

RPTS DEANDCMN SECKMAN

MARKUP OF:

H.R. 3796, THE "ADAM WALSH REAUTHORIZATION ACT OF 2012";

H.R. 6062, THE "EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM  
REAUTHORIZATION ACT OF 2012"; AND

H.R. 3803, THE "DISTRICT OF COLUMBIA PAIN-CAPABLE UNBORN CHILD  
PROTECTION ACT."

Wednesday, July 18, 2012

House of Representatives,  
Committee on the Judiciary,  
Washington, D.C.

The committee met, pursuant to call, at 2:07 p.m., in Room 2141,  
Rayburn House Office Building, Hon. Lamar Smith [chairman of the  
committee] presiding.

Present: Representatives Smith, Sensenbrenner, Coble,  
Goodlatte, Lungren, Chabot, Pence, Forbes, King, Franks, Jordan, Poe,  
Chaffetz, Griffin, Marino, Gowdy, Ross, Adams, Quayle, Amodei,

Conyers, Berman, Nadler, Scott, Watt, Lofgren, Waters, Cohen, Johnson, Pierluisi, Quigley, Chu, Deutch, and Sanchez.

Staff Present: Richard Hertling, Staff Director and Chief Counsel; Travis Norton, General Counsel and Parliamentarian; Sarah Kish, Clerk; Sarah Allen, Counsel; Paul Taylor, Counsel; Perry Apfelbaum, Minority Staff Director, Danielle Brown, Minority Parliamentarian; Ashley McDonald, Minority Counsel; and David Lachmann, Minority Counsel.

Chairman Smith. The committee will come to order.

Without objection, the chair is authorized to declare recess of the committee at any time. The clerk will call the roll to establish a quorum.

The Clerk. Mr. Smith?

Chairman Smith. Present.

The Clerk. Mr. Sensenbrenner?

[No response.]

The Clerk. Mr. Coble?

[No response.]

The Clerk. Mr. Gallegly?

[No response.]

The Clerk. Mr. Goodlatte?

[No response.]

The Clerk. Mr. Lungren?

[No response.]

The Clerk. Mr. Chabot?

[No response.]

The Clerk. Mr. Issa?

[No response.]

The Clerk. Mr. Pence?

[No response.]

The Clerk. Mr. Forbes?

[No response.]

The Clerk. Mr. King?

[No response.]

The Clerk. Mr. Price?

[No response.]

The Clerk. Mr. Gohmert?

[No response.]

The Clerk. Mr. Jordan?

[No response.]

The Clerk. Mr. Poe?

[No response.]

The Clerk. Mr. Chaffetz?

[No response.]

The Clerk. Mr. Griffin?

[No response.]

The Clerk. Mr. Marino?

Mr. Marino. Present.

The Clerk. Mr. Gowdy?

Mr. Gowdy. Here.

The Clerk. Mr. Ross?

[No response.]

The Clerk. Ms. Adams?

Mrs. Adams. Present.

The Clerk. Mr. Quayle?

[No response.]

The Clerk. Mr. Amodei?

[No response.]

The Clerk. Mr. Conyers?

[No response.]

The Clerk. Mr. Berman?

[No response.]

The Clerk. Mr. Nadler?

[No response.]

The Clerk. Mr. Scott?

Mr. Scott. Present.

The Clerk. Mr. Watt?

Mr. Watt. Present.

The Clerk. Ms. Lofgren.

[No response.]

The Clerk. Ms. Jackson Lee?

[No response.]

The Clerk. Ms. Waters?

[No response.]

The Clerk. Mr. Cohen?

[No response.]

The Clerk. Mr. Johnson?

Mr. Johnson. Present.

The Clerk. Mr. Pierluisi?

[No response.]

The Clerk. Mr. Quigley?

[No response.]

The Clerk. Ms. Chu?

Ms. Chu. Present.

The Clerk. Mr. Deutch?

[No response.]

The Clerk. Ms. Sanchez?

[No response.]

The Clerk. Mr. Polis?

[No response.]

Chairman Smith. The gentleman from Utah?

Mr. Chaffetz. Present.

Chairman Smith. The gentleman from Arkansas?

Mr. Griffin. Present.

Chairman Smith. The gentleman from Texas?

Mr. Poe. Present.

Chairman Smith. The gentleman from New York?

Mr. Nadler. Present.

Chairman Smith. The gentleman from New York is present.

The clerk will report.

The Clerk. Mr. Chairman, 13 members responded.

Chairman Smith. A working quorum is present.

Now before we proceed with our markup, I want to recognize someone who is here, and that is Sarah Kish who is sitting in before us. Now Sarah has been a valuable member of our committee staff beginning as an intern many years ago. She spent the last year and a half as a person who has called the rolls during our markups. Sometimes she calls the roll slowly. Sometimes she calls the roll quickly. Sarah's ability

to communicate, attention to detail and dedication to the judiciary committee will be greatly missed.

However she will still be close by and will only be moving across the street to Eric Cantor's office. As a floor assistant, we will likely see her on the floor during votes, though some of us will see her more often than others. We thank Sarah for her contributions to this committee and wish her continued success in her new position. So, Sarah, thank you for your great work and we appreciate all you have done.

[Applause.]

Chairman Smith. You really have done a great job. You maintained your poise. You have been confident, and you have been respectful, all of the above. We appreciate all that you have done.

Pursuant to notice, I now call H.R. 6062 for purposes of markup. The clerk will designate the bill.

The Clerk. H.R. 6062, to reauthorize the Edward Byrne Memorial Justice Assistance Grant Program through fiscal year 2017.

[The bill follows:]

\*\*\*\*\* INSERT 1-1 \*\*\*\*\*

Chairman Smith. Immediately before we adjourned last week, the pending question was on the Nadler amendment.

Without objection, the gentleman from New York will be recognized for 30 seconds to remind us what was the amendment all about.

Mr. Nadler. Thank you, Mr. Chairman. The amendment would provide incentive for States and localities to increase the Byrne JAG funding to improve the treatment of rape victims and reduce the rape kit backlog. It would not, contrary to some comments at our last markup, force jurisdictions to act or adopt a one-size-fits-all approach. What would happen if this language is adopted is that localities which voluntarily chose to take certain steps to help sexual assault victims and improve their system for rape kit testing receive extra Federal Byrne JAG funding. I ask all members to vote in favor of the amendment, and I yield back the balance of my time.

Chairman Smith. Okay. Thank you, Mr. Nadler.

We will proceed to call the roll and vote on the Nadler amendment.

The question is on the Nadler amendment.

The Clerk. Mr. Smith.

Chairman Smith. No.

The Clerk. Mr. Smith votes no.

Mr. Sensenbrenner?

[No response.]

The Clerk. Mr. Coble?

[No response.]

The Clerk. Mr. Gallegly?

[No response.]

The Clerk. Mr. Goodlatte?

[No response.]

The Clerk. Mr. Lungren?

[No response.]

The Clerk. Mr. Chabot?

[No response.]

The Clerk. Mr. Issa?

[No response.]

The Clerk. Mr. Pence?

[No response.]

The Clerk. Mr. Forbes?

[No response.]

The Clerk. Mr. King?

[No response.]

The Clerk. Mr. Franks?

Mr. Franks. No.

The Clerk. Mr. Franks votes no.

Mr. Gohmert?

[No response.]

The Clerk. Mr. Jordan?

Mr. Jordan. No.

The Clerk. Mr. Jordan votes no.

Mr. Poe?

[No response.]

The Clerk. Mr. Chaffetz?

[No response.]

The Clerk. Mr. Griffin?

[No response.]

The Clerk. Mr. Marino?

Mr. Marino. No.

The Clerk. Mr. Marino votes no.

Mr. Gowdy?

Mr. Gowdy. No.

The Clerk. Mr. Gowdy votes no.

Mr. Ross?

[No response.]

The Clerk. Ms. Adams?

Mrs. Adams. No.

The Clerk. Ms. Adams votes no.

Mr. Quayle?

[No response.]

The Clerk. Mr. Amodei?

[No response.]

The Clerk. Mr. Conyers?

[No response.]

The Clerk. Mr. Berman?

[No response.]

The Clerk. Mr. Nadler?

Mr. Nadler. Aye.

The Clerk. Mr. Nadler votes aye.

Mr. Scott?

Mr. Scott. Aye.

The Clerk. Mr. Scott votes aye.

Mr. Watt?

Mr. Watt. Aye.

The Clerk. Mr. Watt votes aye.

Ms. Lofgren?

[No response.]

The Clerk. Ms. Jackson Lee?

[No response.]

The Clerk. Ms. Waters?

[No response.]

The Clerk. Mr. Cohen?

[No response.]

The Clerk. Mr. Johnson?

Mr. Johnson. Aye.

The Clerk. Mr. Johnson votes aye.

Mr. Pierluisi?

Mr. Pierluisi. Aye.

The Clerk. Mr. Pierluisi votes aye.

Mr. Quigley?

[No response.]

The Clerk. Ms. Chu?

Ms. Chu. Aye.

The Clerk. Ms. Chu votes aye.

Mr. Deutch?

[No response.]

The Clerk. Ms. Sanchez?

[No response.]

The Clerk. Mr. Polis?

[No response.]

Chairman Smith. The gentleman from Indiana.

Mr. Pence. No.

The Clerk. Mr. Pence votes no.

Chairman Smith. The gentleman from Arkansas.

Mr. Griffin. No.

The Clerk. Mr. Griffin votes no.

Chairman Smith. The gentleman from North Carolina.

Mr. Coble. No.

The Clerk. Mr. Coble votes no.

Chairman Smith. The gentleman from Texas, Mr. Poe.

Mr. Poe. No.

The Clerk. Mr. Poe votes no.

Chairman Smith. The clerk will report.

The Clerk. Mr. Chairman 6 members voted aye, 10 members voted nay.

Chairman Smith. The majority voted against the amendment. The amendment is not agreed to.

Are there any other amendments?

Mr. Johnson. Mr. Chairman, I have an amendment.

Chairman Smith. The gentleman from Georgia is recognized at the purpose of offering an amendment. The clerk will report the amendment.

The Clerk. An amendment to H.R. 6062, offered by Mr. Johnson of Georgia. Page 2, line 2, strike \$800 million and insert \$1,095,000,000.

[The amendment of Mr. Johnson follows:]

\*\*\*\*\* INSERT 1-2 \*\*\*\*\*

Chairman Smith. The gentleman from Georgia is recognized to explain his amendment.

Mr. Johnson. Thank you, Mr. Chairman.

Americans across this country deserve to feel safe in their communities. In these tough economic times which require difficult choices, we must not sacrifice our safety in the name of budget cutting. That is why I am offering this amendment which will increase the authorization for the Edward Byrne Memorial Justice Assistance Grant Program to \$1,095,000,000. This is the current authorization level that was agreed to on a bipartisan basis. The Bureau of Justice Assistance reports that JAG is the leading source of Federal justice funding to State and local jurisdictions, including Scranton, Pennsylvania, which reduced their law enforcement personnel down to \$7.50 an hour -- or \$7.25 an hour, minimum wage, because they are hurting for money.

According to the National Criminal Justice Association, the breadth and flexibility of this JAG program means States and local communities can use JAG funds to balance resources and address problems across the entire criminal justice system and to react quickly to urgent challenges and changing circumstances. Cutting the authorization for this program does nothing but signal that Congress no longer has complete support for the JAG program.

Cutting the authorization will not save money because, as my colleagues well know, an authorization is not an appropriation. In fact, Congress has never appropriated the maximum authorized amount.

There is no justifiable reason to reduce the authorization at this time. Because it is impossible to know the economic and law enforcement reality of future fiscal years, it would be unwise to arbitrarily reduce the authorization for this important program.

By approving my amendment and maintaining the current authorized amount will send a signal to law enforcement agencies across this country that this Congress stands with them and will be there when they need us just like they are always there when we need them. Instead of cutting the authorization, we should look for ways to fully fund this program and support law enforcement.

Thank you, Mr. Chairman, I urge the adoption of my amendment, and I yield back the balance of my time.

Chairman Smith. Thank you, Mr. Johnson.

The gentleman from Pennsylvania, Mr. Marino, is recognized.

Mr. Marino. Thank you, Mr. Chairman.

I respectfully must oppose this amendment offered by my good friend from Georgia. The hurt for money is felt throughout all layers of government, especially at the Federal level, where we are rapidly approaching \$17 trillion in debt. This amendment will increase the authorization level of the Byrne JAG program in the underlying bill to a level of \$1.095 billion per year.

This amendment ignores two realities: One, America continues to live through an economic crisis. And two, the highest annual appropriation for Byrne JAG grants in the last 6 years was \$532 million in fiscal year 2009, well below the \$800 million authorization level

in the underlying bill.

H.R. 6062 is a bipartisan bill that endeavors to reauthorize this important program before it expires on September 30th of this year, but Congress must do so responsibly and in a way that balances our goal of assisting State and local law enforcement with our duty to protect American taxpayers.

H.R. 6062 is supported by all the major law enforcement and local government organizations, including the International Association of Chiefs of Police, the Major Cities Chiefs Association, The National Criminal Justice Association, the U.S. Conference of Mayors, the National Sheriff's Association, the Major County Sheriff's Association, the Association of Prosecuting Attorneys, of which I have been one for 19 years, the National Association of Counties, and the National Conference of State Legislators just to name a few.

H.R. 6062 is a responsible bill that fully meets the needs of providing critical support to State and local law enforcement agencies in a commonsense way. I oppose this amendment, and I urge my colleagues to oppose it as well.

I yield back my time, thank you.

Chairman Smith. Thank you, Mr. Marino.

Are there other members who wish to be heard?

If not, the question is on the amendment.

All those in favor, say aye.

Those opposed, nay.

In the opinion of the chair, the nays have it, and the amendment

is not agreed to.

Mr. Johnson. I ask for a recorded vote.

Chairman Smith. A recorded vote has been requested.

The clerk will call the roll.

The Clerk. Mr. Smith?

Mr. Smith. No.

The Clerk. Mr. Smith votes no.

Mr. Sensenbrenner?

[No response.]

The Clerk. Mr. Coble?

Mr. Coble. No.

The Clerk. Mr. Coble votes no.

Mr. Gallegly?

[No response.]

The Clerk. Mr. Goodlatte?

[No response.]

The Clerk. Mr. Lungren?

Mr. Lungren. No.

The Clerk. Mr. Lungren votes no.

Mr. Chabot?

[No response.]

The Clerk. Mr. Issa?

[No response.]

The Clerk. Mr. Pence?

Mr. Pence. No.

The Clerk. Mr. Pence votes no.

Mr. Forbes?

[No response.]

The Clerk. Mr. King?

[No response.]

The Clerk. Mr. Franks?

Mr. Franks. No.

The Clerk. Mr. Franks votes no.

Mr. Gohmert?

[No response.]

The Clerk. Mr. Jordan?

[No response.]

The Clerk. Mr. Poe?

Mr. Poe. No.

The Clerk. Mr. Poe votes no.

Mr. Chaffetz?

[No response.]

The Clerk. Mr. Griffin?

[No response.]

The Clerk. Mr. Marino?

Mr. Marino. No.

The Clerk. Mr. Marino votes no.

Mr. Gowdy?

Mr. Gowdy. No.

The Clerk. Mr. Gowdy votes no.

Mr. Ross?

Mr. Ross. No.

The Clerk. Mr. Ross votes no.

Ms. Adams?

Mrs. Adams. No.

The Clerk. Ms. Adams votes no.

Mr. Quayle?

[No response.]

The Clerk. Mr. Amodei?

[No response.]

The Clerk. Mr. Conyers?

[No response.]

The Clerk. Mr. Berman?

[No response.]

The Clerk. Mr. Nadler?

Mr. Nadler. Aye.

The Clerk. Mr. Nadler votes aye.

Mr. Scott?

Mr. Scott. Aye.

The Clerk. Mr. Scott votes aye.

Mr. Watt?

Mr. Watt. Aye.

The Clerk. Mr. Watt votes aye.

Ms. Lofgren?

[No response.]

The Clerk. Ms. Jackson Lee?

[No response.]

The Clerk. Ms. Waters?

[No response.]

The Clerk. Mr. Cohen?

[No response.]

The Clerk. Mr. Johnson?

Mr. Johnson. Aye.

The Clerk. Mr. Johnson votes aye.

Mr. Pierluisi?

Mr. Pierluisi. Aye.

The Clerk. Mr. Pierluisi votes aye.

Mr. Quigley?

[No response.]

The Clerk. Ms. Chu?

Ms. Chu. Aye.

The Clerk. Ms. Chu votes aye.

Mr. Deutch?

[No response.]

The Clerk. Ms. Sanchez?

Ms. Sanchez. Aye.

The Clerk. Ms. Sanchez votes aye.

Mr. Polis?

[No response.]

Chairman Smith. The gentleman from Iowa?

Mr. King. No.

Chairman Smith. The gentleman from Ohio?

Mr. Jordan. No.

The Clerk. Mr. Jordan votes no.

Chairman Smith. And the gentleman from Arkansas?

Mr. Griffin. No.

The Clerk. Mr. Griffin votes no.

Chairman Smith. The clerk will report.

The Clerk. Mr. Chairman, 7 members voted aye; 13 members voted nay.

Chairman Smith. Majority having voted against the amendment, the amendment is not agreed to.

Are there any other amendments?

Ms. Chu. Mr. Chairman, I have an amendment at the desk.

Chairman Smith. The gentlewoman from California is recognized to offer an amendment.

Chairman Smith. And the clerk will report the amendment.

The Clerk. Amendment to H.R.6062, offered by Ms. Chu of California, at the end of the bill add the following, section 3, requirements regarding funds used to purchase bulletproof vests and body armor. Section 521 of title I --

Ms. Chu. Mr. Chair, I ask unanimous consent that the amendment --

Chairman Smith. Without objection the amendment will be considered as read, and the gentlewoman is recognized to explain her

amendment.

[The amendment of Ms. Chu follows:]

\*\*\*\*\* INSERT 1-3 \*\*\*\*\*

Ms. Chu. Mr. Chair, I actually intend to withdraw my amendment because the chairman has expressed a willingness to work with me on advancing its contents in the bill and I thank him for that.

With that said, I still would like to take a moment to discuss the amendment so my colleagues are made aware of my concerns. The amendment would have required Byrne JAG grantees seeking to use funds to purchase a bulletproof vest or body armor to have a mandatory wear policy in place before receiving such funds. It would also have insured that any such vest or body armor provided to a law enforcement officer including a female law enforcement officer be uniquely fitted.

Without doubt, personal body armor plays a critical role in saving law enforcement officers from disabilities and death. As a matter of fact, FBI data shows that the risk of death for officers who didn't wear body armor was 14 times greater than for those that did. Despite the finding, the Bureau of Justice Statistics estimates that only 71 percent of local police department requires field officers to wear body armor at least some of the time, while only 59 percent of the departments required the officers to wear protective armor at all times.

The benefits from wearing body armor are evident and yet many departments still don't require it. But if officers don't wear it, lives are lost. The FBI reports that from 2001 to 2010, 99 officers were killed from ballistic penetration of areas not covered by body armor. Of those killed, 12 percent were wounded between side vest panels; 34 percent around the arm holes or shoulders; 12 percent above

the vest; and 17 percent below the vest. What these numbers highlight is the importance of insuring good fit and measurement to provide officers with equipment that fits and provides maximum safety.

In the case of women the need for properly fitted body armor is even greater. Much of the armor that is currently offered is for male officers, and it doesn't take into account the anatomical differences between men and women. In one survey, female officers complained that the poor fit made it hard to breathe. Unfortunately, many female officers shunned the stigma surrounding this, and they don't want to be perceived as having special treatment by superiors so they don't request the equipment made to fit them. This decision can be extremely detrimental and ultimately puts the officer at greater risk.

Poor fit can lead to inadequate coverage, limited mobility and extreme discomfort. These issues should not be taken lightly when considering the overall safety of law enforcement officers. Body armor saves lives but only if it fits properly and is actually worn by officers.

Again, I thank the chair for working with me on this issue, and I respectfully withdraw the amendment.

Chairman Smith. With that objection, the amendment is withdrawn.

Thank you, Ms. Chu.

And we will work with you, as we mentioned. And I know you have spoken to Mr. Marino on that subject as well.

Are there any other amendments? If not, a reporting quorum being

present, the question is on reporting the bill favorably to the House.

Those in favor, say aye.

Opposed, no.

The ayes have it, and the bill is reported favorably.

Without objection, the bill will be reported as a single amendment in the nature of a substitute, incorporating amendments adopted, and staff is authorized to make technical and confirming changes both to H.R. 6062 and H.R. 6063.

Members will have 2 days to submit additional views.

The gentleman from Michigan, the ranking member of the Judiciary Committee, is recognized.

Mr. Conyers. I ask unanimous consent for one additional amendment to speak out of order, Chairman Smith.

Chairman Smith. The gentleman is recognized for as long as he may wish to speak.

Mr. Conyers. Finally, we have convinced Matt Morgan to go to law school and get a degree that most the members of this committee possess already. He is a very good young man that started as a staff of the Democratic staff committee. Then he became a staff assistant. Then he worked as a clerk for the Constitution Subcommittee, and 2 years ago, he became our communications director. In each of these roles, he was excellent, and now he has given into our haranguing. And he is now going to start law school at the University of Virginia this fall.

I am grateful to Matt. I am confident that he will make a

wonderful lawyer and an important contributor to this country's law.  
Let's give him a round of applause.

[Applause.]

Mr. Conyers. Additionally Sarah Kish is being wished well on her farewell. She has been a very valiant floor assistant for the majority. What I like about her best is her impartiality. When we are constantly outvoted, she is very pleasant about it. She doesn't have any kind of attitude that we can read into, the fact that we almost never prevail in a majority vote.

But we have appreciated her positive attitude, her patience throughout our long mark ups and sometimes testy debate. Thank you and the very best to you Sarah Kish.

[Applause.]

Chairman Smith. Thank you, Mr. Conyers.

I now call up H.R. 8796, the Adam Walsh Reauthorization Act of 2012, for the purposes of mark up. And the clerk will report the bill.

The Clerk. H.R. 3796 to reauthorize certain programs established by the Adam Walsh --

Chairman Smith. Without objection, the bill will be considered as read.

[The bill follows:]

\*\*\*\*\* INSERT 1-4 \*\*\*\*\*

Chairman Smith. And without objection, my opening statement will be made a part of the record.

[The statement of Mr. Smith follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

Chairman Smith. I recognize the gentleman from Wisconsin, Mr. Sensenbrenner, the chairman of the Crime Subcommittee for his opening statement.

Mr. Sensenbrenner. Mr. Chairman, in 2006, Congress passed the Adam Walsh Act to protect the public and most importantly other children from the threat of sex offenders. The bill was passed in the wake of a number of truly horrific crimes against children that were committed by sex offenders who oftentimes were in violation of registry requirements or were across State lines to commit their crimes.

This important, bill which still enjoys bipartisan support, strengthens sex offender registry requirements and enforcement nationwide, extended the Federal sex offender registry requirements to Indian tribes for the first time and also authorized funding for a number of programs intended to address and deter child exploitation.

A major component of the Adam Walsh Act is the National Sex Offender Registration Notification Act, also known as SORNA -- not SNORNA, but SORNA -- which was included in Title I of the act. SORNA's role is to create a seamless national sex offender registry that helps law enforcement detect and track sex offenders, prevents fugitive sex offenders from escaping detection by leaving a jurisdiction. Specifically SORNA set minimum standards for State sex offender registries, required participation by Indian tribes, and created the Dru Sjojin National Sex Offender Public Web site, which allows law enforcement officials and the general public to search for sex offenders nationwide from a single Web site.

The Adam Walsh Act has already had a great impact on the safety of our communities. To date 48 jurisdictions have been complied -- been deemed SORNA substantially compliant by the Department of Justice, and more jurisdictions are still working to come into compliance.

The Marshals Service, which was designated under the Adam Walsh Act as the primary Federal law enforcement agency responsible for apprehending both State and Federal fugitive sex offenders, has been hard at work. In 2010 alone, the Marshal's apprehended 11,000 fugitive sex offenders and initiated over 3,000 Adam Walsh investigations. Unfortunately, there remains a lot of work to be done. It is estimated there are over 100,000 noncompliant sex offenders still on the loose, and many jurisdictions are still not substantially compliant with the SORNA requirements despite the July 2011 deadline. This bill, the Adam Walsh Reauthorization Act of 2012, helps to keep the momentum going by reauthorizing for 5 years the acts two key programs which strike at the heart of the law's purpose: H.R. 3796 reauthorizes the Sex Offender Management Assistance Program at \$20 million a year. The program, run by the Justice Department SMART office, provides funding to the States, tribes and jurisdictions to offset the cost of implementing and enhancing SORNA. This funding is crucial to efforts to complete the national effort of sex offender registries in light of the already passed July 20 deadline for States to come into compliance with SORNA. Many States are working hard to implement SORNA, and this funding will have a serious impact. H.R. 3796

reauthorizes \$46 million a year for the Marshals and other DOJ law enforcement agencies to assist jurisdictions in locating and apprehending sex offenders who violate registration requirements.

Finally, the bill also reduces the period of time after which a juvenile offender can be petitioned -- juvenile offender, excuse me, can be petitioned to be removed from the sex offender registry for a clean record from 25 years to 15. I believe that this is a responsible middle ground that takes into account both the seriousness of the crimes that require juvenile registration than the potential differences between adult and juvenile offenders.

H.R. 3796 takes a fiscally responsible approach to protecting our children from dangerous criminals who seek to do them harm, and I urge support of the bill, and yield back the balance of my time.

Chairman Smith. Thank you, Mr. Sensenbrenner.

The gentleman from Michigan, Mr. Conyers, the ranking member is recognized on for an opening statement.

Mr. Conyers. Thank you, Chairman Smith.

I must confess that I am going to reluctantly support this measure, but I must point out that there is so much missing from it that could be in it, that I only can bring reluctant support and hope that the amendments that the ranking Subcommittee of Crime member, Bobby Scott, has is going to bring forward will help it out a little bit. If those amendments are not accepted or most of them, then I probably won't support the bill.

Now what is the problem, you ask. The Sex Offender Registration

and Notification Act in the Adam Walsh requires that each State adopt a national one-size-fits-all sex offender registration and whatever the States may already be doing about sex offenders. It also ignores how well what they are doing may be working and how much it will cost the States to adopt a sex offender registration and notification act.

Now all I can add to that and I will put my own statement into the record is that in Texas, the Governor's Office wrote the Department of Justice saying that although we in Texas certainly appreciate and agree with the stated goals, in fact, Texas would be undermined by the accomplishment of these objectives. Guess what? The Wisconsin Department of Corrections wrote to the former chairman of this committee to convey the problems that they are having trying to implement -- did you want to put that on the record?

Mr. Sensenbrenner. Would the gentleman yield?

Mr. Conyers. I will always yield to you.

Mr. Sensenbrenner. Both the Secretary of Corrections at that time and our Governor were replaced by the voters in 2010.

Mr. Conyers. Well, some of that happens every election, Mr. Former Chairman.

But at any rate, I see this as a missed opportunity, and I urge generous consideration of the Scott amendments that will follow, and I will assert the rest of my statement into the record. Thank you very much.

[The statement of Mr. Conyers follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

Chairman Smith. Thank you, Mr. Conyers.

The gentleman from Virginia, the ranking member of the Crime Subcommittee, is recognized for an opening statement.

Mr. Scott. Thank you, Mr. Chairman.

H.R. 3796 reauthorizes for grants or a part of the Adam Walsh Child Protection Safety Act of 2006.

I oppose that act for a number of reasons, including significant numbers of mandatory minimum sentences, the creation of new criminal offenses on top of a myriad of existing and growing number of Federal and state offenses. The criminalization of typical innocuous behavior by teenagers and the creation of an onerous and costly national sex offender registry of questionable merit or value to its stated goal of reducing sexual assault.

Although this bill seeks to reauthorize part of the Adam Walsh Act, it does not make needed changes to SORNA, the Sex Offender Registration Notification Act. Since its passage, jurisdictions subject to requirements under the act have told us about a number of problems and challenges with implementing it. These were raised at a hearing we held earlier this year on the Adam Walsh Act. Although I did not support of original bill, I believe that if we are going to mandate the States comply with SORNA, we should listen to what they are telling us about the challenges they are facing trying to comply. So we should try to make the changes to the program that are rooted in what the research tells us about what works when it comes to managing sex offenders.

I am offering several amendments to do just that. All of my amendments have a similar theme. They give discretion to the States and to their attorney general to make critical decisions about how to most effectively and safely manage sex offenders. Many States developed sex offender registries before SORNA was passed and have dedicated a great deal of resources and research toward its good works in effectively managing sex offenders. It would be inefficient and would adversely affect public safety to make states disregard all of their hard work in favor of a prescriptive one-size-fits-all system, which is what SORNA currently requires.

Instead, my amendments offer a middle ground to allow SORNA to set broad parameters but to put appropriate discretion in the hands of States with DOJ oversight to better implement of the goals of keeping children and the rest of the public safe. To date, only 15 States, 2 territories and 16 tribes have been able to comply with SORNA. The rest will soon suffer a 10 percent reduction in their Byrne JAG awards if they do not come into compliance. This is a harsh penalty to the States that will undermine not only their ability to manage sex offenders but other public safety goals as well that the funds are now supporting. This is particularly concerning when considered against the research that tells us that people who are not compliant with their registration requirements are no more likely to commit a new offense than those who are in compliance.

In February, at the hearing on reauthorization of Adam Walsh Act, the director of DOJ's SMART office testified that there is no difference

in the recidivism rate of offenders who are registered as compared to those who are not. That begs the question then, why are we spending so much money tracking down people when there is no evidence that they present an enhanced danger of reoffending? Why don't we spend the money on more effective programs for dealing with sex offenders known to be dangerous?

Targeted sex offender containment models or comprehensive research-based approaches to sex offender management which goes beyond treatment and supervision and involves multidisciplinary managing of sex offenders and preventing recidivism have been shown to be effective in reducing recidivism among high risk offenders. Moreover, research shows us that sex offender treatment can reduce recidivism by 50 percent in general and over 90 percent for juveniles.

I was very pleased that we are reauthorizing grants for juvenile treatment in the original bill and was puzzled when I saw that the new bill did not have those provisions. I intend to offer an amendment to reauthorize those provisions and hope they will be supported.

For these reasons, Mr. Chairman, I encourage my colleagues to support the amendments that I offer today to make the bill more effective in its implementation of SORNA.

I yield back.

Chairman Smith. Does the gentleman from Virginia want to offer an amendment?

Mr. Scott. Yes, Mr. Chairman.

I have several amendments at the desk. I will not be offering

No. 2, but seek to offer at this time, en bloc, amendments 3, 4, 7 and 11.

Chairman Smith. Without objection, amendments 3, 4, 7 and 11 will be offered en bloc, and the clerk will report the amendments.

The Clerk. Amendment to H.R. 3796, offered by Mr. Scott, at the end of the bill, add the following new section, section 5, juvenile sex offender treatment grants reauthorization --

Mr. Scott. Mr. Chairman, I move the reading of the amendment be waived.

Chairman Smith. Thank you, Mr. Scott.

Without objection, the amendment will be considered as read.

[The amendments of Mr. Scott follow:]

\*\*\*\*\* INSERT 1-5 \*\*\*\*\*

Chairman Smith. And the gentleman is recognized to explain the amendments.

Mr. Scott. Thank you, Mr. Chairman.

Amendment No. 3 reauthorizes the \$2.979 million per year for 4 years for grants to units of local government, Indian tribes, special facilities and other public and private entities to assist in the treatment of juvenile sex offenders. As I indicated, this treatment has been very effective in showing recidivism reductions up to 90 percent.

No. 4 is an amendment that will give jurisdictions the choice of whether or not to place adjudicated juveniles on their public registry. We heard evidence and testimony at our hearing that the public registry of juveniles is in fact counterproductive; it makes their situations actually worse, in fact more likely to offend than not. So this would not require them to be on the list but give the localities if they insist on putting them on a public register in spite of that evidence, give them the authority to do it but not require them to do it.

No. 7, Mr. Chairman, requires the National Institute of Justice to prepare and submit to Congress a report from the public safety recidivism and collateral consequences of long-term registration of juvenile sex offender.

And No. 11 ensures the portions of the Byrne JAG grant funding intended for distribution to local government and entities were not penalized by State's noncompliance. If a State doesn't comply, according to the bill, the localities suffer. They should not be

punished for a State's --

Mr. Sensenbrenner. Would the gentleman yield?

Mr. Scott. I yield.

Mr. Sensenbrenner. All of these amendments are constructive additions to the bill. I support them and ask unanimous consent to have a statement inserted in the record at this point.

[The statement of Sensenbrenner follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

Mr. Scott. Thank you, and I yield back.

Chairman Smith. The gentleman from Virginia yields back.

The question is on the amendments offered en bloc, amendments 3, 4, 7 and 11.

All those in favor, say aye.

Opposed, nay.

In the opinion of the chair, the ayes have it. The amendments are agreed to.

Would the gentleman have any other amendments?

Mr. Scott. Thank you, Mr. Chairman, since we are in such a cooperative mood.

Chairman Smith. I don't know that it will last.

Mr. Scott. Nos. 5 and 6, en bloc.

Chairman Smith. Without objection, the amendments will be considered en bloc. The clerk will report the 2 amendments.

The Clerk. Amendment to H.R. 3796, offered by Mr. Scott. At the end of bill, add the following new section, Section 5.

Chairman Smith. The amendments will be considered as read.

[The en bloc amendments follow:]

\*\*\*\*\* INSERT 1-6 \*\*\*\*\*

Chairman Smith. And gentleman is recognized to explain amendments 5 and 6.

Mr. Scott. Thank you.

No. 5, Mr. Chairman, clarifies that tribal sovereignty should be respected, and States should not be penalized for lack of tribal cooperation or compliance. And No. 6 is amendment to clarify the tribes and public law 83-280; States have the option of becoming registration and notification jurisdictions. As it is currently written, SORNA strips the subset of tribes that are subject to State criminal jurisdiction of exclusive civil regulatory authority over their members without justification, constitutes an infringement of tribal sovereignty and threatens to disrupt an already tenuous tribal-State relations.

I would offer a letter in support from the National Congress of American Indians in support of these two amendments.

Chairman Smith. Without objection, the documents will be made a part of the record.

[The letter follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

Mr. Scott. I yield back.

Chairman Smith. And the gentleman yields back.

The gentleman from Wisconsin, Mr. Sensenbrenner, is recognized.

Mr. Sensenbrenner. Mr. Chairman, the era of good feeling is over with. I rise in opposition to the amendment.

Chairman Smith. The gentleman is recognized for 5 minutes.

Mr. Sensenbrenner. Both of these amendments would repeal a provision of SORNA that delegates an Indian tribe's responsibility for coming into compliance to the State in which they reside, provided that the tribe is unable to implement SORNA on its own and usher in an additional 350 tribes into the SORNA compliance process.

People living in the tribal land are arguably the most in need of the protections provided by a sex offender registry. It is estimated that a third of all Indian women will be raped in their lifetime, and they are murdered 10 times more often than the national average. Indian tribes have done thus far a very good job at working toward implementing SORNA. To date, of the over 200 tribes given the option of implementing SORNA, 32 tribes have been deemed substantially compliant by DOJ, which I will note is more than the States. Many other tribes have sent substantial compliance implementation packages to DOJ, and I commend them for doing that.

Because most of the tribes do not directly receive Byrne JAG grants, the 10 percent penalty for noncompliance for SORNA does not apply to them. The original act provided that tribes are not held at the same hard and fast deadline for compliance that the States are and

instead much reach compliance in a reasonable amount of time determined by the Justice Department. However, if it is determined that a tribe will not be able to reach substantial compliance on its own, the responsibility for doing so will be handed over to the State. The SMART offices made it clear that it intends to work with all the tribes to avoid this outcome if at all possible. But in rare instances, where a tribe is absolutely incapable of implementing a sex offender registry on its own, there is simply no choice but to delegate the responsibility. Otherwise, the people on these tribal lands will never be given the protection of the sex offender registry and thus allow tribal land to become a further haven for sex offenders, which in my opinion is not acceptable.

One of these amendments removes DOJ's ability to delegate the responsibility in all States, regardless of whether the State itself is compliant or not. I will note that even delegating to noncompliant state is better than not. For the most part, the States are currently working hard to implement SORNA. And a state that is noncompliant today may reach substantial compliance soon. Also all of the noncompliant States have a sex offender registry and are doing at least some monitoring of sex offenders. The same cannot be said of all noncompliant tribes.

The other amendment would greatly hinder rather than facilitate compliance with the registry requirements by allowing public law 280 tribes the option of implementing SORNA on their on. This amendment will add 250 tribes into the SORNA compliant process, none of which

have undertaken any steps toward compliance at this point. This will double the number of tribes currently subject to SORNA compliance.

Public law 280, enacted in 1983, mandated the transfer of tribal law enforcement authority to State governments for tribal nations within six States, including California, Oregon, and Wisconsin. Therefore, since 1953, prosecutions of crimes occurring on tribal land within these six states have been handled primarily by the State, county or city police and prosecutors. The result is that many of the 350 tribes within these States have not developed their own law enforcement infrastructure and instead relied upon those of the States or localities.

While it is true that SORNA is not considered punitive but is rather a regulatory requirement for the jurisdictions and for sex offenders, compliance with SORNA necessarily requires the jurisdictions to possess the necessary infrastructure and not the least of which this computerized access to the State's registry, the national registry and criminal databases. While a number of tribes across the country are still working to acquire these technologies, the 350 tribes within the PL 280 States have little to no law enforcement infrastructure. The amendment, therefore, would be extremely costly to both the Federal Government and the tribes and would not be required to undertake SORNA compliance on their own, and for that reason, I urge rejection of the amendment.

Chairman Smith. Thank you, Mr. Sensenbrenner.

If there are no other members who want to speak on the amendment,

the question is on the Scott amendment, en bloc.

All those in favor, say aye.

Those opposed, no.

In the opinion of the chair, the noes have it. The amendment is not agreed to.

Mr. Sensenbrenner. [Presiding.] Gentleman from Virginia seeks recognition.

Mr. Scott. Mr. Chairman, I seek to offer amendments 10 and 12, en bloc.

Mr. Sensenbrenner. Without objection, the amendments will be offered en bloc, and the clerk will report the two amendments.

The Clerk. Amendment to HR. 3796, offered by Mr. Scott. At the end of bill, at the following section, Section 5, keeping registration current. Section 113(c) of the Adam Walsh Child Protection and Safety Act of 2006, 42 U.S.C. 16913(c), is amended to read as follows.

Mr. Scott. Mr. Chairman, I ask unanimous consent that reading of the amendments be waived.

Mr. Sensenbrenner. Without objection, the gentleman is recognized for 5 minutes.

[The en block amendments follow:]

\*\*\*\*\* INSERT 1-7 \*\*\*\*\*

Mr. Scott. No. 10 will provide each jurisdiction flexibility with respect to the manner and frequency in which a sex offender must report changes in name, residence and employment, or student status. SORNA requires all sex offenders to appear in person within 3 days to report such changes. Local law enforcement is overwhelmed trying to keep up with all this information, and with no limited -- with no or limited financial ability to add staff to do all that monitoring. Clearly, not all sex offenders pose the same risk, and keeping up with some is more important than others, but having to keep up with all of them, it makes no sense at all, particularly in light of the fact that testimony before our committee was that there was no difference in recidivism rate for those who were in compliance and those who were not.

Spending all the money keeping up with people who are technically out of compliance and pose no additional risk in that case seems like a waste of money. We ought to give -- if the States want to do that, they should. But they should have a little more flexibility in waiving things like the 3-day rule to find people out of compliance.

No. 12 is an amendment to allow jurisdictions to be found in compliance of SORNA if they have developed their own 3-tier system of classification that is comparable but not exactly the same as SORNA and link that to the national system if they use a validated risk assessment system. Many States developed their systems before SORNA and have had a lot of trouble trying to translate their data into SORNA-capable -- into the SORNA matrix. For that reason, Mr. Chairman,

I would hope that they could use the information they have in order to come into compliance with SORNA.

I yield back.

Mr. Sensenbrenner. The chair recognizes himself in opposition to the amendments en bloc.

The key weapon of the Adam Walsh Act in combating sex offenders is SORNA, the national database of offenders and their location within the United States. This database not only makes it easier for law enforcement officials to track sexual offenders but makes it possible for the public to track them as well. This gives citizens a tremendous tool and public safety the ability to know where the offenders reside or work.

These amendments allow each separate jurisdiction to determine its own method and timing of registration and notification by offenders. In essence, these amendments would undo all the progress that SORNA has made. If each separate jurisdiction determines its own registration and reporting standards, it eviscerates the uniformity sought through a national registry. By moving jurisdictions off, a sex offender could remain invisible to law enforcement indefinitely by taking advantage of the doubts caused by each jurisdiction using its own standard.

RPTS DOTZLER

DCMN ROSEN

[3:07 p.m.]

Mr. Sensenbrenner. It would throw us back to the days before the Adam Walsh Act, and give an advantage to the sexual offender planning to commit more crimes. The goal of SORNA was to create a national set of standards in the national database.

I urge my colleagues to join me in rejecting these amendments and keeping SORNA as a powerful national tool to combat sex crimes. And I yield back.

Mr. Scott. Would the gentleman yield?

Mr. Sensenbrenner. I yield.

Mr. Scott. Mr. Chairman, I would just say that the recidivism rate for sex offenders is low, with no difference in whether they are in compliance or not. The recidivism rate is 5 percent for any offense at all, much less offenses against children. And I would offer letters from the State of Wisconsin Department of Corrections, the Office of the Governor of Texas, and other States, not necessarily in favor of the amendment, but speaking to the problems they have in complying, that these amendments address.

Mr. Sensenbrenner. Without objection, the material referred to by the gentleman from Virginia will be included in the record.

[The letters follow:]

\*\*\*\*\* INSERT 2-1 \*\*\*\*\*

Mr. Sensenbrenner. I yield back the balance of my time.

The question is on the amendment offered by the gentleman from Virginia, Mr. Scott. Those in favor will say aye. Those opposed no. The noes have appear to have it. The noes have it, and the amendment is not agreed to.

For what purpose does the gentleman from Virginia seek recognition?

Mr. Scott. Mr. Chairman, I offer amendment number 8.

Mr. Sensenbrenner. The clerk will report the amendment.

The Clerk. Amendment to H.R. 3796 offered by Mr. Scott. At the end of the bill, add the following --

[Mr. Scott's amendment follows:]

\*\*\*\*\* INSERT 2-2 \*\*\*\*\*

Mr. Sensenbrenner. Without objection, the amendment is considered as read, and the gentleman from Virginia is recognized for 5 minutes.

Mr. Scott. Mr. Chairman, amendment number 8 deals with one of the problems that States are having, and that is whether to apply the SORNA retroactively. That is, if you committed a crime before the passage of SORNA, haven't done anything since, do you retroactively get registered? Many States have had problems with that. There are significant constitutional problems of applying criminal statutes retroactively. Many States have had a lot of problems on this, Ohio particularly, and there are court cases going back and forth. Some States just don't want to do it, and are out of compliance because of their failure.

Number 8 would allow each jurisdiction the discretion as to whether or not SORNA will be applied retroactively. I would hope that we give them that flexibility rather than to require them to get embroiled in significant constitutional implications on whether it even can be applied retroactively.

I yield back the balance of my time.

Mr. Sensenbrenner. The chair recognizes himself in opposition to the amendment.

I oppose this amendment which allows the States to waive SORNA's application to sex offenders who are convicted prior to the enactment of the Adam Walsh Act.

Under current law, the SORNA registration requirements apply to

all persons convicted of eligible sex offenses regardless of when they were convicted of their crime. This is entirely reasonable. Clearly, sex offenders who were convicted prior to 2006 when the Adam Walsh Act was enacted would continue to pose a threat to our children. Limiting the application of SORNA just to a few offenders would substantially diminish the Act's effectiveness. The Justice Department's January 2011 supplemental guidelines greatly limited the prior offenders who must register by saying a State can limit registration just to those past offenders who currently remain in the criminal justice system, either because they are in jail or under supervision, or those who reenter the criminal justice system through a subsequent criminal conviction.

This approach strikes an appropriate balance by recognizing that it could be difficult for the States to locate all living sex offenders while, at the same time, requiring registration of those who are likely to be a continuing risk.

The retroactive application of SORNA has been upheld as constitutional by the Federal courts that have considered the issue. The U.S. Supreme Court has not ruled on the constitutionality of SORNA's retroactivity, but has upheld a similar State law on the basis of the sex offender registration and notification statute was a civil regulatory rather than a penal statute.

The Act also provides an exemption for any State whose State laws make this provision unconstitutional. But all 50 States had a sexual offender registry prior to the Adam Walsh Act, to now exclude those

same offenders who were registered prior to the Act from SORNA requirements would consist of confusion for the States and would give a huge portion of the registered sex offenders a free pass.

I strongly urge my colleagues to oppose this amendment, and I yield back the balance of my time.

The question is on the amendment offered by the gentleman from Virginia, Mr. Scott, numbered 8. Those in favor will say aye. Opposed no. The noes appear to have it, the noes have it, and the amendment is not agreed to.

For what purpose does the gentleman from Virginia, Mr. Scott seek recognition?

Mr. Scott. Amendment number 9, Mr. Chairman, and this is the last amendment I will be offering.

Mr. Sensenbrenner. The clerk will report the amendment.

The Clerk. Amendment to H.R. 3796 offered by Mr. Scott. At the end of the bill add the following, section 5, definition of convicted.

[The amendment of Mr. Scott follows:]

\*\*\*\*\* INSERT 2-3 \*\*\*\*\*

Mr. Sensenbrenner. Without objection, the amendment is considered as read, and the gentleman from Virginia is recognized for 5 minutes.

Mr. Scott. Thank you, Mr. Chairman.

In the previous amendment, Mr. Chairman, we allowed some flexibility, which is extremely helpful. This amendment would allow States to decide whether or not to include juveniles who have been adjudicated as juveniles in their sex offender registry. According to the Association for Treatment of Sex Abusers, adolescent sex offenders are considered to be much more responsive to treatment than adult offenders, and very rarely reoffend, especially when provided appropriate treatment.

There is no evidence that inclusion of a juvenile offender into a public registry increases public safety or promotes successful juvenile offender reentry. In fact, evidence indicates that it has the opposite effect and it is actually counterproductive. Community notification requirements and a lengthy period of registration up to a lifetime are particularly problematic for juveniles, and the adolescent community is much smaller than that of an adult, and the stigma of being designated as a sex offender among peers can have devastating consequences.

Juvenile sex offending does not predict adult sex offending. A recent study shows that the recidivism rate of juveniles adjudicated delinquent of sexual offenses is lower than 1 percent. From this study of 220 youth, only two reoffended. In the study, registered and

nonregistered male youth were matched on a year of offense, age, race, prior record and type of offense, and recidivism was assessed in a 4-year follow-up study showed that SORNA-like registration failed to influence either sexual or nonsexual recidivism rates.

Other studies show that SORNA classifications are not linked to reduced recidivism among juveniles, and so it makes very little sense to put them on, and this amendment would allow States to decide whether to include the juveniles on any registry at all.

It is interesting, Mr. Chairman, that registration and notification requirements have made it less likely that prosecutors would prosecute youth sex offenders. Some have said that the effects of registration and notification and the likelihood that prosecutors would even choose to move forward with a case have been concerns.

Finally, Mr. Chairman, this is an area where States have frequently cited impediments to compliance because many States are not going to comply with that provision and are willing to take the heat for it, particularly when the evidence shows that signing juveniles up is counterproductive. Some States are not going to come into compliance because of that provision.

For those reasons, Mr. Chairman, I hope we would adopt the amendment.

Mr. Sensenbrenner. The chair recognizes himself in opposition to the amendment.

This amendment would amend SORNA to allow jurisdictions to decide whether to require juveniles to comply with the Act's registry

provisions. This change would greatly diminish SORNA's effectiveness and should be opposed.

The current law strikes a well-considered and appropriate balance between keeping the public safe from serious sex offenders and understanding the need to oftentimes treat juveniles differently than adults.

Under SORNA, juveniles who are tried and convicted as adults are treated the same as adults for purposes of registration, which generally has not been controversial. However, juveniles who are adjudicated delinquent are, by and large, not subject to SORNA at all. This is a widely-spread misconception. The only juveniles adjudicated delinquent who are required to register under SORNA are those who are at least 14 years old at the time of the offense, and who committed aggravated sexual assault, which generally means forcible rape. These are among the most serious sexual offenses and should be treated as such.

The Adam Walsh Act does not require registration by juveniles who are caught sending sexual text messages or who commit consensual statutory rape with a peer. It is entirely reasonable to require the registration of juveniles over the age of 14 who forcibly rape another person.

The current law provides another protection for this category of juveniles adjudicated delinquent. The smart office's recent supplemental guidelines provide that juveniles adjudicated delinquent do not need to be included in the public registry, just the law

enforcement registry. That means that while law enforcement is able to track these serious offenders, no one else, including potential employers, will know that they are registered.

I am sympathetic to the arguments that juveniles, even those who commit serious crimes can be rehabilitated, and thus should not be required to register for life. To address this issue, my underlying bill would allow juveniles adjudicated delinquent to petition for removal from the registry after 15 years rather than the current 25, provided that they are able to show a clean record. Allowing petitions for a clean record at 15 years treats those offenders with appropriate seriousness without giving them a free pass, as this amendment would do.

The provisions relating to juveniles under SORNA are far from the Draconian treatment that some portray. In fact, a recent news article from Michigan found that juveniles were actually treated more leniently after the State implemented SORNA than they were under preexisting State laws.

Kids may be kids, but kids who commit serious crimes should not be left entirely off the hook, and I urge my colleagues to oppose this amendment, and I yield back the balance of my time.

There being no further debate, the question is on agreeing to Scott amendment number 9. Those in favor will say aye. Those opposed no. The noes appear to have it. The noes have it. The amendment is not agreed to.

Are there further amendments?

The gentlewoman from California, Ms. Sanchez. Does the gentlewoman from California have an amendment at the desk?

Ms. Sanchez. I do, it is entitled the Nadler amendment.

Mr. Sensenbrenner. The clerk will report amendment number 1 which on our roster, is the Nadler amendment, but has been duly plagiarized by the gentlewoman from California.

Ms. Sanchez. Thank you for noting that, Mr. Chairman, I appreciate it.

The Clerk. Amendment to H.R. 3796 offered by Ms. Sanchez.

[The amendment of Ms. Sanchez follows]

\*\*\*\*\* INSERT 2-4 \*\*\*\*\*

Ms. Sanchez. Mr. Chairman, I ask unanimous consent that the amendment be considered as read.

Mr. Sensenbrenner. Without objection.

Mr. Gowdy. Mr. Chairman?

Mr. Sensenbrenner. For what purpose does the gentleman from South Carolina seek recognition?

Mr. Gowdy. Mr. Chairman, I reserve a point of order.

Mr. Sensenbrenner. A point of order is reserved.

The gentlewoman from California is recognized for 5 minutes.

Ms. Sanchez. Thank you, Mr. Chairman.

Mr. Chairman, the underlying bill reauthorizes grant programs found in the Adam Walsh Act. That Act was designed to protect children from sexual exploitation and other harms. Mr. Nadler's amendment, which I have duly plagiarized and offered as my own, builds on the purpose of that Act to protect a subset of at-risk children -- runaways.

Federal studies and experts have estimated that at least 1.6 million children under the age of 18 run away each year. These children are at much higher risk for all type of victimization and exploitation. For example, runaway girls and young women are at an increased risk for sex trafficking. They may be propositioned for sex by strangers on the street, or decide that they must use sex to get food or shelter, being forced to utilize sex as a means just to survive.

In America, we value each and every child. That is why we have a detailed system for tracking down and saving missing and exploited children. Every child reported to have run away is supposed to be

listed in the National Crime Information Center, or NCIC, as a missing person. The NCIC is a computerized index of criminal justice information, including missing persons. It is available to Federal, State, and local law enforcement and other criminal justice agencies operating across the country, and is operational 24 hours a day, 365 days a year.

Unfortunately, this system is not always working as intended. According to The New York Times series, *Running in the Shadows* from October 2009, information on as many as 16 percent of reported runaways is never entered into the NCIC database. In New York City, that figure of runaways absent from NCIC is much higher, almost 40 percent. Without an NCIC entry, police officers may have no way of knowing that a child is missing at all. It is beyond a tragedy to have a system to track down runaway children, but to fail to use it.

To address this problem, my colleague from New York, Representative Carolyn Maloney, introduced H.R. 2688, the Runaway Reporting Improvement Act. This is bipartisan legislation which representative Maloney introduced with Representatives Chris Smith, Pete Stark and Karen Bass. It would require law enforcement agencies to certify they are complying with the law and entering all missing children into the NCIC database. This certification will highlight law enforcement compliance with this reporting requirement, and make it much harder for it to be simply avoided.

Second, the bill would require agencies to give parents or guardians of missing children information about the help available to

them from the National Center For Missing and Exploited Children, NCMEC, and the National Runaway Switchboard, NRS.

For almost 30 years, NCMEC has been one of the Nation's preeminent organizations to help missing and exploited children. NRS has focused on the needs of runaway youth for decades. Both groups has expertise and services of which parents of runaway kids should be made aware. We should not let parents feel alone in their hour of need.

One example of why this amendment is needed comes from Debbie in Cleveland, the parent of a child who ran away. She said, "It took me 4 days to find the National Runaway switchboard after filing a missing children's report when my child ran away. If my car had been stolen, I would have been give a number to call. Why wasn't I given a number when my child ran away?"

After she was given that number, and as a result of calling NRS, there was a happy ending -- she was reunited with her child. This bill which I am proud to cosponsor is supported by a number of outside groups, including the national network for youth and the national center for family homelessness.

I ask unanimous consent to enter a letter in support of H.R. 2688 from these and other groups on the record.

Mr. Sensenbrenner. Without objection.

[The letter follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

Ms. Sanchez. Working with Representative Maloney to make her bill germane, we have redrafted H.R. 2688 as an amendment to the Adam Walsh Reauthorization Act we are considering today. My amendment then would have an identical impact as H.R. 2688, as I described it earlier. I have a letter of support of this amendment from the National Network For Youth, and I ask unanimous consent that it also be made a part of the record.

Mr. Sensenbrenner. Without objection.

[The letter follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

Ms. Sanchez. I want to thank Representatives Maloney and Smith for their hard work on the issue of protecting children from exploitation. I also want to thank all of the outside groups who have made this legislation a priority. Adopting this amendment would make a real difference in the lives of children and families across the Nation. It would help ensure all runaway children are being looked for and that parents have the resources they need to make it through such a difficult time. I ask all members to support it, and I yield back the balance of my time.

Chairman Smith. I thank the gentlewoman from California. For what purpose does the gentleman from South Carolina wish to be recognized?

Mr. Gowdy. I had reserved a point of order.

Chairman Smith. Does the gentleman insist on his point of order?

Mr. Gowdy. Yes, sir, Mr. Chairman.

Chairman Smith. Does the gentleman wish to be recognized to explain his point of order?

Mr. Gowdy. Yes, sir, Mr. Chairman. Briefly, the underlying bill deals with sex offenses and sex offenders. This amendment, however, seeks to add a provision related to missing or runaway children. Under the subject matter germaneness test of the rules of the House, I respectfully and regrettably submit that the amendment is not germane.

Chairman Smith. Thank you, Mr. Gowdy.

In the opinion of the Chair, the amendment is not germane.

Pursuant to clause 7 of rule XVI of the House, the point of order is sustained.

If there are no other amendments, a reporting quorum being present, the question is on reporting the bill, as amended, favorably to the House. Those in favor say aye. Opposed, no. The ayes have it, and the bill, as amended, is ordered reported favorably.

Without objection, the bill will be reported as a single amendment in the nature of a substitute incorporating the amendments adopted, and the staff is authorized to make technical and conforming changes. Members will have 2 days to submit their views.

We will now go to the last bill we expect to mark up today. Pursuant to notice, I now call up H.R. 3803, the District of Columbia Pain-Capable Unborn Child Protection Act for purposes of markup.

The clerk will report the bill.

[The bill follows:]

\*\*\*\*\* INSERT 2-5 \*\*\*\*\*

The Clerk. H.R. 3803, to amend title 18, United States Code, to protect pain-capable unborn children in the District of Columbia, and for other purposes.

Chairman Smith. Without objection, the bill will be considered as read.

[The bill follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

Chairman Smith. I will ask unanimous consent to put my opening statement in the record.

[The statement of Chairman Smith follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

Chairman Smith. And I will recognize the chairman of the Constitution Subcommittee, the gentleman from Arizona, Mr. Franks, for his opening statement.

Mr. Franks. Thank you, Mr. Chairman.

Mr. Chairman, I believe the gruesome late term abortions of unborn children who can feel pain is the greatest human rights atrocity in the United States today.

Prenatal medical science has advanced dramatically since the 1973 Roe v. Wade decision. In 1973, most experts had not explored the issue of an unborn child's capacity to feel pain. At that time, almost no one had ever even seen an ultrasound, certainly not the judges of the Roe court who, on average, likely completed their science matriculation in the 1920s, 30 years before the discovery of DNA.

We are now a world far beyond their time scientifically. And today, the consensus that unborn children feel pain by at least 20 weeks development is almost universal. The single biggest hurdle to the legislation, bills like H.R. 3803, is that opponents deny unborn babies feel pain at all. As if somehow the ability to feel pain magically develops instantaneously as a child passes through the birth canal.

I entered into the record, a hearing record, a 29-page summary of the dozens of studies worldwide confirming that unborn children feel pain by at least 20 weeks post fertilization. This information is now available, Mr. Chairman, at [www.doctorsonfetalpain.org](http://www.doctorsonfetalpain.org), and I recommend that everyone review this site to get the most current evidence on fetal pain, rather than have their understanding cemented

in an earlier time when the Flat Earth Society had a thriving membership. Or worse, trusting the study to the bill's opponents heralded at the hearing, which we learned was authored by a medical student who had previously been a pro-abortion activist.

At the hearing, our witness, a former late term abortionist who had performed hundreds of painful late term abortions refuted the medical student's study incontrovertibly, Mr. Chairman.

This bill regulates late term abortions in which babies are dismembered or chemically burned alive through saline abortion. Some late term abortionists kill the child in utero through lethal injection before removing the child which may be administered by puncturing the small, pain-capable baby, through the chest and heart to inject the lethal cocktail.

Mr. Chairman, late term abortions are not rare. They account for about 10 percent of abortions annually. With an average of greater than 1.2 million abortions a year in the United States, that comes to 120,000 late term abortions annually, or greater than 325 every day.

H.R. 3803 is a long overdue law to protect unborn children who can feel pain from abortionists. There is an exception for abortions necessary to save the life of the mother. Where her life is in danger, there are two options: Abortion or delivery. Due to medical advancements, it is now nearly always possible to deliver the baby in less than half an hour or even 10 minutes via C-section emergency. But by contrast, a late term abortion typically requires hours, and sometimes even days to complete. Thus, C-section delivery is

generally substantially faster, and therefore safer for mother and child where the mother's life is in imminent danger.

With this in mind, H.R. 3803 provides that a physician must choose the option that is most likely to save the life of both patients, mother and child.

Currently, there are no restrictions on abortions up and until the moment of birth in the District of Columbia, other than the Federal law that bans partial birth abortions, a law passed by the U.S. Congress, not the D.C. Government, incidentally.

Americans trust the medical profession to know if the child feels pain and to administer anesthesia as a basic requirement of human decency. But, in fact, there is no standard legal rule to provide that an unborn child receive anesthesia. In this respect, unborn children receive less legal protection from completely unnecessary cruelty than farm animals which have protection under the Humane Slaughter Act.

Mr. Chairman, the time has come for this Congress to protect unborn babies from the greatest human rights violation occurring on U.S. soil -- painful, late term abortions that have already victimized potentially millions of pain capable unborn babies, Americans, since this horrifying practice became legal on that tragic day in 1973.

With that, Mr. Chairman, I yield back.

[The statement of Mr. Franks follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

Chairman Smith. Thank you, Mr. Franks.

The gentleman from Michigan, Mr. Conyers, is recognized for an opening statement.

Mr. Conyers. Thank you, Chairman Smith.

This is one of the most stunning setbacks to women's rights that I have heard of recently. It is almost as if the Roe v. Wade Supreme Court case has never been issued by the United States Supreme Court because it violates the existing law. In addition, it imposes an outright ban on all abortions before viability. That is a violation of Roe v. Wade. But then, even when a woman's health may be at risk and her life is in danger, it has no exception for that as a reason for a woman to choose an abortion, and that is pretty stunning.

This bill would jeopardize a woman's health and her ability to have children in the future. And third, in the case of rape or incest, would force her to bear her abuser's child. And so I can't even fathom how such an absurd proposal could be seriously brought before this committee, except for one reason, it applies only to the women who reside in our Nation's capital. That is the only reason that we are getting this bill. I don't think any Member would ever dream of overriding the rights of citizens in any other city in America, and would hesitate to do so with respect to their rights except for people who live within the shadow of the Capitol of the United States of America.

It takes advantage of the fact that the citizens of the District lack equal representation of Congress. That is that notwithstanding

the presence and incredible abilities of our delegate, Eleanor Holmes Norton, who happens to be in the committee hearing room to survey and monitor this activity, it is no surprise that the District of Columbia is once again the target of anti-choice legislation and rhetoric.

In all but 4 of the last 23 years, Congress has used the appropriations process to impose unique restrictions to prevent the District of Columbia from using its own funds to provide abortion care, and as a result of these efforts, Congress has effectively narrowed the reproduction health options of many of the poor women living in the District of Columbia. No other jurisdiction in the United States has to face this kind of interference, but Congress does it to the district with great regularity.

When, my colleagues, will we stop treating the people who reside in our capital as second class citizens? When will we respect their democratically-elected officials when they act according to the wishes of the voters? And it is especially disturbing for me to have to report to the full committee that the subcommittee denied our colleague, Delegate Eleanor Holmes Norton, the opportunity to even participate in the hearing on this bill involving the District of Columbia. And so if there is any more clear illustration of the meaning of "taxation without representation," I am not aware of it.

Please join me in thinking through this clearly and turning down this highly offensive and inappropriate measure that is now before the Judiciary Committee.

I thank the chairman for the time.

Chairman Smith. Thank you, Mr. Conyers.

Mr. Johnson. I move to strike the last word.

Chairman Smith. The gentleman from Georgia is recognized for 5 minutes.

Mr. Johnson. Thank you. I want to read the statement of Congresswoman Eleanor Holmes Norton who is here today, and also recognize Michael D. Brown, the United States Senator from the District of Columbia.

The statement is as follows:

"What matters in the submission of this testimony is what H.R. 3803 and this committee are attempting to do to the citizens I represent. And, therefore, I submit this testimony as part of my responsibility to them and ask that it be included in the record of today's hearing. However, my constituents would also count on me to note for the record the subcommittee's callous disregard of long-standing congressional courtesy in denying my request to testify in addition to the invited witnesses, particularly considering that the subject matter under consideration affects only my district.

Unlike every member of this committee, I am elected by and am accountable to the residents of the District of Columbia. This is the second time in the 112th Congress that the majority has focused exclusively on my district while denying my request to testify.

How very easy it is for the majority to gang up on the District of Columbia after supporting the continuing denial of its taxpaying citizens to representation in the House and Senate. How irresistible

it has been to pick on the District of Columbia and its citizens with not one, but two bills that the majority dares not try to apply to all citizens of the United States. The lack of courage of the majority's convictions is breathtaking. Common courtesy and the congressional tradition of comity and respect demand that a member elected to speak for the only Americans affected by a bill be allowed to speak for them regardless of other witnesses who may speak to the underlying issue.

Last year, I was denied the opportunity to speak on H.R. 3, a bill that would permanently prohibit only one jurisdiction, the District of Columbia, from spending its local funds on abortions for low income women. Today it is H.R. 3803 which would bar the women of only one district, the District of Columbia, from having abortions after 20 weeks of pregnancy. Fortunately, the majority has not yet found a way to completely silence our residents. Some are debating whether Republicans have been engaging in a war on women in our country. What is not debatable is the Republican fixation on the women of the District of Columbia. The Republican majority, which was elected on a promise of jobs and devolving power to State and local governments, brought the Federal Government and with it, the District of Columbia Government to within an hour of shutting down in April of 2012, and relented only after it succeeded in reimposing an undemocratic rider on a spending bill that prohibits the District of Columbia from spending its own local funds on abortions for low income women.

Although the abortion rider remains in place today, it has not satisfied the apparent insatiable hunger of Republicans to expand the

reach of the Federal Government into local affairs.

Today, they are moving from interfering with the decision of low-income women in the District of Columbia to attacking every woman in the District of Columbia.

H.R. 3803 is unprincipled twice over. It is the first bill ever introduced in Congress that would deny constitutional rights to the citizens of only one jurisdiction in the United States, and it is the first bill ever introduced in Congress that would ban abortions after 20 weeks of pregnancy. Republicans claim that the bill does not usurp local authority because Congress has jurisdiction over the District of Columbia. However, that argument has been unavailing for 39 years since Congress gave up that power over the District of Columbia except for a small number of enumerated exceptions with the passage of the Home Rule Act of 1973.

The right to reproductive choice was not among those exceptions. The supporters of H.R. 3803 surely know that it is unconstitutional on two counts. The bill violates the reproductive rights spelled out in *Roe v. Wade* as well as the 14th Amendment right to equal protection under the law by intentionally discriminating against women who live in the Nation's capital.

D.C. residents are used to Members piling on, but we will never hesitate to fight back, especially when Members have the audacity to try to place our citizens outside the protections of the U.S. Constitution, as H.R. 3803 does.

As the Supreme Court said in *Callan v. Wilson*, "There is nothing

in the history of the Constitution or of the original amendments to justify the assertion that the people of the District of Columbia may be lawfully deprived of the benefit of any of the constitutional guarantees of life, liberty and property. Why, then, are we marking up today a bill that violates the right to reproductive --

Chairman Smith. The gentleman's time has expired.

Without objection, the gentleman is recognized for an additional minute.

Mr. Johnson. Why then are we marking up today a bill that violates the right to reproductive freedom, equal protection, and federalism all at once? The answers are inescapable -- Republicans do not dare take on the women of this country who have voting Members of the House and Senate with a post 20-week ban on abortions. Instead, the majority has chosen a cheap and cynical way to make its ideological point during an election year. With last year's civil disobedience, D.C. residents and officials showed that we will never accept second class treatment of our city.

Today, we want this committee to know that we will never accept second class treatment of our citizens either.

I yield back.

Chairman Smith. Thank you, Mr. Johnson.

Does the gentleman from Arizona have a technical amendment?

Mr. Franks. Yes, Mr. Chairman, I have an amendment at the desk.

Chairman Smith. The clerk will report the amendment.

[The amendment of Mr. Franks follows:]

\*\*\*\*\* INSERT 2-6 \*\*\*\*\*

The Clerk. Amendment to H.R. 3803 offered by Mr. Franks of Arizona. Page 5, strike lines 5 through 8 and enter the following:

Mr. Franks. Mr. Chairman, I ask unanimous consent that the amendment be considered as read.

Chairman Smith. Without objection, the amendment will be considered as read. The gentleman is recognized to explain the amendment.

Mr. Watt. I reserve the right to object, Mr. Chairman.

Chairman Smith. The gentleman from North Carolina reserves the right to object.

Mr. Watt. I just haven't seen it, so if she can keep reading until we can look at it.

Chairman Smith. Okay. The clerk will proceed to read the amendment.

The Clerk. The District Council of the District of Columbia, operating under authority delegated by Congress, repealed the entire District law limiting abortions, effective April 29, 2004, so that in the District of Columbia, abortion is now legal, for any reason, until the moment of birth.

Page 7, beginning in line 11, strike "or any claim" and all that follows through "death" in line 13.

Page 7, line 14, strike "a physician" and insert "notwithstanding the definitions of 'abortion' and 'attempt an abortion' in this section, a physician."

Chairman Smith. The gentleman from Arizona is recognized to

explain the amendment.

Mr. Franks. Thank you, Mr. Chairman.

Mr. Chairman, the amendment before us is a slight tweak to three parts of the original language. The first change reworks the language of finding number 14. It changes the words "repealed all limitations on abortion at any stage of pregnancy" to the following: "Repeal the entire District law limiting abortions effective April 29, 2004, so that in the District of Columbia, abortion is now legal for any reason until the moment of birth." Both of the quotes, Mr. Chairman, are accurate, but the former could arguably take into account the ancillary arguments relating to restrictions on abortionists as opposed to restrictions on the abortions themselves, which is what the finding was intended to describe in the first place. This revision makes that clear.

Next we revise the exception to the bill. Currently, the bill provides an exception that allows abortions after 20 weeks if in reasonable medical judgment, the abortion is necessary to save the life of a pregnant woman whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself. The exception does not include psychological or emotional conditions or "any claims or diagnosis that the woman will engage in conduct which she intends to result in her death."

This amendment would strike the words "or any claim or diagnosis that the woman will engage in conduct which she intends to result in

her death." This amendment would simply clarify and simplify the bill as the stricken words are already a subset of the prefatory language referring to psychological or emotional conditions. That is, we remove the duplicative language that could confuse or complicate the interpretation of the bill.

Finally, Mr. Chairman, the amendment clarifies the definition of abortion. The bill defines abortion as terminating a pregnancy with an intention other than producing a live birth. The bill also permits an abortion to save the mother's life, but requires that in such a case, the clinician must achieve a live birth, if possible. The intention of the language was merely to instruct a clinician to try to save the child's life, as well as the mother, in a procedure. Some experts have opined, however, that these definitions are confusing and vague, meaning that the bill fails to give a person of reasonable intelligence clear notice of the line between allowable and criminal conduct.

Therefore, the final changes on page 7, line 14 where we insert the words "notwithstanding the definitions of abortion," and attempt an abortion in this section, the purpose of this technical language change is to make clear that an abortionist acting under the exception to the bill regarding saving the life of the mother must try to save the life of the child as well as the mother, if possible.

The amendment does this by clearly separating the definition of abortion in the bill from the provision of the bill that requires the doctor to save the life of the child, if possible.

Mr. Chairman, I know these are a little hard to understand, but

there are also some minor clarifying changes as well, and I urge my colleagues to support this amendment.

Mr. Watt. Would the gentleman yield?

Chairman Smith. The gentleman still has time. Would the gentleman yield to the gentleman from North Carolina?

Mr. Franks. Yes, Mr. Chairman.

Mr. Watt. So under this last part that you were talking about, if it comes to a choice between saving the life of the mother and saving the life of the child, can you explain to us what position this change puts the physician in?

Mr. Franks. Well, the bill itself clearly has an exception where any procedure necessary to save the life of the mother can proceed, but there is a definition of abortion in the bill that could be potentially confused with a provision in the bill that requires the doctor, if possible, without causing the death of the mother, if possible to save both the mother's life and the baby's life, that those two definitions might be confused, and so we wanted to try to separate them clearly.

The bill still allows an exception to save the life of the mother. It does, as it has in other parts of the bill, clearly also indicate that if possible, the doctor should also try to save the life of the baby as well.

Chairman Smith. Does the gentleman yield back his time?

Mr. Franks. Mr. Chairman, I do yield back.

Chairman Smith. Are there other members to be heard on the

amendment?

Mr. Conyers. Mr. Chairman?

Chairman Smith. The gentleman from Michigan, Mr. Conyers, is recognized for 5 minutes.

Mr. Conyers. Mr. Chairman, I rise to point out that this amendment is totally irrelevant to the objectives of the amendment in general. It is totally cosmetic. And the bill before us still prohibits an abortion for any psychological reason which could even include a social condition, a suicidal condition. Everything that I felt and said about this measure is totally unaffected by this proposal, hastily added to it, as if there is something generous happening about this measure. This measure is arrogantly unconstitutional, patently and clearly illegal, and is disrespectful to the taxpaying American citizens in the capital of the United States.

I yield back the balance of my time.

Chairman Smith. Thank you, Mr. Conyers. The question is on the amendment --

Mr. Johnson. If I might, Mr. Chairman, I move to strike the last word.

Chairman Smith. The gentleman from Georgia is recognized for 5 minutes.

Mr. Johnson. Mr. Chairman, I would like to submit for the record the statement of Congresswoman Eleanor Holmes Norton, which I read largely, but I also paraphrased. Just for the sake of completeness, I would like for her entire statement to go in.

Chairman Smith. Without objection, her statement will be made a part of the record.

[The statement of Ms. Norton follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

Mr. Johnson. And I would ask also of the gentleman from Arizona, what happens to a doctor who someone may disagree with, whether or not he took action or took enough action to save the fetus when, in fact, he did? Let me put it like this: You save the life of a mother, the doctor, and you make efforts to save the life of the fetus, but you are unsuccessful. Is the doctor then subject to any criminal or civil liability? Is he subject to being sued, he or she, subject to being sued by an outsider or even a family member? What happens?

Mr. Franks. Well, Mr. Chairman, as long as the doctor has followed the law, he is not subject to any criminal penalty. As far as the lawsuits, God knows what you can sue for. You can sue somebody for being blond these days.

Mr. Johnson. So there is no criminal liability that attaches to the legislation?

Mr. Franks. Only if he breaks the law. If he doesn't follow the law, then of course, if he doesn't follow the law, then there are criminal and civil actions.

Mr. Johnson. That is a matter at the discretion of the prosecutor. I am sure that my prosecutorial advocates here would agree. A prosecutor may decide, hey, based on good medical information, I have determined that this doctor did not really do his best to save this fetus. And so, therefore, we are going to prosecute him, or prosecute her, for doing the wrong thing. That is something that can happen under this amendment.

Mr. Franks. Or any other law. Yes, sir, the prosecutorial --

Mr. Marino. Would the gentleman yield?

Mr. Johnson. I yield.

Chairman Smith. The gentleman from Georgia has the time.

Mr. Marino. As my colleague knows, in order for any prosecutor to bring a criminal complaint and issue a warrant for an individual, you have to establish with reasonable cause.

Mr. Johnson. Probable cause. Yes.

Mr. Marino. You have to establish intent. There are clear guidelines for intent, to establish probable cause.

Mr. Johnson. Taking back my time, a person intends the natural and probable consequences of his actions, I realize that, his or her actions. And that is a matter for prosecutors to have discretion to decide.

Mr. Marino. My point exactly.

Mr. Johnson. So there is no guarantee that they would not do something based on political considerations or personal animosity as opposed to actually a search for the truth.

Mr. Marino. If the gentleman would continue to yield.

Mr. Johnson. I will yield one more time.

Mr. Marino. There is no guarantee that anyone would refrain from doing something for political or personal gain. But prosecutors take an oath and prosecutors are held to a standard whereby if they do not maintain that oath of protecting and defending the Constitution, and the people under their jurisdiction, they, too, can be criminally prosecuted, and have been.

Mr. Johnson. Well, my colleague from Pennsylvania knows full well that the prosecutors in the recent case of Senator Ted Stevens were found to have done the wrong thing, willfully, but there has been no prosecution. There has been just a mere slap on the wrist. And you know how we do our fellow members of the Bar, we protect them and coddle them even when they do the wrong thing and so --

Mr. Marino. If the gentleman would yield again.

Mr. Johnson. Well, no, I am going to yield back after I make this statement.

We are putting doctors at risk of being locked up for saving a woman's life. I think that is tragic. That is a tragic consequence of this legislation, and it will only happen to doctors who are treating women in the District of Columbia who are so unfortunate so as to have no representation, no voting representation in this Congress, and not even a chance to appear at this committee and express their opinion on legislation that affects their citizens.

Chairman Smith. The time of the gentleman has expired.

The question is on the Franks amendment. All in favor say aye. Opposed no. In the opinion of the chair, the ayes have it and the amendment is agreed to.

Are there other amendments?

The gentleman from Illinois, Mr. Quigley, is recognized to offer an amendment.

Mr. Quigley. Thank you, Mr. Chairman. I have an amendment at the desk.

Chairman Smith. The clerk will reported the amendment.

[The amendment of Mr. Quigley follows:]

\*\*\*\*\* INSERT 2-7 \*\*\*\*\*

The Clerk. Amendment to H.R. 3803 offered by Mr. Quigley of Illinois, page 7, line 5, strike "judgment, the abortion" and insert "judgment (i) the abortion.

Page 7, line 13, strike the period and insert "; or."

Page 7 after line 13, insert the following: (ii) in the case of a woman with cancer who needs life saving treatment incompatible with continuing the pregnancy.

Chairman Smith. The gentleman is recognized to explain his amendment.

Mr. Quigley. Thank you, Mr. Chairman.

H.R. 3803 aims to ban abortion after 20 weeks in the District of Columbia. First of all, this bill is patently unconstitutional. The Supreme Court has made clear a woman has the right to choose up to the point of viability, and this bill is a clear attempt to implement an unconstitutional, previability ban. But it doesn't stop there. Not only does this bill attempt to overturn Roe v. Wade, it goes even further by not including a single exception, if a woman is raped, if a woman is a victim of incest, or if a woman's health is at risk. The only exception, if the life of the woman is in jeopardy.

This completely ignores the unique and often heart-wrenching situations of individual women. The fact is not all pregnancies go according to plan, and each woman has to be able to make the decision she feels is best for her and her family. A woman could have a completely desired pregnancy and find out, for example, that she has anhydramnios. This is a disorder where membranes rupture prematurely

leaving the fetus without sufficient amniotic fluid. Without this vital fluid, the fetus will likely be born unable to move its limbs and unable to eat and breathe on its own.

Under H.R. 3803, a woman and her partner who know that their fetus will not be able to survive on its own, will be forced to carry the fetus to term only to watch it die.

This bill also ignores the situation of a woman who receives the horrible news that she has cancer while she is pregnant. This may sound rare; but, sadly, it is not. Approximately 1 in 3,000 pregnant women has breast cancer during her pregnancy. The choice between receiving vital cancer treatment or continuing her pregnancy was not hypothetical for Jennifer Peterson. Jennifer was 35 and pregnant when she found a lump in her breast, and soon learned she had invasive breast cancer. She then had to make the impossible decision of receiving care for her cancer, including chemotherapy which would likely end the pregnancy, or carry the pregnancy to term and forego cancer treatment that could mean the difference between life and death.

My amendment would create an exemption for women who, like Jennifer, are faced with the impossible decision of whether to receive cancer treatment or carry a pregnancy to term.

The truth is, this is just one of a number of gut-wrenching decisions of situations a woman can face during her pregnancy. Every pregnancy is different, and every woman has to be able to make the decision that is right for her and her family. Every instance of cancer is unique, and no one can know for certain with great certainty if it

is life threatening and to what extent it is life threatening, but this bill ignores the unique circumstances of each one and supplants the judgment of a woman with the judgment of an elected official.

We hear a lot in this committee about government overreach. And we hear a lot of arguments that the government does not always know what is best. Yet when it comes to a woman's intimate, personal and sometimes impossibly difficult decision of whether to protect her own health or carry a pregnancy to term, these same opponents of big government get quiet.

How can we, sitting in this sterile committee room, possibly think we should get to make that deeply personal and often heart-wrenching decision for a woman and her family. The truth is we can't.

I encourage my colleagues to support my amendment and oppose this unsympathetic bill.

Chairman Smith. Thank you, Mr. Quigley.

The gentleman from Arizona, Mr. Franks, is recognized.

Mr. Franks. Mr. Chairman, I oppose this amendment as it would add an exception to the bill that the Supreme Court itself has not required.

The bill before us today contains essentially the same exact exception that the Partial Birth Abortion Act contained, which was upheld by the Supreme Court. That exception contained a life exception only.

Further, if one carves out a specific life saving amendment for specific sundry issues, then within the broader life-saving amendment

already in the bill, this amendment would imply that other life-saving procedures that the bill does not explicitly list are not allowed under the bill. That is not the intent of the bill. There is a broad saving the life of the mother exception in the bill, and I think we need to leave it that way so it covers all of those potential dangers to the mother that might threaten her life.

So, therefore, I would oppose the amendment and hope my colleagues would do so as well.

Chairman Smith. Thank you, Mr. Franks.

The question is on the Quigley amendment. All in favor say aye. Opposed nay. In the opinion of the chair, the nays have it. The amendment is not agreed to.

Mr. Quigley. Mr. Chairman, I ask for a recorded vote.

Chairman Smith. The clerk will call the roll.

The Clerk. Mr. Smith?

Chairman Smith. No.

The Clerk. Mr. Smith votes no.

Mr. Sensenbrenner?

[No response.]

The Clerk. Mr. Coble?

Mr. Coble. No.

The Clerk. Mr. Coble votes no.

Mr. Gallegly?

[No response.]

The Clerk. Mr. Goodlatte?

Mr. Goodlatte. No.

The Clerk. Mr. Goodlatte votes no.

Mr. Lungren?

[No response.]

The Clerk. Mr. Chabot?

Mr. Chabot. No.

The Clerk. Mr. Chabot votes no.

Mr. Issa?

[No response.]

The Clerk. Mr. Pence?

[No response.]

The Clerk. Mr. Forbes?

Mr. Forbes. No.

The Clerk. Mr. Forbes votes no.

Mr. King?

Mr. King. No.

The Clerk. Mr. King votes no.

Mr. Franks?

Mr. Franks. No.

The Clerk. Mr. Franks votes no.

Mr. Gohmert?

[No response.]

The Clerk. Mr. Jordan?

Mr. Jordan. No.

The Clerk. Mr. Jordan votes no.

Mr. Poe?

[No response.]

The Clerk. Mr. Chaffetz?

[No response.]

The Clerk. Mr. Griffin?

Mr. Griffin. No.

The Clerk. Mr. Griffin votes no.

[No response.]

The Clerk. Mr. Marino?

Mr. Marino. No.

The Clerk. Mr. Marino votes no.

Mr. Gowdy?

Mr. Gowdy. No.

The Clerk. Mr. Gowdy votes no.

Mr. Ross?

Mr. Ross. No.

The Clerk. Mr. Ross votes no.

Mrs. Adams?

Mrs. Adams. No.

The Clerk. Mrs. Adams votes no.

Mr. Quayle?

Mr. Quayle. No.

The Clerk. Mr. Quayle votes no.

Mr. Amodei?

Mr. Amodei. No.

The Clerk. Mr. Amodei votes no.

Mr. Conyers?

Mr. Conyers. Aye.

The Clerk. Mr. Conyers votes aye.

Mr. Berman?

[No response.]

The Clerk. Mr. Nadler?

[No response.]

The Clerk. Mr. Scott?

Mr. Scott. Aye.

The Clerk. Mr. Scott votes aye.

Mr. Watt?

Mr. Watt. Aye.

The Clerk. Mr. Watt votes aye.

Ms. Lofgren?

[No response.]

The Clerk. Ms. Jackson Lee?

[No response.]

The Clerk. Ms. Waters?

[No response.]

The Clerk. Mr. Cohen?

[No response.]

The Clerk. Mr. Johnson?

Mr. Johnson. Aye.

The Clerk. Mr. Johnson votes aye.

Mr. Pierluisi?

Mr. Pierluisi. Aye.

The Clerk. Mr. Pierluisi votes aye.

Mr. Quigley?

Mr. Quigley. Aye.

The Clerk. Mr. Quigley votes aye.

Ms. Chu?

[No response.]

The Clerk. Mr. Deutch?

Mr. Deutch. Aye.

The Clerk. Mr. Deutch votes aye.

Ms. Sanchez?

Ms. Sanchez. Aye.

The Clerk. Ms. Sanchez votes aye.

Mr. Polis?

[No response.]

Chairman Smith. The gentleman from Texas?

Mr. Poe. No.

The Clerk. Mr. Poe votes no.

Chairman Smith. The clerk will report.

The Clerk. Mr. Chairman, eight Members voted aye, and 16 members voted nay.

Chairman Smith. The majority having voted against the amendment, the amendment is not agreed to. Are there any other amendments?

The gentleman from Florida, Mr. Deutch is recognized.

Mr. Deutch. Thank you, Mr. Chairman.

Mr. Chairman, this committee has spent the better part of this markup debating bills that reauthorize important grant programs designed to help State and local communities around the country fight crime.

Chairman Smith. Does the gentleman have an amendment?

Mr. Deutch. I have an amendment at the desk, Mr. Chairman.

Chairman Smith. The clerk will report the amendment.

[The amendment of Mr. Deutch follows:]

\*\*\*\*\* INSERT 2-8 \*\*\*\*\*

The Clerk. Amendment to H.R. 3803 offered by Mr. Deutch. Page 9, line 24 through page 10 --

Chairman Smith. Without objection, the amendment will be considered as read, and the gentleman is recognized to continue his explanation of the amendment.

RPTS DEAN

DCMN HOFSTAD

[4:07 p.m.]

Mr. Deutch. I thank the chairman.

Almost unbelievably now, Mr. Chairman, we have turned our attention to a bill that would make a crime that which the United States Supreme Court has held for nearly 40 years to be a right under the due process clause of the 14th Amendment, beyond the fact that the findings of this bill state as fact that a fetus can feel pain at 20 weeks, a view that, at best, is quite controversial in the scientific community and, at worst, has been rejected by the mainstream profession; beyond the fact that, while this bill significantly limits the rights of women of the District of Columbia, my colleagues have refused to allow the District's elected representative to defend her constituents' rights before this committee today; beyond the fact that this bill refuses to include an exception to the ban in cases of rape or incest; and beyond the fact that the bill that we are debating today is definitively unconstitutional.

This bill is ultimately just another attempt by my Republican colleagues to roll back the clock on reproductive rights of women in this country and force the women of the District of Columbia to return to a time of wire hangers and back-alley abortions.

By striking one of the bill's most absurd provisions, my amendment reveals just how outrageous how this assault on women's rights really

is. Among the civil remedies established by this bill, Mr. Chairman, is the right of current or former licensed healthcare providers of the woman seeking an abortion to bring an action seeking injunctive relief against the woman's doctor to prevent the doctor from performing or attempting any further abortions in violation of this bill.

Let me be clear: This bill already makes abortion services past 20 weeks a criminal act, but just in case creating a crime was not enough of a deterrent, the bill adds an absurd civil right of action for individuals just vaguely connected to the woman's life. The bill would authorize any licensed healthcare professional who provided services at any time in a women's life to bring an action of injunctive relief.

Nowhere in this bill is the term "current or former licensed healthcare provider" defined, nor any explanation given as to why this group ought to have this right. For all we know, this group of potential plaintiffs could include the woman's pediatrician, her elementary school nurse, or even a physician who committed malpractice against her in the past.

Allowing the inclusion of this absurd provision demonstrates not only how illogical this bill is, but, even more seriously, how my colleagues will stop at nothing to limit the constitutional rights of women in this country.

I urge my colleagues to support this amendment, and I yield back.

Chairman Smith. Thank you, Mr. Deutch.

The gentleman from Arizona, Mr. Franks, is recognized.

Mr. Franks. Well, thank you, Mr. Chairman.

Mr. Chairman, this amendment, as I am afraid will be true of most of the amendments that will be offered to this bill, is designed to draw attention away from the true issue addressed by the bill, and that is the fact that unborn children become pain-capable while in utero and in late-term abortions they are caused to suffer horrific, gruesome, and painful deaths even before being permitted to see the light of day. And I am afraid that most of the amendments offered today will be designed to divert the attention from that tragedy, which I still consider to be the greatest human rights violations in the Nation.

So let me go ahead and try to say a couple things once, and then I won't repeat them, and try to avoid addressing every non sequitur so that we can attempt to continue to refocus the debate on the tragedy of painful late-term abortions.

First, Mr. Chairman, let me go ahead and address the issue related to the committee's treatment of Ms. Norton.

Under the rules of the committee, the Democrats could have allowed Ms. Norton to be their witness, and we would have certainly been delighted with that. But also under the rules of the committee, we were not allowed, as we are on every other issue, to allow other Members of the Congress that are not members of the committee to ask questions. But Ms. Norton was invited to the dais to sit with the rest of us, and we tried to afford her every courtesy that we could under the rules. And I just want to make that part clear, so I will just say that once and get past it.

And, Mr. Chairman, I know that when people disagree over something

this fundamental that it is hard to think that we are going to change anyone's minds. I still hold hope for that; I always will. I believe that history points out that when we finally see the suffering of victims, when that finally becomes clear to us, that hearts do change.

And regardless of all the opposition to this bill, regardless of all the things that are said that are either nonissues or incorrectly stated, the bottom line is, it is hard to carry a bill like this because we know that the country is divided. And if it weren't for the fact that there was a little baby -- in this case, thousands and hundreds of thousands of little babies -- that are being subject to terrible torturous pain in this process, if there were no baby involved in abortion, I certainly would be happy to never address the issue. But there is. There is. There is a victim. There is a little baby.

And so, without trying to say that each time with each of these amendments, I am going to try to let that speak for the other amendments that come forward, no matter what they might distort. I just want us to all focus on the fact that there is another person involved here, and that is a little baby who can't defend themselves. They don't understand why they are having to go through this horrifying, painful procedure. And I just think if we want to be compassionate or sensitive, that somehow that would play into the equation.

So, with that, Mr. Chairman, while the bill allows injunctions to be sought by a broad range of medical professionals who have some association with the woman, these injunction can only be sought against the abortion provider, not the woman herself. Further, if a third

party sues for an injunction and a court finds that the claim was frivolous or in bad faith, the falsely accused defendant shall be awarded attorneys' fees under the clear terms of the bill. That provision will sufficiently deter meritless lawsuits brought by anyone bringing an action under this bill.

And, with that, Mr. Chairman, I would hope my colleagues would oppose this amendment.

Mr. Johnson. Would the gentleman yield?

Chairman Smith. Thank you, Mr. Franks.

The gentleman still has some time remaining.

Mr. Franks. Yes, Mr. Chairman, I will yield.

Mr. Johnson. Why is it that we are going to treat the women of Washington, D.C., differently than we treat the women of the 50 States? Is that denial of equal protection? Is that fair? How can we do this to the women of Washington, D.C.?

Mr. Franks. Well, Mr. Chairman, that is a fair question. First of all, I guess I would try to delineate two or three different things here.

Number one, as you know, the D.C. government completely repealed the entire law on abortion, and it is legal in D.C. now to abort a child in labor. And that is a pretty unique situation. I mean, the fact is, the case can be made that that is legal under Doe v. Bolton and Roe v. Wade combined anyway, but the bottom line is that --

Mr. Johnson. But this law --

Mr. Franks. -- there is no law in D.C. at all that protects the

child at any age. A child can be aborted in D.C. throughout the 9 months of pregnancy for any reason or no reason. And I think that that is one of the reasons we want to address it.

And, secondly, if you gentleman would -- if this applied to the whole country --

Chairman Smith. The gentleman's time has expired. Without objection, the gentleman is recognized for an additional minute.

Mr. Franks. If the gentleman is suggesting that if this applied to the whole country that my friends on the left there would support the bill, we would be glad to consider that amendment.

Mr. Johnson. No, I think it is two distinct issues. One, are we going to treat the women of Washington, D.C., differently than we treat the women of the 50 States just because we think we can, although we may not be able to, according to Supreme Court, according to the equal protection clause as I would hope it would be applied by the Supreme Court. That is a separate issue from whether or not one would be for or against the underlying legislation.

But in answer to your question, no, it would not change. I just think that this makes it even more egregious that we would just single out a group of people in this Nation and apply a law to them that does not apply to everyone else. I think it is a classic equal protection issue.

Chairman Smith. The gentleman's time has expired.

The question is on --

Mr. Watt. Mr. Chairman?

Chairman Smith. The gentleman from North Carolina, Mr. Watt, is recognized.

Mr. Watt. I move to strike the last word.

Chairman Smith. The gentleman is recognized for 5 minutes.

Mr. Watt. I am reading the language in the bill, Mr. Chairman, and wondering -- I mean, I don't understand why Mr. Franks thinks that it is important to have somebody way outside the chain be able to bring a lawsuit or be a qualified plaintiff. What I can't understand is why my other committee members don't understand that that is a problem.

What is the rationale for allowing somebody who is a current or former licensed healthcare provider of a woman -- what is the rationale for putting a high school nurse of a 35-year-old pregnant woman, giving that person, somebody that far removed, the authority, the legal standing to become a plaintiff in a case of this kind?

I mean, I understand where Mr. Franks is. I mean, he has made it very clear where he stands on this stuff. But I don't understand -- there is an element of rationality that we are supposed to bring to these discussions. And, I mean, we can always follow our leaders or somebody who is so far out there that they believe vigorously, rightly or wrongly, in these positions, but I don't understand how the rest of the people on this committee can sit here and think that this is a rational position to take.

So I guess I am addressing this not to Mr. Franks; I mean, he has made his statement. We have been listening to his statement, I have been listening to his statement ever since he got to Congress. I know

how rabidly he feels about this issue. What I don't understand is how the rest of my colleagues feel that this is a rational policy.

Maybe I should just address that to the chair of my committee. How can this be a rational policy, to give somebody that far removed from a woman's life the right to go into court and file a lawsuit to try to enjoin something? I mean, I just don't understand that.

I will yield to anybody other than Mr. Franks. I already -- to his credit, I understand where he stands on this.

Mr. Franks. I actually thank the gentleman.

Mr. Watt. I just don't understand where the rest of my colleagues are standing here. And at what point are you going to draw the line and push him over the cliff by himself, as opposed to jumping over the cliff with him? That is the question I want to pose.

I yield back, Mr. Chairman.

Chairman Smith. Thank you, Mr. Watt.

The gentleman from New York, Mr. Nadler, is recognized.

Mr. Nadler. Thank you, Mr. Chairman.

I rise in support of the amendment offered by the gentleman from Florida.

This is irrational in the extreme. The bill would allow anyone who had ever been a healthcare provider to the woman seeking an abortion to go to court and seek an injunction to stop her from receiving constitutionally protected medical care.

"Healthcare provider" is not defined, but since it is not defined and "physician" is, it must mean something more beyond physician. So

any person who has ever treated this woman, for example, a pediatrician from 20 years before or the school nurse from when she was in high school or junior high school, perhaps someone the family stopped using because he or she behave inappropriately, could go to court and tie the woman up in costly litigation.

Can there be anything more intrusive? Even a woman who is having a perfectly lawful abortion would have to go to court to vindicate her rights. How hard would it be to tie her up until after 20 weeks when this bill would prohibit it? Any lawyer who can't do that should find another profession.

The amendment is reasonable. The provision it seeks to strike is pernicious. The idea that anyone, who has no connection with this woman, who had a connection with her years ago because she went to him or her for some medical service, should have the standing to intervene in her decision to have an abortion is ridiculous. I don't even see how it doesn't violate the rights established by the Supreme Court.

So I commend the gentleman for offering the amendment, and I urge its adoption.

I yield back.

Chairman Smith. Thank you, Mr. Nadler.

The question is on the Deutch amendment.

All in favor, say aye.

Opposed, no.

In the opinion of the chair, the noes have it.

Mr. Deutch. Mr. Chairman --

Chairman Smith. The amendment not agreed to.

Mr. Deutch. -- I ask for a roll call vote.

Chairman Smith. The gentleman requests a recorded vote, and the clerk will call the roll.

The Clerk. Mr. Smith?

Chairman Smith. No.

The Clerk. Mr. Smith votes no.

Mr. Sensenbrenner?

[No response.]

The Clerk. Mr. Coble?

[No response.]

The Clerk. Mr. Gallegly?

[No response.]

The Clerk. Mr. Goodlatte?

[No response.]

The Clerk. Mr. Lungren?

[No response.]

The Clerk. Mr. Chabot?

Mr. Chabot. No.

The Clerk. Mr. Chabot votes no.

Mr. Issa?

[No response.]

The Clerk. Mr. Pence?

[No response.]

The Clerk. Mr. Forbes?

[No response.]

The Clerk. Mr. King?

Mr. King. No.

The Clerk. Mr. King votes no.

Mr. Franks?

Mr. Franks. No.

The Clerk. Mr. Franks votes no.

Mr. Gohmert?

[No response.]

The Clerk. Mr. Jordan?

Mr. Jordan. No.

The Clerk. Mr. Jordan votes no.

Mr. Poe?

[No response.]

The Clerk. Mr. Chaffetz?

[No response.]

The Clerk. Mr. Griffin?

Mr. Griffin. No.

The Clerk. Mr. Griffin votes no.

Mr. Marino?

Mr. Marino. No.

The Clerk. Mr. Marino votes no.

Mr. Gowdy?

Mr. Gowdy. No.

The Clerk. Mr. Gowdy votes no.

Mr. Ross?

Mr. Ross. No.

The Clerk. Mr. Ross votes no.

Ms. Adams?

Mrs. Adams. No.

The Clerk. Ms. Adams votes no.

Mr. Quayle?

Mr. Quayle. No.

The Clerk. Mr. Quayle votes no.

Mr. Amodei?

Mr. Amodei. No.

The Clerk. Mr. Amodei votes no.

Mr. Conyers?

Mr. Conyers. Aye.

The Clerk. Mr. Conyers votes aye.

Mr. Berman?

[No response.]

The Clerk. Mr. Nadler?

Mr. Nadler. Aye.

The Clerk. Mr. Nadler votes aye.

Mr. Scott?

Mr. Scott. Aye.

The Clerk. Mr. Scott votes aye.

Mr. Watt?

Mr. Watt. Aye.

The Clerk. Mr. Watt votes aye.

Ms. Lofgren?

Ms. Lofgren. Aye.

The Clerk. Ms. Lofgren votes aye.

Ms. Jackson Lee?

[No response.]

The Clerk. Ms. Waters?

[No response.]

The Clerk. Mr. Cohen?

[No response.]

The Clerk. Mr. Johnson?

Mr. Johnson. Aye.

The Clerk. Mr. Johnson votes aye.

Mr. Pierluisi?

Mr. Pierluisi. Aye.

The Clerk. Mr. Pierluisi votes aye.

Mr. Quigley?

Mr. Quigley. Aye.

The Clerk. Mr. Quigley votes aye.

Ms. Chu?

Ms. Chu. Aye.

The Clerk. Ms. Chu votes aye.

Mr. Deutch?

Mr. Deutch. Aye.

The Clerk. Mr. Deutch votes aye.

Ms. Sanchez?

Ms. Sanchez. Aye.

The Clerk. Ms. Sanchez votes aye.

Mr. Polis?

[No response.]

Chairman Smith. The gentleman from Virginia, Mr. Forbes?

Mr. Forbes. No.

The Clerk. Mr. Forbes votes no.

Chairman Smith. The gentleman from Virginia, Mr. Goodlatte?

Mr. Goodlatte. No.

The Clerk. Mr. Goodlatte votes no.

Chairman Smith. The gentleman from Texas, Mr. Poe?

Mr. Poe. No.

The Clerk. Mr. Poe votes no.

Chairman Smith. The gentleman from North Carolina, Mr. Coble?

Mr. Coble. No.

The Clerk. Mr. Coble votes no.

Chairman Smith. The clerk will report.

The Clerk. Mr. Chairman, 11 Members voted aye, 16 Members voted nay.

Chairman Smith. A majority having voted against the amendment, the amendment is not agreed to.

To my knowledge, the Nadler amendment might be the last amendment of the day. And the gentleman from New York is recognized.

Mr. Nadler. Mr. Chairman, if that is a problem, I am sure we can

come up with some other ones.

Chairman Smith. No. Maybe I shouldn't have mentioned it, but no. I hope this is the last.

And the clerk will report the amendment.

The Clerk. Amendment to H.R. 3803, offered by Mr. Nadler. Page 7, line 5, insert "or health" after "life." Page 7, line 6, strike "whose life is endangered" and all that follows through the end of line 13.

[The amendment of Mr. Nadler follows:]

\*\*\*\*\* INSERT 3-1 \*\*\*\*\*

Chairman Smith. The gentleman from New York is recognized to explain his amendment.

Mr. Nadler. Thank you, Mr. Chairman.

Mr. Chairman, this amendment would conform this bill, at least in part, to the requirements of longstanding Supreme Court constitutional precedent. The Constitution requires that any restriction on access to abortion provide an exception to protect the life or health of the woman.

I know that protecting women's health is anathema to the more extreme elements within the antichoice movement, but no decent society would contemplate a criminal law that could force a women to forego care necessary to protect her life or her health. That is not, as we often hear, a loophole, but, rather, the simple acknowledgement of our common humanity. If the Constitution stands for nothing else, it must stand for the proposition that government may not command you to suffer harm when routine medical treatment will protect your health.

Some people evidently find it very easy to sit here and declare how terrible it would be if a woman could get an abortion because the pregnancy was having an adverse effect on her health. Can Congress really be that arrogant and callous? Are there Members of Congress who can see the humanity of a fetus but not the humanity of the pregnant woman? I hope not.

In *Roe v. Wade*, the Supreme Court said, quote, "If the state is interested in protecting fetal life after viability, it may go as far as to proscribe abortion during that period, except when it is necessary

to preserve the life or health of the mother," close quote. That sounds pretty clear. And here we are talking about abortions occurring before viability, where women's constitutional protections are even more robust than they are after viability.

If this bill provides an exception only to protect the life of the woman, not her health, not in cases of rape or incest, not due to psychological problems, not even -- and this is a new one -- if the woman becomes suicidal, really? Are we really prepared to be that cruel? Are there members of this committee who would gamble with the lives and health of women? Are you really going to insist that a woman bear a rapist's child or her father's child? Would you really risk a woman's future fertility? What right does any member of this committee have to impose that terrible burden on women? No one has that right. And I cannot believe there could be Members ready to arrogate themselves of the right do that. I cannot believe that, but I see the evidence in front of me.

What are we talking about here? Take, for example, Danielle Deaver, a Nebraska woman who was 22 weeks pregnant when her water broke. Doctors informed her that her fetus would likely be born with undeveloped lungs and could not survive outside the womb, and because all the amniotic fluid had drained, the tiny growing fetus slowly would be crushed by the uterus walls.

During her pregnancy, Nebraska enacted a law similar to H.R. 3803. As a result, Ms. Deaver could not obtain an abortion. Thus, despite serious complications and enduring infections, she had

to wait to go into labor. On December 8th, 2010, Danielle delivered a 1-pound, 10-ounce child who survived 15 minutes outside the womb.

Her life was not threatened. Her health under this bill is irrelevant. The emotional impact of this terrible situation, thankfully not common but certainly not unique, may not be considered under this bill. So Ms. Deaver was forced to endure the situation.

What do the proponents have to offer Ms. Deaver and women like her? The majority called Professor Byron Calhoun at the hearing, who advocated something called the perinatal hospice. While his patients elect to carry a pregnancy to term even if it is dying inside the woman, this bill would use the force of the criminal law to require that of every woman in a similar situation. Are we really prepared to do that? Who elected the House Judiciary Committee God?

Whatever your views on abortion -- and I know that feelings run high -- I hope that we can at the very least recognize the humanity of women facing situations that I hope none of us will ever have to face. Let's just have a little bit compassion today and provide for the health of women, not to mention for the constitutionality since the Supreme Court has told us that, without a health exception such as my amendment would provide, the bill would clearly be unconstitutional.

I urge the adoption of this amendment. It is constitutionally required if this bill is not to be unconstitutional, and it is morally necessary.

I yield back the balance of my time.

Chairman Smith. Thank you, Mr. Nadler.

The gentleman from Arizona, Mr. Franks, is recognized.

Mr. Franks. Well, thank you, Mr. Chairman.

I will let some of my previous statements stand, with regard to the distortion that I think this amendment represents.

Mr. Chairman, Mr. Nadler mentioned what a decent society should or shouldn't do. And, in this case, we are talking about a bill to protect children from being torturously dismembered while they are fully capable of feeling pain. And I think a decent society should consider that very carefully. Because if we cannot find the courage or the will to protect little unborn children from being painfully dismembered in this way, if we don't have that much political courage or that much humanity about us, I am not sure we will ever find the courage or the will to protect any kind of liberty for anyone, and the Founders' dreams of a country that recognized the right of every person to live and to be free and to pursue their dreams, it is a broken dream.

And so, Mr. Chairman, I hope this amendment would be rejected, as a broader health exception in the bill would allow its easy circumvention by abortionists. I mean, once you remember that the health exception in *Doe v. Bolton* now has been a contribution to 50 million dead children. And I am not sure that it has really helped the health of women when you consider that abortion is a major causative factor for suicides in this country of women that have gone through them.

So the Supreme Court never required such an exception in the

recent cases. Indeed, the Partial-Birth Abortion Ban Act, which was upheld by the Supreme Court, contained a life exception only, which provided that this subsection does not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused or arising from the pregnancy itself.

So it is important to remember that we are trying to protect innocent unborn children here from a torturous dismemberment and that we do indeed in this bill do everything that we can to protect the life of both the mother and the baby.

And I hope you will reject this amendment, and I yield back.

Chairman Smith. Okay, thank you, Mr. Franks.

The gentlewoman from California, Ms. Lofgren, is recognized.

Ms. Lofgren. Mr. Chairman, I think for the reasons mentioned by Mr. Nadler, both of law but also of morality, this exception should be approved.

And I would yield time to Mr. Nadler.

Mr. Nadler. I thank the gentlelady for yielding.

I would, to start with, point out that the Supreme Court in the so-called partial-birth abortion case did not invalidate the requirement, the constitutional requirement it had enunciated in previous cases for a health exception, as well as a life exception, in the law. It simply said that because all that law was doing was banning a particular -- a particular procedure and there were other

procedures that could be used, then the health of the woman, of the pregnant person, could not be threatened and, therefore, that it was not an issue. But the constitutional requirement for a life or health exception is still in the Constitution and is still recognized by the Supreme Court.

Second of all, let me say a couple of things. And let's clear the air. Mr. Franks keeps talking about murdering millions of children. A small -- an early-term fetus is not a child. That is the heart of the disagreement. Anglo-Saxon law, American law has never recognized a fetus as a child. You are trying to establish that unprecedented distinction. Biblical law never recognized a fetus as a child. If someone deliberately injured a woman and she suffered a miscarriage, biblical law provides he should pay damages, not suffer the death penalty for murder, because, biblically, a fetus was not recognized as a child. Roman law never so recognized it; American law, Anglo-Saxon law, common law never so recognized it.

The Supreme Court, in establishing its system which says that you cannot regulate or ban abortions before viability but you can afterwards, was recognizing the obvious truth: that the character changes. A group of cells a couple of days or a few weeks after conception is different than an 8-month fetus, which is much closer a child. And, therefore, have you much more of a moral right to regulate and to ban abortions of an 8-month fetus than you do of an 8-week or an 8-day fetus, and the woman -- provided you protect the woman, of course.

So all this rhetoric about -- and I will say one other thing. The health and life of the woman has a greater moral claim than a fetus does, unless the fetus is very full-term. And even then, the life and health of the mother has a very strong moral claim. The problem with this bill -- one of the problems with this bill, one of the many problems with this bill -- is that it subordinates the welfare of the mother, of the woman, to that of the fetus. And the fact is that that violates our normal moral views and it violates the Constitution.

Now, we all have a right to our own moral views. We all have a right to decide for ourselves the morality of abortion or the morality of almost anything else. What we do not have the right is to impose our moral views on other individuals, especially to their detriment. When she will suffer physical harm, it is not our right to impose our view.

And that is why the Constitution gives us individual rights and liberty and protects us from the coercive force of the state. And what this bill seeks to do is to use the coercive force of the state to enforce the moral views of some people on the individual liberties of other people. It is wrong. And in this particular instance, where you are talking about telling a woman that she must sacrifice her health because of your moral views, it is obnoxious.

I thank the lady. I yield back.

Mr. Goodlatte. Mr. Chairman?

Chairman Smith. Okay. The gentleman yields.

The gentleman from Virginia is recognized.

Mr. Goodlatte. Thank you, Mr. Chairman. I move to strike the last word.

Chairman Smith. The gentleman is recognized for 5 minutes.

Mr. Goodlatte. Thank you, Mr. Chairman.

First, let me say that I would like to think that we have moved well beyond the Romans in terms of our respect for human life.

Secondly, let me say that, in all my years, when I talk to pregnant women or listen to women talking to each other about their babies, that is what they refer to them as, not fetuses. So I think the perspective on when life begins may be very different in the minds of some people than that of the gentleman who just spoke.

But let me just say that when he refers to those of us who believe in protecting the life of unborn children as being antichoice, I think it is exactly for the reason that he just stated: He does not respect the rights of unborn children. And the fact of the matter is, society has changed, values have changed.

And I think that there are a great many people, in fact, I would argue a majority of people in this country who now believe very strongly that when you have more than one right involved, the right of the mother and the right of the unborn child, it is the obligation of lawmakers to step in and make sure that those rights are both fairly protected.

The gentleman from Arizona makes a very good point that the word "health" of the mother is a very poorly defined statement as to what exactly is meant by that. And the health can be defined in a multitude of different ways by a multitude of different people to justify taking

the life of an unborn child in ways that many, many people, including myself and many others in this Congress, would find to be very, very abhorrent.

So I join the gentleman from Arizona in strongly opposing this --

Mr. Deutch. Will the gentleman yield?

Mr. Goodlatte. I will not yield.

Chairman Smith. The gentleman yields back his time. Thank you, Mr. Goodlatte.

Are there other Members who wish to be recognized?

The gentleman from Tennessee is recognized.

Mr. Cohen. Thank you, Mr. Chairman.

I suspect everything that can possibly be said on this issue has been said, but I just wanted to be on the record as saying that I came to vote on this because these are two issues that are extremely important to me. One is a woman's right to choose, and that being between their doctor and themselves. And the second is the people of the District of Columbia to have their own opportunity to elect their own government. And I find this to be a combination of two issues where people are being deprived of freedom, both the people of D.C. not having the right to elect and make their own laws and then the women being denied certain opportunities that they would have in other States.

And just as a person who has those personal beliefs and thinks that those are important parts of freedom as I see it -- I know that others can see it differently, and I appreciate that perspective -- that I wanted to go on record as saying that I think

that this should be dealt with by the folks in D.C. themselves and not by us, and that it should be really dealt with by a woman and her physician and not dealt with in a political body whatsoever.

Thank you, Mr. Chairman. I yield back the balance of my time.

Chairman Smith. Thank you, Mr. Cohen.

Mr. Deutch. Mr. Chairman?

Chairman Smith. Who seeks to be recognized?

The gentleman from Florida, Mr. Deutch.

Mr. Deutch. I move to strike the last word.

Chairman Smith. The gentleman is recognized for 5 minutes.

Mr. Deutch. Mr. Chairman, I would just like to raise some questions that are, I think, nagging questions that a lot of us have, those of us who forcefully defend a woman's right to choose and the constitutional rights that women have. And the questions really are this: In this bill, it is a -- you are talking about the rights of an unborn fetus at a certain point of time, certain point in time. But when I listen to a lot of the discussion, a lot of the comments, what we hear is no distinctions made.

And I guess what I am really trying to figure out and what we would all like to know is whether this is about a fetus at 20 weeks or whether this whole idea of trying to pass a bill through a committee and get it to the floor of the House at 20 weeks is just a step toward creating the idea of these competing rights that the gentleman from Virginia talked about, the competing rights between the rights of a woman and the rights of an unborn child.

Well, where does that start? We don't like to talk about in these discussions -- much of the defense we hear is a moral defense. We don't like, apparently, to talk about the constitutional rights of women. But what I am trying to understand is, is it 20 weeks today and 14 weeks in the next bill and 8 weeks in the bill after that?

And, ultimately, the real question that I have, if we boil this all down, boil this whole debate down to where this I think ultimately extends, is there a competing interest, competing rights, as we have heard described, are there competing rights between a woman who is trying to make an autonomous decision to exercise her constitutional rights and the rights of a zygote? Is that when it starts?

Is there some point -- it is clear from the discussion today that there is great distress over the way the Supreme Court ruled in *Roe v. Wade* and the rationale they used to base their decision. So I guess what I would like to know is, if we are using this morality issue, then let's come clean.

I would like to know -- Mr. Franks, maybe you could tell us -- is this really ultimately a plan to extend this personhood issue back more and more and more so that ultimately -- we know, everyone watching this committee knows, everyone who is talking about this issue around the country knows that ultimately it is the position of those who oppose *Roe v. Wade* that there are competing rights between a woman exercising her own autonomy over her body and the rights of an unborn child that accrue at the moment of conception.

If that is where this goes, then all of these discussions about

feeling pain -- and you say 20 weeks. The studies, by the way, are not at all definitive. There are studies that suggest later. But that is all almost subterfuge, it seems, if where we are really trying to go, where you are really trying to go is to equate the rights of a woman and the rights of a zygote.

That is what I would like to know. If anyone would like to respond, I would welcome --

Ms. Lofgren. Would the gentleman yield?

Mr. Deutch. I will.

Ms. Lofgren. I would just add that our prior discussions about birth control are pertinent to the point you are making, because birth control pills prevent ovulation, and there was concern that people could prevent ovulation and thereby prevent pregnancy. So I think it really is more extreme, even, than the gentleman has outlined.

And I thank the gentleman for yielding.

Mr. Deutch. Well, certainly.

And if no one wishes me to yield, I will --

Mr. Franks. Mr. Chairman?

Mr. Deutch. -- yield back.

Mr. Franks. Mr. Chairman, I would just try to answer the gentleman's question.

I do believe that these issues related to birth control and pound-and-a-half, 20-week zygotes are diversions from the subject here. This is about 20 weeks. The gentleman can bring up a lot of ancillary things, but this is about 20 weeks or later, a baby that can

feel pain. And that is the bottom line.

Mr. Deutch. Reclaiming my time, I actually -- I can bring up a zygote and I have brought up a zygote because I am trying to get some clarity on an issue that is -- this is an important issue in this Nation.

So I am only trying to figure out, beyond this bill, if the gentleman would support a piece of legislation that gave all of these same rights -- to sue for an injunction, criminal penalties, and the rest -- for an abortion performed the day of conception.

Chairman Smith. The gentleman's time has expired.

The question is on the Nadler amendment --

Mrs. Adams. Mr. Chairman?

Chairman Smith. The gentlewoman from Florida, Ms. Adams, is recognized.

Mrs. Adams. I move to strike the last word.

Chairman Smith. The gentlewoman is recognized for 5 minutes.

Mrs. Adams. And I will be quick.

I have sat quietly and listened, and I will tell you, when I was carrying my daughter, it was my child. It was never a fetus.

So I have listened quietly, but I will tell you I am very supportive of the underlying bill, and I am very concerned that we have talked about other things other than what this child feels at this time.

I yield back.

Chairman Smith. Thank you, Ms. Adams.

The question is on the Nadler amendment.

All in favor, say aye.

Opposed, no.

In the opinion of the chair, the noes have it. And the amendment is not agreed to.

Mr. Nadler. May I have a recorded vote?

Chairman Smith. The gentleman requests a recorded vote, and the clerk will call the roll.

The Clerk. Mr. Smith?

Chairman Smith. No.

The Clerk. Mr. Smith votes no.

Mr. Sensenbrenner?

[No response.]

The Clerk. Mr. Coble?

[No response.]

The Clerk. Mr. Gallegly?

[No response.]

The Clerk. Mr. Goodlatte?

Mr. Goodlatte. No.

The Clerk. Mr. Goodlatte votes no.

Mr. Lungren?

[No response.]

The Clerk. Mr. Chabot?

Mr. Chabot. No.

The Clerk. Mr. Chabot votes no.

Mr. Issa?

[No response.]

The Clerk. Mr. Pence?

Mr. Pence. No.

The Clerk. Mr. Pence votes no.

Mr. Forbes?

Mr. Forbes. No.

The Clerk. Mr. Forbes votes no.

Mr. King?

[No response.]

The Clerk. Mr. Franks?

Mr. Franks. No.

The Clerk. Mr. Franks votes no.

Mr. Gohmert?

[No response.]

The Clerk. Mr. Jordan?

Mr. Jordan. No.

The Clerk. Mr. Jordan votes no.

Mr. Poe?

Mr. Poe. No.

The Clerk. Mr. Poe votes no.

Mr. Chaffetz?

[No response.]

The Clerk. Mr. Griffin?

Mr. Griffin. No.

The Clerk. Mr. Griffin votes no.

Mr. Marino?

Mr. Marino. No.

The Clerk. Mr. Marino votes no.

Mr. Gowdy?

[No response.]

The Clerk. Mr. Ross?

Mr. Ross. No.

The Clerk. Mr. Ross votes no.

Ms. Adams?

Mrs. Adams. No.

The Clerk. Ms. Adams votes no.

Mr. Quayle?

Mr. Quayle. No.

The Clerk. Mr. Quayle votes no.

Mr. Amodei?

Mr. Amodei. No.

The Clerk. Mr. Amodei votes no.

Mr. Conyers?

Mr. Conyers. Aye.

The Clerk. Mr. Conyers votes aye.

Mr. Berman?

[No response.]

The Clerk. Mr. Nadler?

Mr. Nadler. Aye.

The Clerk. Mr. Nadler votes aye.

Mr. Scott?

Mr. Scott. Aye.

The Clerk. Mr. Scott votes aye.

Mr. Watt?

Mr. Watt. Aye.

The Clerk. Mr. Watt votes aye.

Ms. Lofgren?

Ms. Lofgren. Aye.

The Clerk. Ms. Lofgren votes aye.

Ms. Jackson Lee?

[No response.]

The Clerk. Ms. Waters?

[No response.]

The Clerk. Mr. Cohen?

Mr. Cohen. Aye.

The Clerk. Mr. Cohen votes aye.

Mr. Johnson?

Mr. Johnson. Aye.

The Clerk. Mr. Johnson votes aye.

Mr. Pierluisi?

Mr. Pierluisi. Aye.

The Clerk. Mr. Pierluisi votes aye.

Mr. Quigley?

Mr. Quigley. Aye.

The Clerk. Mr. Quigley votes aye.

Ms. Chu?

Ms. Chu. Aye.

The Clerk. Ms. Chu votes aye.

Mr. Deutch?

Mr. Deutch. Aye.

The Clerk. Mr. Deutch votes aye.

Ms. Sanchez?

Ms. Sanchez. Aye.

The Clerk. Ms. Sanchez votes aye.

Mr. Polis?

[No response.]

Chairman Smith. The gentleman from North Carolina?

Mr. Coble. No.

The Clerk. Mr. Coble votes no.

Chairman Smith. The gentleman from Iowa?

Mr. King. No.

The Clerk. Mr. King votes no.

Chairman Smith. The clerk will report.

The Clerk. Mr. Chairman, 12 Members voted aye, 16 Members voted nay.

Chairman Smith. A majority having voted against the amendment, the amendment is not agreed to.

A reporting quorum being present, the question is on reporting the bill, as amended, favorably to the House.

Those in favor, say aye.

Opposed, no.

The ayes have it, and the bill, as amended, is ordered reported favorably.

A recorded vote has been requested, and the clerk will call the roll.

The Clerk. Mr. Smith?

Chairman Smith. Aye.

The Clerk. Mr. Smith votes aye.

Mr. Sensenbrenner?

[No response.]

The Clerk. Mr. Coble?

Mr. Coble. Aye.

The Clerk. Mr. Coble votes aye.

Mr. Gallegly?

[No response.]

The Clerk. Mr. Goodlatte?

Mr. Goodlatte. Aye.

The Clerk. Mr. Goodlatte votes aye.

Mr. Lungren?

[No response.]

The Clerk. Mr. Chabot?

Mr. Chabot. Aye.

The Clerk. Mr. Chabot votes aye.

Mr. Issa?

[No response.]

The Clerk. Mr. Pence?

Mr. Pence. Aye.

The Clerk. Mr. Pence votes aye.

Mr. Forbes?

Mr. Forbes. Aye.

The Clerk. Mr. Forbes votes aye.

Mr. King?

Mr. King. Aye.

The Clerk. Mr. King votes aye.

Mr. Franks?

Mr. Franks. Aye.

The Clerk. Mr. Franks votes aye.

Mr. Gohmert?

[No response.]

The Clerk. Mr. Jordan?

Mr. Jordan. Yes.

The Clerk. Mr. Jordan votes aye.

Mr. Poe?

Mr. Poe. Yes.

The Clerk. Mr. Poe votes aye.

Mr. Chaffetz?

[No response.]

The Clerk. Mr. Griffin?

Mr. Griffin. Aye.

The Clerk. Mr. Griffin votes aye.

Mr. Marino?

Mr. Marino. Aye.

The Clerk. Mr. Marino votes aye.

Mr. Gowdy?

[No response.]

The Clerk. Mr. Ross?

Mr. Ross. Aye.

The Clerk. Mr. Ross votes aye.

Ms. Adams?

Mrs. Adams. Aye.

The Clerk. Ms. Adams votes aye.

Mr. Quayle?

Mr. Quayle. Aye.

The Clerk. Mr. Quayle votes aye.

Mr. Amodei?

Mr. Amodei. Aye.

The Clerk. Mr. Amodei votes aye.

Mr. Conyers?

Mr. Conyers. No.

The Clerk. Mr. Conyers votes no.

Mr. Berman?

Mr. Berman. No.

The Clerk. Mr. Berman votes no.

Mr. Nadler?

Mr. Nadler. No.

The Clerk. Mr. Nadler votes no.

Mr. Scott?

Mr. Scott. No.

The Clerk. Mr. Scott votes no.

Mr. Watt?

Mr. Watt. No.

The Clerk. Mr. Watt votes no.

Ms. Lofgren?

Ms. Lofgren. No.

The Clerk. Ms. Lofgren votes no.

Ms. Jackson Lee?

[No response.]

The Clerk. Ms. Waters?

Ms. Waters. No.

The Clerk. Ms. Waters votes no.

Mr. Cohen?

Mr. Cohen. No.

The Clerk. Mr. Cohen votes no.

Mr. Johnson?

Mr. Johnson. No.

The Clerk. Mr. Johnson votes no.

Mr. Pierluisi?

Mr. Pierluisi. No.

The Clerk. Mr. Pierluisi votes no.

Mr. Quigley?

Mr. Quigley. No.

The Clerk. Mr. Quigley votes no.

Ms. Chu?

Ms. Chu. No.

The Clerk. Ms. Chu votes no.

Mr. Deutch?

Mr. Deutch. No.

The Clerk. Mr. Deutch votes no.

Ms. Sanchez?

Ms. Sanchez. No.

The Clerk. Ms. Sanchez votes no.

Mr. Polis?

[No response.]

Chairman Smith. The gentleman from California, Mr. Lungren?

Mr. Lungren. Aye.

The Clerk. Mr. Lungren votes aye.

Chairman Smith. The gentleman from Texas, Mr. Gohmert?

Mr. Gohmert. Aye.

The Clerk. Mr. Gohmert votes aye.

Chairman Smith. The clerk will make her last report.

The Clerk. Mr. Chairman, 18 Members voted aye, 14 Members voted nay.

Chairman Smith. The ayes have it, and the bill, as amended, is ordered reported favorably.

Without objection, the bill will be reported as a single amendment in the nature of a substitute incorporating the amendments adopted,

and the staff is authorized to make technical and conforming changes.

Members will have 2 days to submit their views.

[The information follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

Chairman Smith. That concludes our markup. I thank the Members for their attendance today and for the high level of debate.

We stand adjourned.

[The statement of Mr. Quigley follows:]

\*\*\*\*\* INSERT 3-2 \*\*\*\*\*

[Whereupon, at 4:51 p.m., the committee was adjourned.]