

STATE OF ILLINOIS
88TH GENERAL ASSEMBLY
THIRD SPECIAL SESSION
SENATE TRANSCRIPT

1st Legislative Day

July 1, 1994

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senate will please come to order. Will the Members please be at their desks? Communications from the Secretary of State.

SECRETARY HARRY:

To Mr. Jim Harry, Secretary of the Senate, Room 401 Statehouse, Springfield, Illinois, 62706.

Dear Mr. Secretary - Enclosed is a copy of an Executive Proclamation filed in my office on Friday, July 1st, 1994, issued by the Honorable Jim Edgar, Governor, calling a Special Session of the 88th General Assembly, to begin at the hour of 1:05 p.m. on Friday, July 1st, 1994, in order to consider House Bill 2424.

The original Proclamation No. 94-340 is on file in my office.

Sincerely, George H. Ryan, Secretary of State.

SECRETARY HARRY:

The Senate is now convened in the Third Special Session. Mr. Secretary.

SECRETARY HARRY:

Proclamation 94-340.

(Secretary reads Proclamation No. 94-340)

Dated July 1st, 1994, and signed by Jim Edgar, Governor.

PRESIDING OFFICER: (SENATOR DeANGELIS)

As this is the Third Special Session - Third Special Session - of the 88th General Assembly, the rules adopted by the 88th General Assembly and its officers and committees are in effect for the continuous period of the 88th General Assembly. Three organizational resolutions will be adopted today. These resolutions inform the House that the Senate is ready to conduct business, create a Senate committee of five to wait upon the Governor, and create a Senate committee of three to approve the Journals. Resolutions.

SECRETARY HARRY:

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Senate Resolution 1 in the Third Special Session, offered by Senator Weaver.

(Secretary reads SR No. 1)

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Weaver.

SENATOR WEAVER:

Thank you, Mr. President. I would move for the suspension of the rules for the immediate consideration and adoption of Senate Resolution No. 1...

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Weaver...

SENATOR WEAVER:

...(microphone cutoff)...of the Third Special Session.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Weaver moves to suspend the rules for the immediate consideration and adoption of Senate Resolution 1. Those in favor, say Aye. Opposed, say Nay. The Ayes have it. Senator Weaver now moves the adoption of Senate Resolution 1. Those in favor, say Aye. Opposed, say Nay. The Ayes have it. Senate Resolution is adopted. Further resolutions?

SECRETARY HARRY:

Senate Resolution 2, offered by Senator Weaver.

(Secretary reads SR No. 2)

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Weaver.

SENATOR WEAVER:

Thank you, Mr. President. I would move for the suspension of the rules for the immediate consideration and adoption of Senate Resolution No. 2, Third Special Session.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Weaver moves to suspend the rules for the immediate consideration and adoption of Senate Resolution 2. Those in

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favor, say Aye. Opposed, say Nay. The Ayes have it. The rules are suspended. Senator Weaver now moves the adoption of Senate Resolution 2. Those in favor, say Aye. Opposed, say Nay. The Ayes have it. Senate Resolution is adopted. Further resolutions?
SECRETARY HARRY:

Senate Resolution 3, Third Special Session, offered by Senator Weaver.

(Secretary reads SR No. 3)

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Weaver.

SENATOR WEAVER:

Thank you, Mr. President. I would move for the suspension of the rules for the immediate consideration and adoption of Senate Resolution No. 3, Third Special Session.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Weaver moves to suspend the rules for the immediate consideration and adoption of Senate Resolution 3. Those in favor, say Aye. Opposed, say Nay. The Ayes have it. The rules are suspended. Senator Weaver now moves the adoption of Senate Resolution 3. Those in favor, say Aye. Opposed, say Nay. The Ayes have it. Senate Resolution is adopted. Further resolutions?
SECRETARY HARRY:

No further resolutions, Mr. President.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Topinka.

SENATOR TOPINKA:

Yes. Mr. -- Mr. President, Ladies and Gentlemen of the Senate, there will be a Senate Health Committee meeting at -- at 2:35, in Room 212.

PRESIDING OFFICER: (SENATOR DeANGELIS)

To the Members -- Senator Topinka, why don't you repeat that, 'cause I don't think everybody was listening.

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SENATOR TOPINKA:

There will be a meeting of the Senate Health Committee at 2:35, roughly one hour from this moment, in Room 212.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Thank you, Senator Topinka. Senator Topinka.

SENATOR TOPINKA:

Just to go on, it -- it -- it refers to -- to consider Conference Committee Report No.1 to Senate Bill 2424 -- House Bill 2424.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Demuzio.

SENATOR DEMUZIO:

Well, let me ask -- let me inquire of the Chair then, do we not now then need a new Rules Committee in order to take some appropriate action in order for the committee to take some action at their hearing this afternoon?

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Demuzio, the bill was assigned yesterday, and the Governor's Order, in fact, specifically points to that bill. Senator Demuzio.

SENATOR DEMUZIO:

Well, now that I recall that, that is absolutely correct. Again, it just seems to me it would speed up the -- the rationale here, if we're informed as what we're doing. Thank you.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Thank you, Senator Demuzio. Senator Woodyard.

SENATOR WOODYARD:

Thank you, Mr. President, Members of the Senate. You know, a -- a month and and a half ago, I was on the Floor of the House with some very controversial legislation, and I was somewhat attacked on the manner in which I was dressed. I happened to have had a -- a very checkered sports coat on that I'd gotten from

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Goodwill, and I thought my wife had made a good choice. And the person that attacked me was Senator LaPaille. And I want to tell you, Senator LaPaille, we do have our store open in Chrisman again, and I wonder if you've been down there buying your sport jacket in my hometown and I didn't know anything about it.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator LaPaille.

SENATOR LaPAILLE:

Thank you, Mr. President. Yesterday you probably didn't see me around too much. I was in Chrisman, Illinois, shopping with Senator Woodyard's wife, and I want to -- and we had dinner and so...

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Geo-Karis.

SENATOR GEO-KARIS:

Mr. -- Mr. President and Ladies and Gentlemen of the Senate, I wonder: Should I offer my services to your wife or to Senator Woodyard's wife?

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Demuzio.

SENATOR DEMUZIO:

Mr. President, may I inquire as to what the schedule will be for the remainder of the afternoon?

PRESIDING OFFICER: (SENATOR DeANGELIS)

You can certainly inquire. The Third Special Session will stand in recess till the call of the Chair.

(THIRD SPECIAL SESSION OF THE SENATE STANDS IN RECESS)

(SENATE RECONVENES THIRD SPECIAL SESSION)

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PRESIDING OFFICER: (SENATOR DONAHUE)

The Third Special Session will come to order. Committee Reports.

SECRETARY HARRY:

Senator Topinka, Chair of the Committee on Public Health and Welfare, reports House Bill 2424, the First Conference Committee Report Be Approved for Consideration.

PRESIDING OFFICER: (SENATOR DONAHUE)

Those that are within hearing of my voice, we will be considering, very shortly, House Bill 2424, the Conference Committee Report. Please proceed to the Senate Floor. ... (machine cutoff) ... Calendar No. 1 has been distributed, and on the Order of Conference Committee Reports is House Bill 2424. Mr. Secretary, do you have a -- on file a Conference Committee Report on House Bill 2424?

SECRETARY HARRY:

First Conference Committee Report on House Bill 2424.

PRESIDING OFFICER: (SENATOR DONAHUE)

Chair recognizes Senator Cronin.

SENATOR CRONIN:

Thank you, Madam President and Ladies and Gentlemen of the Senate. May I have a moment, please? Thank you, Madam President, Ladies and Gentlemen of the Senate. Conference Committee Report on House Bill 2424 has a number of different components in it. First and foremost, I'd like to point out that House Bill 2424, in this Conference Committee Report, retains the underlying bill, in that we amend the Adoption Act by changing one of the definitions of unfitness; we define failure to make reasonable progress toward the return of a child as a failure to complete the service plan within twelve months after adjudication that the child is abused, neglected or dependent. That remains in the conference committee report. Item two that is in the report - and this issue gained

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some attention and was somewhat controversial - we have created a task force - only a task force. In response to the controversy, we're creating a task force of fifteen members who are to draft a bill, and they are directed to look at some of the points that are laid out in the bill -- in this bill -- in this conference committee report, in their draft. Item number three: We seek to clean up the sum and substance of the previous House Bill 2423 that's already on the Governor's desk. It grants foster parents standing, if -- if the court finds that it's in the best interest of the child. It also grants foster parents standing and intervenor status if the child: number one, is alleged to have been abused, neglected or dependent; two, lived with the parents for more than a year; and three, is being removed from the foster parent's care. Item number four adds in the language from Senate Bill 454, which was Senator Barkhausen's bill, that creates a Uniform Interstate Family Support Act. This will permit officials from the State of Illinois to more easily collect child support. Item number five corrects problems that came to light with respect to House Bill 2696, which is already on the Governor's desk. That House Bill 2696 allows disclosure of a minor's name and address if the minor is declared delinquent or convicted of certain crimes. The language in this bill has been tightened up, and there has been a prohibition about disclosing the identity of the minor if the minor's thirteen years old or younger. And finally, the -- the last component of this conference committee report is -- covers issues that have come to light in what has become known as the Baby Richard Case. For purposes of the record here, I'll tell you what the seven components are dealing with this issue, and here they are: Number one - in this Conference Committee Report we require that the proceedings under the Adoption Act receive priority over other civil cases. I think the Body could see the wisdom of this; we want to move these cases along quicker. Number

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two - we seek to amend or we amend the Code of Civil Procedure to reduce from two years to one year any petition for relief from a final order or judgment entered under this Act. Currently you have between thirty days and two years under a motion to vacate under 2-1401; now we're moving it from thirty days to one year. Item number three requires that all appeals under the Adoption Act be heard on an expedited basis. Item number four - we create a Putative Father Registry to require putative fathers to register within thirty days of the child's birth or be forever barred from asserting any legal rights toward the child. Item number five - if a petition for adoption is vacated, allows the court to promptly conduct a hearing as to the temporary and permanent custody of the child under the Illinois Marriage and Dissolution of Marriage Act. Also there will be a best interest of the child hearing for purposes of custody after a motion to vacate has been granted. And the final item is that this bill has an immediate effective date, and shall apply to all cases pending on or after this effective date. I'd be happy to answer any questions. The only point that I'd like to make at the outset, before I give my closing remarks, are that I would urge the Members of the Body to make note of the fact that the intent of this bill is to provide some measure of security for adoptive parents in the State of Illinois. We would like to lay out a procedure that is predictable, that is known, and that if these procedures are adhered to and notices are sent, and fathers who wish to assert their rights follow the proper procedures, and if they do so they can secure them, and if they don't, their rights are terminated, and therefore adoptive parents are secure in their relationship with their children -- their adopted children. I'd be happy to answer any questions.

PRESIDING OFFICER: (SENATOR DONAHUE)

Is there any discussion? Any discussion? Senator Topinka.

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SENATOR TOPINKA:

Madam President and Ladies and Gentlemen of the Senate, I stand in support of this bill, and would like to note that we had a -- I think a very thorough hearing on this in the Senate Health Committee this morning. The questions were relevant. I think it was important to note that the Illinois State Bar Association was there in -- in support, as was the Cook County Public Guardian, and the Illinois Association of Foster Parents. It's probably legislation that is long overdue, and we have tarried really too long. And I suppose if there's any good that comes out of the -- the tragic qualities of what's going on in the Baby Richard situation, is that it did provide the impetus to make this move and make this move faster. And I hope we'll all be supportive. I also would like to note that in the original bill, Senate bill -- or 2424, there were some other areas of interest which are not included in this bill, but which I have a promise from the Governor's Office that they will be considered in the Veto Session. And so that everybody knows what's coming and that we have not lost track of them, that would include the issue of transracial adoptions and also the issue of secured facilities, which is that which we need to bring those children who are in DCFS - under their auspices - currently living and housed out of State at the tune of about seventy thousand dollars a year, bringing those youngsters home. We would have the same type of facilities as they have in other states. That will be coming up in the Veto Session. I certainly thank the Governor's Office for their promise, and I only make it a matter of public record to make sure that, you know, promises made - promises kept. Thank you, and please support this bill.

PRESIDING OFFICER: (SENATOR DONAHUE)

Further discussion? Senator Jones.

SENATOR JONES:

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Yeah. Thank you, Madam President. A few comments as it relate to the conference committee report and this issue as it relate to Baby Richard. I understand from the previous speaker that there was ample testimony on this issue, but I -- I recognize that there is a problem here, but when you are talking about the rights of a child and the rights of a parent, we cannot rush to judgment on this issue. When I say rush to judgment, I mean the fact that -- to have the proper input, to have individuals notified, and at least have some input before we rush to a legislative decision as -- as relate to a father. In order for one to determine the best interests of a child, you have -- before you even get to that point, you must know who the father is. And -- and thirty days - the father may not even know he's the father of a child. So to -- to rush with a piece of legislation just to deal with some sensationalism that has appeared in the newspaper, and I know the Governor -- the Governor called a Special Session on this bill. But I think it should have had proper hearings and input before you talk about taking away the rights of a father. And to do it on -- by legislation in thirty days - even if the individual was the father, he must know that. He may have not even known that the woman was pregnant. So for us to assume, by one case, that this is a fit-all, without proper input, is not acting in the best interests of the child. So what I would suggest that we do: either vote this bill down, have proper hearings, and not -- and let's not play politics with this issue because it has received so much publicity in the press. Because I -- I guarantee you, you will come back later next -- this fall and next year to try to correct the mistake that we are making with this conference committee report. There are provisions in -- in here which I do support. But I am not going to sit up here and vote for something when we do not know exactly what we are voting on.

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PRESIDING OFFICER: (SENATOR DONAHUE)

Further -- further discussion? Senator Geo-Karis.

SENATOR GEO-KARIS:

Madam President and Ladies and Gentlemen of the Senate, I have handled adoptions. And to me, when we can stand up and say, "Well, the father should have rights," when the father ignored the very woman that he had his fling with, didn't give a darn about finding whether or not she was having a child or not, and then I think when she was pregnant, I believe in this case, he knew about it, didn't pay attention - all of a sudden now he becomes a real devoted father - I think this is a bunk. When you want to have a fling, you have to figure out there's some consequences. And if you're not going to be conscientious about it, then you have no right to assert a pseudo fatherhood instinct. When you have a child, you adopt a child, and you have that child and love it for three years, and then the putative father says, "That was my kid," when he ignored the mother, and we had no safeguards -- and we did have a safeguard of thirty days here, and it was in the law, and the Supreme Court chose to ignore it. They chose to ignore the best interests of the child. We have a duty to support the best interests of the child. The child is helpless, cannot defend itself. And I feel that this bill, which reduces the -- from two years to one year any petition for relief from a final order or judgment in the Adoption Act, is a good bill. The fact that it says that all adoption appeals have to be heard on an expedited basis is -- is a very good thing. And the fact that it has a Putative Father Registry that requires putative fathers to register within thirty days of the child's birth or forever be barred from asserting any legal rights to the child, that's good. It used to be that when there was a child that was born out of wedlock, the father of that child had no rights. Then there was a Supreme Court case that changed that. Well, I think the Supreme

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Court case - present one - should be changed again. I am in total support of this bill, because you don't know what you're doing when you don't support the right of the adopting parents. You are discouraging adoptions. We want to encourage adoptions. We have had enough people who have children that they've abused. They probably shouldn't have had those children. But we've got to support the best interests and welfare of the child, and the way to do it is through this bill, and I don't think we should wait much longer. I think we should pass it today.

PRESIDING OFFICER: (SENATOR DONAHUE)

Further discussion? Senator Welch.

SENATOR WELCH:

I had a question of the sponsor.

PRESIDING OFFICER: (SENATOR DONAHUE)

Indicates he'll yield, Senator Welch.

SENATOR WELCH:

Senator Cronin, based on the facts of that Baby Richard case, how would this -- how would it be changed if this were the law at the time? Would you explain that?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Cronin.

SENATOR CRONIN:

Well, let me point out first of all that the -- the registry is just one of six ways that a father could assert his rights under this -- this bill, or this conference committee report. In the case of Baby Richard, since we provide three exceptions to the registry, namely - in the case of a father who wants to assert his right who has not registered - if he has been defrauded, or there has been -- through no fault of his own, he was unaware, then there may be an exception to his failure to register. And in that case, you -- you -- you may have an opportunity for the father in the Baby Richard case to proceed. However, in this case, in this

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bill, we provide that if the father, through no fault of their own, has been misled or defrauded, subsequently discovers that he is a father and seeks to assert his right, and he has not registered, he must do so within ten days. He's got to move fast. And, you know, Senator Welch, that may offend you, or it may offend some Members in the Body, but the point here and the whole point of this legislation is to draw the line.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Welch.

SENATOR WELCH:

In the bill, there's an affidavit to be filed by the mother of the child. In that affidavit she can indicate - it's on, let's see, page 56 of the bill - she can indicate and swear under oath that she -- she knows and is identifying the biological father. Is there any presumption that notice was given to the alleged father at that time - the putative father? Or does the registry notify that putative father, or is it just the affidavit for the mother is here to bar her from later being in collusion with the alleged father and overturning the adoption?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Cronin.

SENATOR CRONIN:

In order to adopt, you have to certify that you've had a search done of the registry. So in that sense -- so the notice requirement would be fulfilled if the father has availed himself of the registry.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Welch.

SENATOR WELCH:

So -- so currently what you have to do is, you have to publish a notice to the alleged father under the current law; you try to serve a summons on the alleged father at his last known address

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and follow that up with a certified letter; and the third requirement will be that the adopting parents file an affidavit saying that they searched this registry to determine if that person is listed, if they couldn't find him otherwise. Is that correct?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Cronin.

SENATOR CRONIN:

That's correct.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Welch.

SENATOR WELCH:

In the -- in the Baby Richard case, it was my understanding that the Supreme Court basically went around the idea of the adoption law that we are trying to enact laws in the best interest of the child, and basically based their decision on -- on civil procedure as opposed to what was best for the child. Does this bill change that in any fashion? Does it elevate the rights of the child above civil procedure?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Cronin.

SENATOR CRONIN:

In the conference committee report, you'll find language that reiterates our commitment and our intent to hold the best interests of the child paramount.

PRESIDING OFFICER: (SENATOR DONAHUE)

Further discussion? Senator Shaw.

SENATOR SHAW:

Thank you, Madam President. Will the sponsor yield?

PRESIDING OFFICER: (SENATOR DONAHUE)

Indicates he'll yield, Senator Shaw.

SENATOR SHAW:

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The -- Senator, I'm not totally -- and usually I don't get into these debates with lawyers, because I'm not one, but I do have some experience in -- in adoptions, because that's what I -- that's what I was doing before I was elected to this Body. The -- in term -- in the case of Baby Richard here, the mother did know who the father was. Is that right? In the case of Baby Richard?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Cronin.

SENATOR CRONIN:

Your question is whether or not she knew the identity of the father? And if that's your question, I think the answer is yes. I think that's what the trial court shows.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Shaw.

SENATOR SHAW:

And what we are attempting to do here is to -- I don't know. Are you familiar with how a child is adopted in Illinois - and I'm certain that you are - today, where that you know who both parents are - natural parents? Isn't there usually a consent form signed? And -- and I'm not asking you to prejudge this or the -- or the juries that have ruled on this. What -- what happened to the consent forms in this case? Would -- would there have been a problem like this if they had followed -- I believe the procedure is that both parents should sign a consent form if the adoption is to occur?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Cronin.

SENATOR CRONIN:

We still have the law that governs consents and surrender and -- and that procedure, and those must be adhered to. The problem, as you well know, Senator, is that it's easy to get the consents from the mother, because everyone knows who the mother is. The

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problem is -- is to find out the identity of the father, and to give him notice, and -- and when you can't obtain a consent, then you have to proceed to termination of those parental rights. That's the problem.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Shaw.

SENATOR SHAW:

To the -- to the bill, and I -- I understand what you're trying to do, but in this case, Baby Richard's, it was clear that the lawyer or the -- or the natural mother knew who the father was, knew -- I can assume that -- they knew his -- she knew his whereabouts, but there was no effort to get a consent form from the natural father. So it seems as though, to me, that this is one of the major problems here, and I know that up there in -- up there in Cook County that they have a agency called Supportive Service that adopts kids -- youngsters from all over America, and that's one of the requirements. In here we're not addressing that issue. Here we just want to elevate the rights of the youngster and diminish the rights of the natural parents. I don't think that's fair, and not only that, with the notice provision here where you're talking about this register, you're going to register with DCFS. DCFS notifies some local newspaper. Maybe that person don't read the newspaper, and -- but he -- or, he has thirty days in which to come in - I believe it's from the date of birth of the child - to come in and file with the register. I'm not certain of that, but I believe that what we need to do is revisit this issue, take a hard look at it, and -- because in most adoption cases, attorneys are involved. And just as in any other civil proceeding - divorce and default divorce - notice should be given to that parent, but not just talk about you going -- you have to register with some agency, and this is enough to take your rights, and you can never reopen that case. Because as one of the previous

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speakers said, sometimes you don't know that you are the father until later, until after the fact, and -- but yet you have terminated the rights and the child is seven years old, and when you found out about it, you want to go into court, but you have no standing in the court. I think this is a bad bill. I think it should be revisited. I think we should look at it. I don't think we need to act on it today, and if we go forward with it, then it should be defeated.

PRESIDING OFFICER: (SENATOR DONAHUE)

Further discussion? Senator Trotter.

SENATOR TROTTER:

Thank you very much, Madam President. Will the speaker yield?

PRESIDING OFFICER: (SENATOR DONAHUE)

Indicates he'll yield, Senator Trotter.

SENATOR TROTTER:

Thank you very much. I'm going to try not to be redundant. There's been enough dialogue on here. I just -- if I could get a definition -- this -- this nebulous definition we've heard repeatedly, about "in the best interests of the child." How do you define what's in the best interests of the child if, in fact, you don't even know what -- who the other parent is, and in what they bring to the table and what they have to offer in the best interests of the child? So how do you define, in this case - in this language that you're purporting here - what's in the best interests of the child?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Cronin.

SENATOR CRONIN:

I think the best interests of the child is going to have to be defined on a case-by-case basis, and all the factors of the particular case are going to have to be weighed. I think a major component in measuring what's in the best interests of the child

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is going to have to be the time factor - the factor in the case of Baby Richard, whereby this child has lived for three and a half years with these adoptive parents. I think the best interests of the child is going to have to be weighed against the responsibility and the actions of the putative father - a father that, as you suggested in the conference -- in our committee today, who had a one-night fling and three years later decides that he had a child as a result of that - I think that there's no question that the interests of the child far outweigh his interests. Far outweigh it. And so I -- I'm not concerned about protecting his interests in that case.

PRESIDING OFFICER: (SENATOR DONAHUE)

Further discussion? Senator Trotter.

SENATOR TROTTER:

Well, in the case of that -- that one-night fling, in the case of maybe even some people here - I'm sure some of us might have been mistakes or been a fling amongst our parents - we weren't all just planned children. So you cannot just say that that was a irresponsible act and he does not show any responsibility because that night, in the -- in the throes of passion, he impregnated a woman and then just moved on. I mean, that doesn't mean that he's a irresponsible individual and can't go forward. However, in the language of -- of this bill, as we have it, you're saying that there must be clear and convincing evidence that this putative parent did not know that he had impregnated someone, and -- and because of that, by him not being able to prove within ten days, by virtue of him not having enough money to get a lawyer, not having the -- the benefits of having counsel in the family, it takes him ten, fifteen days before he can find someone that can handle his case, but you're saying that in ten days he relinquishes all rights to prove his clear and convincing case that he's a responsible individual. And I believe that's just a

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little overreacting versus when most of our cases here in the State of Illinois are judged on the preponderance of evidence and not on the clear and convincing instance as you're asking here, which we say is extraordinary evidence.

PRESIDING OFFICER: (SENATOR DONAHUE)

Further discussion? Senator Barkhausen.

SENATOR BARKHAUSEN:

Thank you, Madam President and Members. I just wanted to say a brief word, if I could, about the portion of the bill that deals, not with the current headline-grabbing adoption issue getting attention as a result of the Baby Richard case, but in addition, just to say something about the family support measures that Senator Cronin referred to in his opening remarks. I simply wanted to thank Senator Cronin and Chairman of the Committee, Senator Topinka, and Representative Dart in the House, the staff, the Department of Public Aid and the Governor's Office that we've worked with on what was Senate Bill 454 and is now incorporated in this conference committee report. Over the years many of us have worked together on trying to improve Illinois' not-so-great record in the area of child support enforcement, and this measure, I think, will go a long way towards improving our record both in the collection of child support and also in enabling ex-spouses who are owed what's referred to in Illinois as maintenance, otherwise known as alimony, in -- in those situations - the increasing number of situations - where an ex-spouse who owes support has moved out of Illinois to another state. Currently the law requires, generally speaking, that a -- that a whole new proceeding has to be started in that new state where the ex-spouse owing support has moved, and this will allow, in most situations, for the court in Illinois that has -- where the proceedings have been initiated in a divorce case to retain jurisdiction, in order to enforce support orders or to modify support orders in that

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other state. By becoming one of the first - perhaps the first state - in the country to adopt this Uniform Interstate Family Support Act, we hope to set an example for our other states to achieve uniformity in this area, and also with the -- at the same time, that we make it easier to collect support to reduce the pressure on welfare rolls that results when the collection of support is as inadequate as it has been in the past. So thank you, Senator Cronin, and the others that have worked on this conference committee report.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Trotter, I owe you an apology. I didn't mean to cut you off. Next time don't take a breath. All right? Senator Trotter.

SENATOR TROTTER:

Thank you. I guess the question that I would like to ask of the -- of the sponsor is why are you asking for clear and convincing evidence, which is extraordinary evidence, versus the preponderance of evidence in this case? Seemingly, you're taking away -- or, you're making it extra difficult for any individual to claim his -- his role in the child's life. Why -- why did you choose that language?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Cronin.

SENATOR CRONIN:

The clear and convincing standard is the standard of proof that is used throughout the Adoption Act and throughout related laws. As you know, clear and convincing has not been specifically defined. It's something greater than a preponderance, but something less than beyond a reasonable doubt. So to represent that it's some overburdened type of standard or unreasonable standard, I don't think is correct. It's a -- it's a subjective standard that is applied on a case-by-case basis.

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PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Trotter.

SENATOR TROTTER:

Seemingly -- to the bill: Seemingly, this is putting -- extraordinary pressures and too much responsibility on those individuals who do not have attorneys on retainer. You're saying, in ten days -- you find out you have a child, and in ten days you have to go through some legal maneuver to prove that you have this clear and convincing evidence that you're a responsible individual, that you actually love this child, and as a stable individual with a family - possibly another family - you want to bring that child to grow up with -- with his other siblings. This bill takes that away from -- from this individual who -- who can love his child, and probably even more than -- than adoptive parents. But we don't know that, because he's never been given the opportunity to make that kind of statement. But he does care. And not to say that -- again, that those adoptive parents and those foster people who are out here that are doing more than a yeoman's job in insuring that our children are loved and they are embraced, and actually become very responsive citizens -- I think that though they act as surrogates - and that's a very good role - I think the parent, be it the male or the female, you know, should also have a role in the upbringing of that child, and they should be given more of an opportunity to prove that they just want to be just the best that they could be for their child. This bill doesn't do that. I think there's still room, and we should allow ourselves more opportunity to discuss this issue and not allow this issue to change the present laws as is, just because there's a case pending, and that individual -- undoubtedly has enough clout that he can call in a Special Session to get legislation passed just so he can keep his child. I think this is the wrong way in which we should be trying cases here on this -- on this

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Floor. And I ask that all vote No until we can discuss it further.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Collins.

SENATOR COLLINS:

Question of the sponsor, please.

PRESIDING OFFICER: (SENATOR DONAHUE)

Indicates he'll yield, Senator Collins.

SENATOR COLLINS:

You -- Senator, you indicated that there were some -- some exceptions by which the father may seek some relief after not having filed within the thirty-day period. Could you tell me what page are those in the -- in the conference committee so I can look at them a little later? But I'm particularly concerned about the one who cannot -- that -- that they can prove that they did not know that they were a father. I think you indicated that. But what about the inability to obtain a lawyer or -- or legal advice? Would that be a legitimate exception for the rule?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Cronin.

SENATOR CRONIN:

I -- I don't think that this assumption that you need to have a lawyer to exert some responsibility is really relevant here. Page 60 of the conference committee report provides the exceptions to the registry. It says that a father who fails to register as provided is barred from bringing or maintaining any action to assert his interest, unless he proves by clear and convincing evidence that, number one, it was not possible for him to register within the period of time. An example used in committee was if he was called away to the Persian Gulf War. Number two, his failure to register was through no fault of his own. The examples given were that he was misled or defrauded. And number three - and all

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of these are -- all of them must occur - number three, he registers within ten days after it became possible for him to file. A lack of knowledge, however - and I -- I want to stress this for purposes of legislative intent - a lack of knowledge alone is not an exception to failure to register. Lack of knowledge alone does not give him an opportunity to assert his rights.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Collins.

SENATOR COLLINS:

Senator, I think that is probably -- I know it is. That's my greatest problem with this bill, and I'm glad you said that, because there are just so many people out there who really don't know. And I know cases after case where this happens. Where the -- where the girl refuses to tell the father, or the father -- or parents -- the parent of the girl refuses to support or help to support her, or for whatever reason, if they know who the father is. There are other reasons, like being afraid that if she tells who the father - and that's true - if she knows the father, she won't be able to get public assistance and public aid. All of the laws -- there are laws and they are legitimate reasons why these -- many times these girls refuse to tell their fathers -- the father of the child that they are the father. And -- and so if the father finds out - and guess what I'm concerned about? - in -- within a reasonable time frame that they know about it, after they know, that you can prove -- how would you prove, for example, it was ten days? I know -- I have now found out and it's been ten days since I got the news that -- that -- that the person is the father -- that the man is the father. How would you prove that?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Cronin.

SENATOR CRONIN:

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In response, Senator Collins, first of all, if the mother refuses to tell the father, then you have a case of fraud there, and therefore, that would fall within one of the exceptions. Secondly, you talked about what constitutes a reasonable time frame. You're talking about ten months here, Senator Collins. Ten months from the time that the father had a relationship with the mother to thirty days after the child is born. Now, if that doesn't give the father adequate time to be involved, to -- to assert his responsibility, to take an interest, to become aware, then -- then I'm sorry, we have to draw the line somewhere.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Collins.

SENATOR COLLINS:

So that year starts at -- at the time of conception? Are you saying that that's when it starts?

PRESIDING OFFICER:

Senator Cronin.

SENATOR CRONIN:

He can file anytime he wishes. He can file anytime. It could be the -- the following day after he's had a relationship if he wants to protect his rights. In the case of Donne Trotter - the gentleman that had the one-night fling - if -- if your intent is to protect the father who has the one-night fling, if you're concerned about protecting his rights as a father, then -- then all he need do is march on down to DCFS and fill out the form. That's all he has to do, and he has ten months to do it.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Collins.

SENATOR COLLINS:

Yes. Senator, I -- I guess, and let me just comment to the -- to the issue, because I think probably more so than anyone in -- in this Chamber, I am keenly and painfully aware of the need to --

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to relax adoption rules in the State, and that there are -- the fact that there are thousands of kids out there who are suffering and who could, in fact, have decent, loving, caring homes, if we would, in fact, lax some of the rules. But I'm really afraid that this whole issue here has been caught up into the emotions of -- of the more recent court case. And -- and what is happening here, we are beginning to look -- I mean, to look at this thing from a political prospective. But let me tell you something: For me -- probably the best vote for me on this issue - because I have received a lot of calls, the fact that I am a statewide candidate - the best vote for me politically would be to vote Yes. Well, let me tell you something: I didn't get to where I am today by doing something because it was politically correct, but something because I -- but morally and legally wrong. And this -- the whole issue -- and I won't go through all of them - you know as I know there are serious problems here about due process and there's also -- which you acknowledged. The fact that a lack of knowledge of the child is -- is no grounds in and of itself by which you could exert your rights for -- for -- for paternity of this child later on -- for guardianship of this child later on, is incorrect. That to me is morally and legally wrong, and for that reason, I'm going to vote No -- Present on this bill, because I believe in the basic concept. What I think we have to do, instead of getting caught up into the emotions and the politics, is to wait and really take a look at and try and strengthen this bill and do the correct thing. That's what I think the objection here. I don't think any of the people who are objecting to this bill today are saying that it's something that we don't need to do. I don't think we're going to fix that case by this bill. And what we ought to do, we most certainly ought to think about the rights of the child here. Does a child have a right to know his or her legal father? Is it wrong to the child for a mother to deny that child that right? And is

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it right for the State of Illinois to allow the person who will benefit from the adoption -- put the burden of proof on them to go out and actually find, or to make efforts to find, the legal parent or the legal father of this child? And that, to me, is a violation of the child's right. Or at least it leaves room to violate that right. And so we need to think very careful about that Section of the bill, and how we can tighten it up to be responsible and fair to the child, to the -- to the -- to the legal parent, and to the adoptive parent in this case. And for that reason, I'm going to vote Present.

PRESIDING OFFICER: (SENATOR DONAHUE)

Further discussion? Senator Palmer.

SENATOR PALMER:

Thank you, Madam President. A question of the sponsor.

PRESIDING OFFICER: (SENATOR DONAHUE)

Indicates he'll yield, Senator Palmer.

SENATOR PALMER:

Senator Cronin, I think there is a great deal in this bill that is admirable. I'm concerned about the registry, and I have a few questions about that. As I understand it, there is no obligation on the part of any agency, department or whatever to search for the putative father; this is just an announcement. Would you go into that a little further?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Cronin.

SENATOR CRONIN:

The registry is not the only form of notice. As was pointed out in question and answer with Senator Welch, there still is the exhaustive notification process, which is within our practical ability to make notification. So it's not the only mechanism for notice.

PRESIDING OFFICER: (SENATOR DONAHUE)

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Senator Palmer.

SENATOR PALMER:

Yes. I do understand that, and I did hear you describe the others, but it sounded to me almost in the same vein as we would publish an announcement or notify a homeowner that taxes are going up. It seemed to have the same list of -- of possibilities. What would be the relationship -- on page 57 you have some of the -- on the affidavit where the mother can choose not to identify or name the biological father, and then on line 12, number (9), that the mother can now -- having refused to identify and so forth, is barred from attacking the proceedings for the adoption and so forth. Now, would you go into that in a little more detail? The mother now refuses to name the father, for whatever reason. It seems to me that that's -- the father is almost being treated in this matter as a nuisance and someone who is to come lately into this process, where others seem to have standing that is far more sound, and I'm concerned about that.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Cronin.

SENATOR CRONIN:

Senator Collins -- or, Senator Palmer, this provision that you've pointed out applies in that this kind of bolsters and informs and discloses exactly what's happening for the mother. As you well know, through the -- the surrender and consents process of an adoption, the mother already has affected what's contemplated in this affidavit. The mother has already given up her rights; her parental rights are already terminated. In some sense, as Senator Hawkinson pointed out in committee, this is redundant. So, with respect to the lines 12 through 16, I think that we're really trying to fully inform the mother and disclose exactly what the nature of her decision is.

PRESIDING OFFICER: (SENATOR DONAHUE)

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Senator Palmer.

SENATOR PALMER:

Thank you for that. To the bill: As I said, I certainly think there is much that is meritorious in this bill, but when I look at it, I do have some pause, because it looks as if the mother -- and certainly biologically we can certainly know who the mother is, and she can have the wherewithal and the -- everything here to be able to make a decision. But in your own words, and in -- in the bill itself, there is really not too much effort on the part of anyone to find out who the father is. The father must just -- if one knows his address or whatever, will then be notified, and he has a time limit during which he can say, "I'm the father." I think that needs a lot more thought. It seems to me that the father is left out of the process, and it's interesting that this, in my mind, flies in the face of other movements that are going on to identify fathers and to make them responsible. So I do have some concern about that part of it.

PRESIDING OFFICER: (SENATOR DONAHUE)

Further discussion? Senator Stern.

SENATOR STERN:

I, like my colleagues, Ladies and Gentlemen, am a little bit concerned about the -- the timing of this rather emotional piece of legislation, and the rather fast track that it's been put upon. However, I think by and large that it is good legislation, and legislation that I can support, partly because I support strongly the empowerment of foster parents that appears in this bill that has not been discussed much. I'm a foster parent myself, or used to be many years ago, and believe strongly that foster parents do God's work in the raising of children. I also approve, as Senator Barkhausen pointed out, of bringing us into the national network for child support. I think that's also excellent legislation. Let's talk a little about Baby Richard. This situation certainly

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is unique. This is not a father who ignored the mother, or who absconded and did not do his part. I think some of the concern here is that very few of the fathers we are talking about who might conceivably - if you'll pardon the use of the word - become involved in trying to interfere with a -- an almost completed or perhaps completed adoption, very few of them would have the kind of involvement that this father has had and wish to have. I think by and large we can say that only one in a hundred thousand about-to-become fathers in this situation, without a relationship to the mother, are going to care about trying to reclaim that infant. It is for that one that I suppose we must be concerned here. On the other hand, I think that the -- the effort to interfere in a working adoption must require a very high level of proof that this is a good thing to do on -- for the child involved, and I suspect in most cases that is not going to be possible. I have to believe that this is much better legislation than it is bad legislation. I would call attention, I think, to the sponsor's suggestion that the putative father could run over to the Department of DCFS and file his name on the roster the morning after he has had his adventure, is a little hilarious. However, I think the legislation is good, substantive and timely, and I think I would support an Aye vote.

PRESIDING OFFICER: (SENATOR DONAHUE)

Further discussion? Senator Smith.

SENATOR SMITH:

Thank you, Madam Chairman. I'd like to address the sponsor. I -- I would like to call to your attention on page 56 of the bill, at the bottom. I don't want to appear redundant. My colleague, Mrs. Palmer -- Senator Palmer, brought up this same thing, but mine is just a little bit different. It says that if I am unwilling to -- this is on the Affidavit of Identification, at the bottom of the page, and this is to the young lady who is the

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mother - that if I am unwilling to identify the biological father, I do not wish to name the biological father of the child for the following reasons, et cetera. That alone should tell the persons who are in the adoption building -- business or either the head of the foster parent, that a mother that's going to give her baby up, that -- needs time to investigate this, because sometimes these young girls -- they don't care. They don't -- they'll take your money. They will get rid of the baby and get in business with another, and there the boy is. I'm thinking in terms of the young man who may not know that he is a father, and that if he did know it, she would not identify him, and then down the line he would find out about it and of course, he's crushed, and would be possibly very happy to father that child. So I'm saying there -- right there needs to be emphasized; that if such an affidavit is filled out by a young lady, saying she don't want to identify who the father is, that there should be investigation and -- and wait up a little while of going for an adoption. I think it's very important, because a lot of our young girls they don't think very thorough, and puts the young man in a bad way. And young men have a hard way to go as it is. Very difficult. A woman is always favored, but a young man is always -- he has a hard way to go. So I'm saying -- bring this to light to you, in your legislation -- you have nice legislation. It's good legislation; it is. I'm not... But after all, you have to think about our young men who cannot come into these Chambers and speak for themselves. They can't go into the court sometime, and no one will listen to them. And so we have to sort of listen out for them and speak in their behalf, too. Because there are some good young men in our society today that are walking the streets.

PRESIDING OFFICER: (SENATOR DONAHUE)

Further discussion? Senator Hawkinson.

SENATOR HAWKINSON:

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Thank you, Madam President. I rise in strong support of Conference Committee Report to House Bill 2424. The bill does a number of things other than the one that we've been spending the most time on, and one that hasn't received a lot of mention but that is extremely important is -- is legislation championed earlier by Senator Jones and supported by all of us in favor of the rights of foster parents, and gives foster parents a couple of things, but most importantly, when foster parents have had a child for a year, it gives them the right to intervene in court proceedings when that child is to be displaced. It also sets up a task force to develop a foster parents' bill of rights, which is extremely important to foster parents around the State of Illinois. You know, given the current state of the case law and the law in Illinois, adoptive parents are afraid today. What has happened in the case that has had this publicity has caused adoptive parents who have had children in their families for years to be concerned that they might lose them - that their family could be disrupted. We have got to bring some certainty to the law so that adoption can continue, because we all know that adoption is a beautiful thing, and that we need to encourage adoption in this State and encourage the growth of -- of families, and not set up some sort of a legal roadblock which has adoptive parents and prospective adoptive parents fearing that if they go through adoption, they might someday suffer the heartbreak of seeing that child ripped from their family. So it's important to bring some certainty to the law. This bill attempts to draw a balance. It actually adds to the opportunities for putative fathers to assert their interest in the child. It gives those fathers more access to those children than the current state of the law. By setting up this registry, it gives them one more chance to express their interest in this child or this child-to-be. Right now they have fewer options to do that. So

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this adds to the rights and the opportunities that fathers and prospective fathers have to express an interest in that child or that child-to-be. It doesn't take away from it; it adds to it. But the other thing that it does is it attempts to bring some certainty to the system and give some confidence to adoptive parents. And it attempts to do that in the way as described by Senator Cronin, and earlier in the House by Representative Dart. It attempts to streamline and expedite the cases so that you don't have the cases dragging out for three to three and a half years, which only increases the heartache and the heartbreak in these cases. It attempts to expedite the process and move these cases to the head of the line, as it were. It also reduces the period of appeal from two years to one. It is a strong bill. However, for purposes of legislative intent, I need to engage in -- in a bit of dialogue with the -- with the sponsor of the bill, Senator Cronin, on a couple of matters. First of all - and it's been alluded to - on page 60 of the conference committee report are some ways in which a putative father can continue to exercise his rights and his interest in the child, even when he has missed the deadline for registry, and it sets up the way that he can prove this - where it wasn't possible to register, where the failure to register was through no fault of his own, and he registered within the ten-day period after it became possible. Then, however, there is a -- a sentence which says that a lack of knowledge of the pregnancy or birth is not an acceptable reason for failure to register, and for purposes of legislative intent -- and we discussed this with the Deputy Public Guardian and with the Chicago Bar Association Representative Committee, and -- and were told that that is not meant to be a bar to the father's right to come in and prove the conditions under subsections 1, 2 and 3. Rather, as Senator Cronin said earlier in debate, where there is a lack of knowledge, that alone is not sufficient to establish the

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evidence by clear and convincing evidence. However, if the father had this lack of knowledge and it was through no fault of his own - he'd been defrauded or misled, or it was not possible for him to have this knowledge because he was off in Desert Storm, as Senator Trotter has suggested, or other reasons - that the lack of knowledge can still be a reason to come in under subsections 1, 2 and 3. Is that correct, Senator Cronin?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Cronin.

END OF TAPE

TAPE 2

SENATOR CRONIN:

That's correct.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Hawkinson.

SENATOR HAWKINSON:

The -- the second point that I think we need -- we need some clarification on is in regard to the affidavit itself, as has been mentioned here; that in the affidavit, there -- there -- there is a section which says -- and that is on page 57. The affidavit is on 56 and 57, but on 57, subparagraph 9, indicating that if the mother is unwilling, refuses to identify or misidentifies the biological father of the child, absent fraud or duress, it says that she is permanently barred from attacking the proceedings for the adoption at any time after she signs this document. The point I made in committee, and -- and would reiterate here, is that when a proper consent or a proper surrender to an agency is signed by a

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biological mother, absent fraud or duress, that the mother's rights are barred by the signing of the consent or the signing of the surrender, and it is not any additional requirement for her to be barred, that she somehow misled people in this affidavit; that the signing of a -- a valid consent or a valid surrender alone bars the mother from challenging the adoption in the future, and in that respect, this language in the suggested affidavit is redundant, and the wording of the affidavit is not absolutely required by the language as long as it's substantially the same, and perhaps that language could be changed in the affidavit. Is that correct, Senator Cronin?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Cronin.

SENATOR CRONIN:

Yes. That's correct.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Hawkinson.

SENATOR HAWKINSON:

Finally, and unrelated to the issue that -- that has had most of the debate here today, there is a -- a drafting problem in the conference committee report, and in the House, when Representative Dart passed this bill yesterday, and I -- when I read it initially, read it the same way. It says at the bottom of the first page that the language we've been talking about is inserted immediately after the enacting clause. And it was the representation to the House of Representatives, and particularly to some groups who were concerned about the original bill, that the original bill was, in fact, deleted by this conference committee report. In our analysis, and as explained earlier by Senator Cronin, apparently that is not the case, and the original bill language is still, in fact, technically in this conference committee report. That language was controversial, and -- and

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many people who were interested in -- in -- in family rights and in preserving the rights of natural parents were concerned about that language, because it seemed to make the DCFS service plan and failure to abide by the DCFS service plan grounds in and of itself for terminating parental rights. It's a very controversial provision. In the House, in the debate, the opponents of that language backed off their opposition to this conference committee report because they were led to believe - innocently, I believe, but nevertheless led to believe - that it was not in this conference committee report. I'm -- I'm advised that this cannot be corrected by Enrolling or Engrossing, although we may still -- Representative Dart and Senator Cronin may be pursuing that, but I think in the interest of fairness to our House brethren, as well as the opponents of that original bill, that that -- faith must be kept with that commitment to keep it out, and that if it cannot be done by Enrolling and Engrossing, we have to have a commitment for an amendatory veto to take out that -- that controversial language in the original bill. And I would ask the sponsor if he can make that kind of commitment.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Cronin.

SENATOR CRONIN:

Well, in response, I don't know whether or not I can make a commitment on behalf of the Governor. I can say this for the record: In my remarks in committee and here on the Floor, I pointed out that I -- I pointed out that the original bill still remains in the conference committee report. That information just came to me moments before we presented the bill. If you read the conference committee report, there is no language in there about service plan, but if you look real careful, as a -- as a technician that I know many of you are, you will see that -- that it does -- by inserting and referencing other language, that it

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does indeed include that. It was not my intent to have that portion be part of this package. And Representative Dart, the original sponsor of this bill, also was under the impression that that was not included in this bill. So it would be my wish to request of the Governor's Office that that portion be stricken from the bill, and that we proceed.

PRESIDING OFFICER: (SENATOR DONAHUE)

Further discussion? Senator Trotter, for a second and a half times, and I would ask that you keep your remarks very short.

SENATOR TROTTER:

Yes. Well, I'll be -- I'll be very short, Madam President. And actually it is just the second time. However, for a question of the sponsor. With the immediate effective date, does this, in essence, create a new cause of action for the family in the Baby Richard case?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Cronin.

SENATOR CRONIN:

I don't know whether or not you could term it a new cause of action. I think there's language in here that may be pertinent to that case, but I can't tell you with certainty whether or not the language in this bill would have a positive impact on the case on behalf of the adoptive parents or -- or -- in effect, it's not positive. I -- I can't tell you that.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Trotter.

SENATOR TROTTER:

Seemingly they can go to the circuit courts of the County of Cook and ask for another case, and at this point, they've already had three trials. They're already in the Supreme Court. So they've gone before three tribunals. The way the language reads, it says, in fact, that they can -- they can ask for a new case.

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So are we circumventing the courts at this time?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Cronin.

SENATOR CRONIN:

Well, first of all, the Supreme Court would have to agree to hear a petition to entertain the idea of remanding this case. They'd have to overturn their decision. They'd have to reconsider their -- their unanimous decision, and they'd have to overturn that decision and then remand it to the circuit court. While my personal sympathies are with the adoptive parents, and I think there are some problems with that case from the outset, my main objective in this legislation is prospective, to insure that Baby Richard cases don't happen again.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Trotter.

SENATOR TROTTER:

Then why do we have the language for immediate effective date if it is not to have an impact on Baby Richard's case?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Cronin.

SENATOR CRONIN:

I didn't say that this would not have an impact on it. I said that I can say with certainty that it will have an impact on prospective cases. If it has an impact on the pending case, from my own personal perspective, I think that'd be wonderful. But I can't tell you what the justices will decide.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Trotter.

SENATOR TROTTER:

The question is, then -- then why are we having an immediate effective date? If you're not -- if your intent is not to have an impact on the Baby Richard's case and only on the prospective

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cases, then why are we saying we have the immediate effective date, which will more than likely have an impact on something that's already gone through these three tribunals, which is the system that we've set up here in this State?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Cronin.

SENATOR CRONIN:

Maybe I misspoke, or maybe I -- said something that was confusing. I can't tell you what the outcome is going to be in terms of its impact on the case. Whether this bill does have an impact on the case is something for the justices to decide. I -- I -- I -- my intent is, yes, that it would have an impact on Baby Richard and all other cases in the future that are similarly situated.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Trotter, last question.

SENATOR TROTTER:

Well, actually I'm not even questioning. Just in closing, I just want to say that seemingly there -- there is good legislation here. There are some good points in here, and certainly we need to tighten up our -- our laws in relation to adoptions and to foster parents. However, that should not be cause for us to vote to circumvent the rights of any parent, and certainly should not be cause for us to circumvent the rights of the court, which in fact, with this immediate effective date, we're doing. This just is not the right thing that we should be getting into at this point in time - a statement. Now, just a question of the Chair: This being a Special Session, how many votes will it take for passage of this legislation?

PRESIDING OFFICER: (SENATOR DONAHUE)

It's after July 1st; it will take thirty-six, Senator. Senator Cronin, to close.

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SENATOR CRONIN:

Thank you very much, Madam President. We have talked about this and debated this at length. We know what's at stake here, and what are some of the issues involved. The main objection seems to be from those who are concerned about the father of the one-night stands, or the father that entered into a relationship and then somehow or other drops out and resurfaces some three years later. I don't know how to answer some of those questions, if you're concerned about protecting the rights of the father of a one-night stands. I -- I would suggest to you that you look at the goal of this legislation. The goal of this legislation is to protect and secure the rights of adoptive parents, and -- and I think you need to know that a father who wishes to secure his rights as a parent has six different avenues to assert those rights. He can live with the mother; he can marry the mother; he can marry -- he can -- he can show some sort of interest by paying support - he can send ten dollars somewhere along the line, and that would be evidence of paying support; he can initiate a paternity action; he can have been married to her some three hundred days prior to the birth of the child. There are any number of ways. And I think from a public policy standpoint, I think, Senator Trotter, I'd urge you to take the position that we should encourage these fathers to take these kinds of actions, instead of looking for ways to let them off the hook, instead of looking for ways to protect the rights of the father of the one-night stands and -- who takes a walk. I think that these requirements and these avenues for him to assert his rights are -- are available; they're known. If he's interested, he may avail himself of those. The goal is to protect adoptive parents and their rights, and to secure their rights as parents. I ask for your favorable vote.

PRESIDING OFFICER: (SENATOR DONAHUE)

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The question is, shall the Senate adopt the Conference Committee Report on House Bill 2424. Those in favor will vote Aye. Opposed, 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 46 Ayes, 4 Nays, 7 voting Present. The Senate does adopt the Conference Committee Report on House Bill 2424, and the bill, having received the required three-fifths majority, is declared passed. Senator Trotter has requested a verification, and that request is always in order. Senator Trotter has requested a verification. Will all Senators be in their seats? Mr. Secretary will read the affirmative votes.
SECRETARY HARRY:

Following Members voted in the affirmative: Barkhausen, Bowles, Burzynski, Butler, Carroll, Cronin, Cullerton, DeAngelis, DeLeo, Demuzio, Dillard, Donahue, Dudycz, Ralph Dunn, Thomas Dunn, Farley, Fawell, Fitzgerald, Geo-Karis, Hasara, Hawkinson, Jacobs, Karpel, Klemm, Lauzen, Madigan, Mahar, Maitland, Molaro, O'Daniel, O'Malley, Peterson, Petka, Rauschenberger, Rea, Severns, Shadid, Sieben, Stern, Syverson, Topinka, Watson, Weaver, Welch, Woodyard and Mr. President.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Trotter, do you question the presence of any Member?

SENATOR TROTTER:

Senator Cullerton.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Cullerton, are you on the Floor? Senator Cullerton on the Floor? Strike his name.

SENATOR TROTTER:

Senator Maitland.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Maitland is in -- is Senator Maitland on the Floor? Senator Maitland on the Floor? Strike his name.

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SENATOR TROTTER:

Senator Molaro.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Molaro in the Chambers? Senator Molaro? Strike his name.

SENATOR TROTTER:

Senator Fitzgerald. Oh, I see him. I see him.

PRESIDING OFFICER: (SENATOR DONAHUE)

He's right there in the center aisle.

SENATOR TROTTER:

Right. Plotting against the President, I'm sure. Senator Farley.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Farley? Is he in the Chamber? Senator Farley? Senator Farley. Strike his name.

SENATOR TROTTER:

No, we -- in front of me. That's all. Thank you very much, Madam President.

PRESIDING OFFICER: (SENATOR DONAHUE)

On a verified roll call, the Ayes are 42, the Nays are 4, 7 voting Present. The -- the roll has been verified, and House Bill 2424, having received the required constitutional majority, is declared passed. Senator Philip.

SENATOR PHILIP:

Thank you, Madam President, Ladies and Gentlemen of the Senate. Let me try to bring you up to date on where we are exactly. And as you know, the four Leaders and the Governor met this morning. The Speaker has come up with some reasonable changes in the budget. The budgeteers are back together again. We have some people working on Medicaid. It would be in -- the intention of the Chair to come back tomorrow morning at 10 o'clock, see exactly where we are at 10 o'clock in the morning.

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If it looks like we could get it done on Saturday, maybe first thing Sunday morning, you know, maybe we ought to do that, or adjourn sometime tomorrow and come back on Wednesday, Thursday or Friday. But we'll make that decision sometime tomorrow after we come in at 10. And I would like to have, Madam President, a Republican Caucus in my office as soon as we adjourn.

PRESIDING OFFICER: (SENATOR DONAHUE)

That request is in order. Is there any further business to come before the Third Special Session of the Senate? If not, Senator Weaver moves that the Third Special Session stand adjourned until Saturday, July 2nd, at 10 p.m. -- at 10:05 a.m.

(SENATE RECONVENES SECOND SPECIAL SESSION)

(See Second Special Session Transcript)

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