNA database of everybody ever arrested... if you wanna maintain a DNA database of anybody ever arrested, then don't provide for expungement. But if you're going to provide for expungement but then say that you want the petitioner... the innocent petitioner to have to go through that, really is a deterrent to keep as many file... records on file as possible, your argument collapses on itself. I understand the value of saying once we have somebody in the system, let's have that DNA accessible. Representative, my district has had among the highest incidences of rapes in the city. I understand the value of getting these people off the street, especially when some of them that have been found were repeat offenders. But either... maintain a consistent argument here. If you want to keep it on file, whether

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innocent or guilty, keep it on file. But do not shift the burden if you were gonna provide for expungement for an innocent person to have to pay and go through the process of that expungement. You are burdening somebody that has been found innocent of any wrongdoing."

Mendoza: "I appreciate your comment, Representative, and your... your critique on that, but I do, with all due respect, disagree because I think that we are keeping a consistent argument here to the extent that we are calling this the fingerprint of the 21st century. That's what it is, nothing mu... nothing less, nothing more. And as such, we are treating it in the same way that we treat, under current law, the fingerprinting statute. So, in other words, if you can petition the court, which is the case now whether we pass DNA or not, to expunge your record, which there's a reason why the law is written the way it is, if those prints are expungeable then your DNA would go right along with it. We're not adding an extra step. We're not trying to make this more burdensome. The person, right now, under current law, would have to go through... they don't get automatic expungement. We debate this issue all the time. Under current law, it's not automatic expungement. So, in the case that you would petition the court to file for expungement, that would also include your DNA profile that we have on, ya know, would... that we have for you. So, I don't think we're adding anything overburdensome to the system. We're not being inconsistent. All the contrary. We are staying consistent with what current law is and

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treating the prints as such. And treating the DNA profile as those prints are treated under current law."

Fritchey: "I... I... I understand your lengthy answer that you're staying consistent with the existing law. It avoids the answer to the question of why this burden belongs on the innocent person in either the exis... either the existing sta... It's not another debate. It's this debate. It's not the existing statute that's before this Body, it's this proposed law that's before this Body. Representative, you maintain that a DNA database is the best way for tracking offenders, correct?"

Mendoza: "I think it's a great way for tracking offenders."

Fritchey: "And... and... and ideally we should be able to maintain all of these because the more DNA we have to check against, the better job we can do of tracking down offenders, correct?"

Mendoza: "Again, Representative, my belief is to keep it consistent with what the current fingerprinting law is today. This was an issue that we had debated at length earlier on the many rewrites of this Bill and I feel that, based on the different criticisms of the different parties involved, this was the fairest way to treat the collection of the DNA sample and the treatment of that sample subsequent to its taking. So, I appreciate your... your criticisms on the issue, Representative, or your comments, but at the sa... to the same extent, I think that this is one way that we can ensure that we are not treating this identification tool in a way that's not consistent with how we treat fingerprints today. I don't mean to be, ya know,

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contrary to what you're saying or to make it seem that it's not absolutely important and critical issue, but again, I think that the way to be the fairest in the system that we have today is to keep the argument consistent, and that is to treat it consistently the way we do fingerprints today. In... and again, my... my... Well, I'll leave it at that."

Fritchey: "Sincerely and with all sincere respect, if our objective has always been to simply not tinker with the laws as they exist and stay consistent, we would never make any legislative evolution in this state or in this country. Representative, where do you draw the line between an innocent person having to submit to DNA testing simply because an officer chooses to arrest them, even if that arrest is later thrown out for not having probable cause? I..."

Mendoza: "That's a great question, Representative. And I don't know where we draw the line for people having to submit to fingerprints or people having to submit to their picture being taken."

Fritchey: "I... but I'm not... Rep... but Representative, I don't wanna go back to... we are not talking about fingerprints right now. We're not talkin' about how this matches up with the existing law. We're talking about this specific proposal. Under this proposal, a police officer with no probable cause can pick somebody up off the street for the sole purpose of getting their DNA into the database, that arrest can be thrown out, they could never be brought to trial, but that DNA will be taken in the database. You're walking on a very, very slippery slope. If where you want

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to get is mandatory DNA testing of all babies when they're born, just like mandatory foot printing of babies, you're talkin' about being consistent with the existing laws, you're taking us a long way there. But for a progressive Legislator, for a centrist Legislator, for a conservative Legislator in the shadows of the Patriot Act, in the shadows of our devoiding ourselves of Fourth Amendment rights of search and seizure, to say that there is going to be no predicate need for the police to come in and put your DNA into a database, regardless of a finding of innocence, regardless of validity of the arrest, regardless of the existence of probable cause for the arrest is a massive reshaping of personal privacy rights in this state and in this country. Thank you."

Speaker Turner: "The Gentleman from Cook, Representative Delgado, for what reason do you rise?"

Delgado: "Thank you, Mr. Speaker. Will the Sponsor yield?"

Speaker Turner: "Indicates she will."

Delgado: "Thank you. Representative Mendoza, notwithstanding the previous speaker's comments... and I understand and quite cognizant of some of his concerns. Your genesis for this legislation in terms of what it can do, DNA, going into high-tech times, replacing a fingerprint that we know on a booking level they're gonna take anyway, and a police officer who'll... can pick up anyone from any corner, that unscrupulous officer is gonna do that anyway, if they're gonna try to set you up. One police officer may be a bad apple. They're gonna use their powers in that abusive way. Not that withstanding, the overall police department's doing

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their job serving and protecting and doing the right thing. Isn't it true that your legislation would also... We've seen many, many news reports of men coming out of prison because their DNA was found to be not the one that committed the particular murder or the particular crime. Would this DNA help get innocent people out of prison, too?"

Mendoza: "Without a doubt, it would. And unfortunately, we have heard of these cases, but they've... the innocence has been proven years after the person was convicted, not... not days after."

Delgado: "And most of these... and most of these individuals are of minority descent, is that correct?"

Mendoza: "That is correct, Representative."

Delgado: "And most of these individuals do not have the monies or resources that... for trial. But now with the magic of DNA, they're able to have a new hearing and in mo... in all cases have been released... they're being released like... like there's no tomorrow, is that correct?"

Mendoza: "That is correct, Representative."

Delgado: "And indeed, if someone is picked up and given a DNA and we find out that he's innocent of breaking and entering into my home, but we find out that he's wanted in the State of Oregon for similar crimes and kidnapping and now we've been able to find that this pillar in this community in the State of Illinois is really wanted in the State of Oregon, would thi... would this legislation help you do that?"

Mendoza: "Absolutely, Representative."

Delgado: "To the Bill, Mr. Speaker."

Speaker Turner: "To the Bill."

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Delgado: "It's very clear that this legislation... keeping in mind that we have to protect our civil liberties, and I am a strong champion of fighting for our civil liberties and our rights as American citizens. And it's very important to me that the tools remained out there to make sure that we're able to free those who are innocent, who've been incarcerated over 50 years, of oppression and repression in this country by... by racist prosecutors and racist judges over the last 50 or 60 years, and now we've had champions move into other lives already from the civil rights movement and have died and moved on. But now, we have to still remember those men and women from that past. How do we have an opportunity to help them if we don't have the magic of DNA? How are we gonna make sure that we're not releasing some rapist back into the community because he's been okay and able to take care of himself for the last 10 years? This particular legislation, 4507 (sic-4607), is not the catchall, but it has a double-edged blade that can help ya or it can hurt ya. And in this case, we believe that in our communities the civic levels are out there to protect us, to make sure our children and our families receive justice. And I would ask for a strong 'aye' vote on 4507. I'm sorry..."

Speaker Turner: "The Gentleman..."

Delgado: "...4607. Thank you."

Speaker Turner: "The Gentleman from Lee, Representative Mitchell."

Mitchell, J.: "Thank you, Mr. Speaker. Will the Sponsor yield?"

Speaker Turner: "She indicates she will."

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Mitchell, J.: "Representative Mendoza, on the issue of requesting expungement, it won't take a separate request? If you request that your record be expunged, it's... it's already... it's automatic. So, whatever cost is involved in that, probably attorney fees, whatever you need to do, it's going to remain the same. Just because we have the DNA testing, it won't add to that cost."

Mendoza: "That's exactly correct, Representative."

Mitchell, J.: "And Representative, you ran this Bill last year, right?"

Mendoza: "Yes, and the year before it. Overwhelming support."

Mitchell, J.: "I believe it had 105 votes last year?"

Mendoza: "Yeah. Hopefully, it'll have more today."

Mitchell, J.: "Thank you, Representative."

Mendoza: "Thank you."

Mitchell, J.: "Thank you, Mr. Speaker."

Speaker Turner: "The Gentleman from Lake, Representative Washington."

Washington: "Thank you, Mr. Speaker. To the Sponsor of the Bill. So, what my understanding of this Bill is that House Bill 4607 would allow DN... a DNA test to be conducted before a person is proven innocent or guilty. Am I right on that or..."

Mendoza: "At the time of arrest, Representative, the same as the fingerprints and the mug shot. We... we've incorporated it into the booking process."

Washington: "So, you say 'yes', that's... that's the case?"

Mendoza: "Yes, that is correct."

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Washington: "The only problem I have with this... and of course, I like... I like the part of the Bill where it says that officers who are caught tampering, trying to alter..."

Mendoza: "Yeah."

Washington: "...the series of event, I think that's proper. The only scary part, based on the reflection of my community, what I see most... too often, among blacks and Latinos in particular, is that if we allow a system to take DNA prior to a person's guilt or innocent, aren't we in one way conflicting with the premise of the law that says one is innocent until proven guilty and if you submit a DNA in the process of proving one's innocent or lack of, then aren't you also opening the system up for abuse with a DNA that could be used in other things that are nonrelated? That is my question. I'd like to hear your response."

Mendoza: "Thank you very much for your question, Representative. And again, we are calling the DNA sample a wonderful identification tool, both in terms of law enforcement and in terms of a defendant having the potential for exoneration. So, I think that by incorporating the DNA into the booking process and treating the DNA, which is a silimp... simple saliva swab, as... in the same way that we treat the fingerprint and the mug shot, which is during the arrest... And I just wanna clarify again that this will only be for..."

Washington: "Mr. Speaker, I can't... I can't hear her."

Mendoza: "Okay. I would like to clarify that this is only for felony arrests, Representative. Right now, again, we take a mug shot and a print of anyone arrested for any crime. The DNA sample would only come into play if you're arrested for

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a felony. It's a more serious crime. And so, again, it's the fingerprint of the 21st century. My description to my constituents has been that that, it is an identification tool which, like Representative Delgado said, can cut both ways. It can convict, but it can also exonerate."

Washington: "Thank you, Representative. But, Representative and... and I couldn't hear everything you said. You might have really, fully answered me. But I'm lookin' at... in the... in the Bill it says, 4607 would expand the existing law that provides that only a person convicted..."

Mendoza: "Right."

Washington: "...of a felony must submit to a DNA test, which would include any person... any person arrested for a felony."

Mendoza: "That's correct. Under current law, we only take DNA samples of those who are convicted of a crime. Under this Bill, we would take it for those who are arrested of a crime. And to the same extent, that's why that is so important, because if you've been arrested for a crime... let's say they accuse you of raping someone on a street corner and you swear, 'It was not me.' And you may have a very long criminal history and you say, 'Take my DNA, take it. I will prove to you that that semen will not match up to mine.' You don't have an automatic right for that. And under my Bill, we wi... if you are arrested and you're processed and we take your prints, we take your mug shot, and we take a DNA saliva swab, we'd be able to prove within a short amount of time that you, in fact, are innocent of that crime, even if you may have had a sketchy past. But in this one occasion, you are innocent. And I think you should

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have a right to that and you should have a right to exoneration on the front end rather than on the back end. To the same extent, if you're guilty, I don't think anyone in this room would argue that you shouldn't be brought to justice for committing a rape."

Washington: "Representative, what is the advantage and what is the premise and genesis of you wanting to disturb a system that has clearly worked for the end of this purpose thus far? What is... what is the genesis? Is it something you yourself put together or somebody brought this Bill to you? Why you talkin' about changin' the wheel or adding to the wheel that has worked at... in the way it was prior to this introduction of this legislation?"

Mendoza: "Representative, I'm so sorry. I know that was a long question, but I could barely hear it. Something about the genesis of the Bill and then what... what was your question specifically?"

Washington: "I was wondering where did... where you... where you comin' from with this Bill. What is... what do expect the difference to be in terms of servin' justice as it relates to our community in particular? Because there's more of us in jail don't mean more of us do crimes."

Mendoza: "Exactly."

Washington: "But then there also were more of us were... were released on the death penalty frame because we were innocent."

Mendoza: "'Cause you were innocent, right."

Washington: "So, what is the advantage of the change that you're suggestin' with the legislation?"

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Mendoza: "I think that the huge advantage is... there's two of 'em, in particular, in terms of fighting and finding justice. On the one end, we can convict people who have not been able to be brought into a system because they just managed to escape the law. Through DNA evidence, we may be able to close out cases of rapes or murders that we know someone committed a rape, but we don't know who did it. Through DNA evidence, if we have a match, we can take that dangerous person off the street. And let me reiterate that the average rapist rapes seven times before he's caught. And I think that if we can stop the rapist that raped number one, that it's much huge benefit to society versus waiting until we get a lucky break in a case and then through DNA evidence can match up that individual to a bunch of outstanding cases. The other benefit is on the opposite end of the justice spectrum. And that is, if you are the person who was wrongfully arrested and wrongfully accused of a crime, I think it's absolutely in the best benefit of society and that individual to exonerate you and go out and look for the person who is truly responsible for that crime. Because there's two crimes that are committed when a person is wrongfully convicted, that is the crime to your liberty and also the crime that society is still living with a dangerous perpetrator on the loose. So, this would... this would address that."

Washington: "Well, Representative, I'd like to add... add a last comment and, of course, I would want you to respond. In my guts of guts, I must ask my colleagues to vote against this legislation for these reasons. When I look at the

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individuals who are listed as opponents of this particular Bill: Cook County Public Defender's Office, Illinois State Bar Association, American Civil Liberties Union of Illinois, Office of the State Appellate Defender. In most cases, that is the only representation our community has, and if they have joined together with the... with the limited amount of resources they have in defending poor people, in particular, who come through the system, if they have grouped together enough to say that this would tilt the scales against the poor, against those that have less resources... 'cause that's exactly what they're sayin', that's why they come against it. And so, for those reasons, I think this is a bad Bill and I plan to vote 'no'. Thank you."

Mendoza: "Thank you, Representative."

Speaker Turner: "Representative Mendoza to close."

Mendoza: "Thank you, Mr. Chairman. Ladies and Gentlemen of the House, again, I would ask for your support. I think that the Bill is extremely fair and balanced. It's both a wonderful identification tool in finding those who are truly guilty of crimes that they should be brought to justice for. On the other end, is extremely effective and time and time again, unfortunately, has been tested and proven that innocent people are arrested for crimes that they did not commit and, through DNA evidence, years later have been given their lives back. I think that, in and of itself, is a travesty and it is beyond me... and believe me, I have had conversation after conversation with the opponents of this Bill. And it is beyond me that anyone who really seeks justice and for innocent people to not be wrongfully accused

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for those people to be in opposition to this Bill. I would argue that for the sake of society, those that are guilty, those that are innocent, and those that have to live with killers or rapists on the loose, that we stand behind this Bill and once again overwhelmingly pass it and send it to the Senate. Thank you to all the Members who spoke, whether in opposition or in support. And again, I appreciate all of your opinions and I hold you all in high respect, but I would argue and ask you to please support this piece of legislation which is critically important to the State of Illinois. Thank you."

Speaker Turner: "The question is, 'Shall House Bill 4607 pass?' All those in favor should vote 'aye'; all those opposed vote 'no'. The voting is now open. Have all voted who wish? Have all voted who wish? Have all voted who wish? The Clerk shall take the record. On this question, there are 103 voting 'aye', 7 voting 'no', 6 voting 'present'. And this Bill, having received the Constitutional Majority, is hereby declared passed. The Gentleman from Cook, Representative Molaro, for a Motion?"

Molaro: "Yes, thank you, Mr. Speaker. We'd ask that we suspend the rules so we can have a Jud II-Criminal Law Committee meeting tomorrow at 2 p.m. They have a bunch of Bills and I don't wanna have a 6-hour meeting on Thursday morning. So, we ask you to suspend the rules so we can have one tomorrow at 2:00 in the afternoon."

Speaker Turner: "The Gentleman asks leave to suspend the posting requirements regarding the Judiciary II-Criminal Law Committee tomorrow. And all those in favor should say

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'aye'; all those opposed say 'no'. In the opinion of the Chair is the 'ayes' have it. And the requirement is granted... or the posting is suspended. The Gentleman from Menard, Representative Brauer, for what reason do you rise?"
Brauer: "Thank you, Mr. Speaker. I rise for a point of personal privilege."

Speaker Turner: "State your point."

Brauer: "I'd just wanna inform the Members tonight that it's the organizational meeting for the new Historic Preservation Caucus. We're gonna meet at the Abraham Lincoln Library (sic-Hotel) at 5:00 in the Floreale Room."

Speaker Turner: "Thank you for the notice. The Gentleman from Clinton, Representative Granberg, for what reason do you rise?"

Granberg: "Thank you, Mr. Speaker. Purpose of an announcement. There being no business before the House Agriculture Committee today, the committee is canceled."

Speaker Turner: "The House Agriculture Committee is canceled. The Lady from Cook, Representative Monique Davis, for what reason do you rise?"

Davis, M.: "I'd like to make a committee announcement, Mr. Speaker."

Speaker Turner: "State your announcement."

Davis, M.: "The Elementary-Secondary Education subcommittee will meet at 8:30 and the regular Elementary-Secondary Education Committee will meet at 9 a.m. tomorrow."

Speaker Turner: "Could you come down to the podium one minute..."

Davis, M.: "Yes."

Speaker Turner: "...Representative. The Gentleman..."

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Clerk Mahoney: "Committee announcements. Committees for today. At 1:30 p.m., Agriculture & Conservation Committee has been canceled in Room D-1. Insurance will meet in Room C-1 at 1:30. Public Utilities in Room 122-B at 1:30. And Transportation & Motor Vehicles in 114 at 1:30. At 4 p.m., Consumer Protection will meet in Room C-1; Elections & Campaign Reform in 122-B; Health Care Availability & Access in Room 118; and Housing & Urban Development in D-1. Tomorrow, Wednesday, February 8, 2006, the following committees have been changed: the Elementary & Secondary Education subcommittee will meet at 8:30 in Room 114 followed by the full committee on Elementary & Secondary Education at 9 a.m. At 9:30 a.m., Judiciary I-Civil Law will meet in Room C-1. Judiciary-Civil Law has been changed to 9:30 in C-1."

Speaker Turner: "The Gentleman from Cook, Representative Dunkin, for what reason do you rise?"

Dunkin: "Thank you, Mr. Speaker. I'd like to table House Bill 4656, please."

Speaker Turner: "Gentleman asks leave to table House... to table House Bill 4656. All those in favor say 'aye'; all those opposed say 'no'. In the opinion of the Chair is the 'ayes' have it. And the Motion to Table passes. The Lady from Cook, Representative... I mean, the Lady from Lake, Representative May, for what reason do you rise?"

May: "Excuse me. Yes, Mr. Speaker, Environmental Health tomorrow morning at 11 is canceled."

Speaker Turner: "The Lady has announced the Environmental Health Committee will be canceled tomorrow. The Gentleman from

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Vermilion, Representative Black, for what reason do you rise?"

Black: "Thank you very much, Mr. Speaker. Let the record reflect I would like to table House Bill 5323. 5323."

Speaker Turner: "The record will so reflect the Gentleman's request to table House Bill 5323. And on... Is there leave? Leave is granted. On that Motion to Table, I have four other Bills that the primary Sponsors have asked leave that they be tabled. That is House Bill 4598 by Representative Delgado, 4465 by Representative Patterson, 4341 by Representative Annazette Collins, and 4704 by Representative John D'Amico. These Sponsors... you've heard the request from the Sponsors. All in favor say 'aye'; all opposed say 'no'. In the opinion of the Chair, the 'ayes' have it. And the Motion to Table those Bills is granted. Agreed Resolutions, Mr. Clerk."

Clerk Mahoney: "Agreed Resolutions. House Resolution 877, offered by Representative Poe. House Resolution 879, offered by Representative Mathias. House Resolution 880, offered by Representative Madigan. House Resolution 882, offered by Representative Rose. House Resolution 884, offered by Representative Dunkin. House Resolution 885, offered by Representative Dunkin. House Resolution 886, offered by Representative Granberg. House Resolution 887, offered by Representative Osmond. House Resolution 888, offered by Representative D'Amico. House Resolution 889, offered by Representative D'Amico. House Resolution 890, offered by Representative D'Amico."

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Speaker Turner: "You've heard the Gentleman's... heard the Clerk's request on the Agreed Resolutions. All those in favor should say 'aye'; all those opposed say 'no'. In the opinion of the Chair is the 'ayes' have it. And the Agreed Resolutions are adopted. Okay, allowing perfunctory time for the Clerk, Representative Granberg moves that the House stands adjourned 'til Wednesday, February 8, at the hour of 12:00. Wednesday, February 8, at 12:00 noon. And the House does stand adjourned."

Clerk Mahoney: "House Perfunctory Session will come to order. Introduction and reading of House Bills. House Bill 5574, offered by Representative Bradley, Richard, a Bill for an Act concerning public employee benefits. House Bill 5575, offered by Representative Ramey, a Bill for an Act concerning appropriations. House Bill 5576, offered by Representative Flowers, a Bill for an Act concerning appropriations. House Bill 5577, offered by Representative Jefferson, a Bill for an Act concerning appropriations. House Bill 5578, offered by Representative May, a Bill for an Act concerning the environment. Referred to the House Committee on Rules is House Joint Resolution 95, offered by Representative Currie. Committee Reports. Representative Mautino, Chairperson from the Committee on Insurance, to which the following measure/s was/were referred, action taken on February 07, 2006, reported the same back with the following recommendation/s: 'do pass Short Debate' House Bill 4890. Representative Collins, Chairperson from the Committee on Public Utilities, to which the following measure/s was/were referred, action taken on February 07,

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2006, reported the same back with the following recommendation/s: 'do pass Short Debate' House Bill 4258 and House Bill 4835. Representative Jefferson, Chairperson from the Committee on Elections & Campaign Reform, to which the following measure/s was/were referred, action taken on February 07, 2006, reported the same back with the following recommendation/s: 'do pass as amended Short Debate' House Bill 4311. Representative Hoffman, Chairperson from the Committee on Transportation and Motor Vehicles, to which the following measure/s was/were referred, action taken on February 07, 2006, reported the same back with the following recommendation/s: 'do pass Short Debate' House Bill 4728 and House Bill 5274; 'do pass as amended Short Debate' House Bill 4451. Representative Yarbrough, Chairperson from the Committee on Housing & Urban Development, to which the following measure/s was/were referred, action taken on February 07, 2006, reported the same back with the following recommendation/s: 'do pass as amended Short Debate' House Bill 4758; 'do pass Short Debate' House Bill 5268. Representative Barbara Flynn Currie, Chairperson from the Committee on Rules, to which the following legislative measures and/or Joint Action Motions were referred, action taken on February 07, 2006, reported the same back with the following recommendation/s: 'approved for floor consideration' is House Joint Resolution 96, offered by Representative Currie."

Clerk Bolin: "Committee Reports. Representative Flowers, Chairperson from the Committee on Health Care Availability and Access, to which the following measure/s was/were

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referred, action taken on February 07, 2006, reported the same back with the following recommendation/s: 'do pass Short Debate' House Bill 4461, House Bill 5296, House Bill 5339, and House Bill 2548; 'do pass Standard Debate' House Bill 4447; 'do pass as amended Standard Debate' House Bill 4338. There being no further business, the House Perfunctory Session will stand adjourned."