

network of 320 local chapters and 1,700 facilities that serve more than 3,000 communities and 1.5 million children. Local chapters are volunteer driven and receive most of their funding from private sources. That is certainly a record to be proud of.

H.R. 3235 would authorize the appropriation of \$16 million a year for 5 years beginning with this fiscal year. The funds would be used to enhance services provided by the present chapters, and provide seed money for the establishment of 250 additional chapters in public housing projects and other distressed areas. This could make an enormous difference to the life of so many children that need a fighting chance.

To be eligible to receive a grant, PAL would have to submit an application to DOJ with a few important requirements. First, a long-term strategy on how and where the 250 new chapters will be established and maintained, along with how the present 320 chapters will be maintained. Second, a certification that there will be coordination with the communities in which the new chapters are established. Third, an explanation of how the new chapters will continue to exist when the full federal funding stops.

Mr. Speaker, I believe these are very reasonable procedures to help find alternative steps to violence. These are reasonable and necessary incentives for communities to come together on behalf of our children.

Children need these after school athletic, recreational, and educational programs to improve their lives. As cosponsor of this important legislation, I urge my colleagues to embrace this measure in the widest bipartisan manner possible.

Mr. HORN. Mr. Speaker, I strongly support H.R. 3235. In California, the PAL programs play an integral role in our communities. PAL programs provide positive activities for youth to participate in as an alternative to gangs and violence. They instill family values, teach teamwork, honesty, and personal accountability. PAL programs keep our communities safe and our youth out of danger.

In Long Beach, California, a city I proudly represent, PAL programs have served thousands of youth in the area throughout the past ten years. Not only are young people enjoying recreational activities, they are receiving help with homework, learning to use computers, and positively influencing their peers to participate. This invaluable program has helped so many youngsters that would have otherwise been at risk of getting involved in criminal activity, gang violence or drug abuse.

Every community should be as fortunate to have a preventive program like the PAL program to help reduce juvenile crime. I commend the Long Beach chapter for their excellent work on behalf of our community and the lives of every youth that PAL has touched. I also look forward to hearing about more success stories from PAL programs across the country.

As a cosponsor and strong supporter of H.R. 3235, I encourage all of my colleagues to support and pass this bill. Our nation's youth deserves this commitment of resources.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PEASE). The question is on the motion offered by the gentleman from Florida (Mr. CANADY) that the House suspend

the rules and pass the bill, H.R. 3235, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

VICTIMS OF RAPE HEALTH PROTECTION ACT

Mr. CANADY of Florida. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3088) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide additional protections to victims of rape.

The Clerk read as follows:

H.R. 3088

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Victims of Rape Health Protection Act".

SEC. 2. BYRNE GRANT REDUCTION FOR NON-COMPLIANCE.

(a) GRANT REDUCTION FOR NONCOMPLIANCE.—Section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) is amended by adding at the end the following:

“(g) LAWS OF REGULATIONS.—

“(1) IN GENERAL.—The funds available under this subpart for a State shall be reduced by 10 percent and redistributed under paragraph (2) unless the State demonstrates to the satisfaction of the Director that the law or regulations of the State with respect to a defendant against whom an information or indictment is presented for a crime in which by force or threat of force the perpetrator compels the victim to engage in sexual activity, the State requires as follows:

“(A) That the defendant be tested for HIV disease if—

“(i) the nature of the alleged crime is such that the sexual activity would have placed the victim at risk of becoming infected with HIV; or

“(ii) the victim requests that the defendant be so tested.

“(B) That if the conditions specified in subparagraph (A) are met, the defendant undergo the test not later than 48 hours after the date on which the information or indictment is presented, and that as soon thereafter as is practicable the results of the test be made available to the victim; the defendant (or if the defendant is a minor, to the legal guardian of the defendant); the attorneys of the victim; the attorneys of the defendant; the prosecuting attorneys; and the judge presiding at the trial, if any.

“(C) That if the defendant has been tested pursuant to subparagraph (B), the defendant, upon request of the victim, undergo such follow-up tests for HIV as may be medically appropriate, and that as soon as is practicable after each such test the results of the test be made available in accordance with subparagraph (B) (except that this subparagraph applies only to the extent that the individual involved continues to be a defendant in the judicial proceedings involved, or is convicted in the proceedings).

“(D) That, if the results of a test conducted pursuant to subparagraph (B) or (C) indicate that the defendant has HIV disease, such fact may, as relevant, be considered in the judicial proceedings conducted with respect to the alleged crime.

“(2) REDISTRIBUTION.—Any funds available for redistribution shall be redistributed to

participating States that comply with the requirements of paragraph (1).

“(3) COMPLIANCE.—The Attorney General shall issue regulations to ensure compliance with the requirements of paragraph (1).”

(b) CONFORMING AMENDMENT.—Section 506(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking “subsection (f),” and inserting “subsections (f) and (g),”.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of each fiscal year succeeding the first fiscal year beginning 2 years after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. CANADY) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. CANADY).

GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3088.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CANADY of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. WELDON), the sponsor of this legislation.

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, in the summer of 1996, a 7-year-old girl was brutally raped by a 57-year-old deranged man. The little girl and her 5-year-old brother had been lured to a secluded abandoned building. The man raped and sodomized this little girl. After the man's arrest, the accused refused to be tested for HIV. His refusal to take the test was permitted and protected under the State law. The man later admitted to police that he was infected with HIV.

The bill before us would ensure that families like this one, and numerous others, are not forced to endure torture beyond the assault that has already been inflicted upon their child.

I urge my colleagues to vote for passage of H.R. 3088, the Victims of Rape Health Protection Act. This bill will save the lives of victims of sexual assault. This bill ensures that the victims of sexual assault or their parents know as quickly as possible the HIV status of the perpetrator of the crime.

Sexual assault, sadly, occurs too often in our society. These victims suffer unimaginable cruelties and physical and emotional scars that usually last a lifetime. Furthermore, with the increased incidence of HIV infection in the population, these victims are often forced to wait months or years to know whether or not they were exposed to the HIV virus.

This bill puts an end to further torture of the victims and their families. This bill ensures that the victims of

sexual assault can require that the accused be tested as soon as an indictment or an information is filed against the person. No longer will a victim have to wait months or years for such a test of the accused. No longer will the perpetrators of these crimes be allowed to bargain for lighter sentences in exchange for undergoing HIV testing. This bill puts the rights of victims ahead of that of the sexual predators.

Why is it critical that the victim know as soon as possible if they were exposed? The new *England Journal of Medicine* published a study in April of 1997 finding that treatment with HIV drugs can prevent HIV infection, provided that the treatment is started within hours. The study reviews the treatment of health care workers with occupational exposure. That study found a 79 percent drop, almost 80 percent, drop in HIV infection with those individuals who are exposed to HIV and were started on treatment within hours of the initial exposure.

Furthermore, the study goes on to report the rate of transmission from needlestick injuries is similar to that of sexual exposure. Clearly, getting information to the victims of sexual assault as quickly as possible is critical in saving the lives of those if they have been exposed.

Some might suggest that all victims of sexual assault be given anti-HIV drugs as a precautionary measure. As a medical doctor myself who has administered these drugs many times in the past, I know firsthand that there can be serious side effects. Additionally, I will point out that a 4-week cost of these drugs can run anywhere from \$500 to \$800, an exposure that no person would want to needlessly be exposed to.

As a physician, I am particularly interested in seeing that we take steps that can ensure that the victims of sexual assault are given every available opportunity to protect themselves against HIV, a sentence of death, that could and has resulted from sexual assaults.

Many States already have this provision in law. H.R. 3088 builds on that. Let us approve this bill and place the rights of victims of crimes above those of the perpetrators of crime. Let us ensure the greatest protection possible for the victims of sexual assault.

Mr. SCOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill has not gone through committee. The issue being addressed is being addressed in the Violence Against Women Act, where we can have committee hearings and actually come up with a decent bill. There are several States that have already addressed this issue in different ways. But the way it has come to us today, it has not gone through the Committee on the Judiciary. It sounds like it does a good job, but there are a number of problems with the legislation. Frankly, there has been no attempt to fashion the bill to accomplish its worthy alleged goal by any constructive manner.

For example, there has been no opportunity for anybody to review the bill, there is no opportunity for amendments and there is no opportunity for any interested parties to comment. It was just sprung on us Friday afternoon, and here it is. Six weeks before an election, I guess it is important to pass the bill without any hearings and without the opportunity to be heard, so I guess this is the way we are going to have to legislate the last few weeks.

First of all, there are a number of problems with the bill. It requires a person to be subjected to an AIDS test, even if they are innocent, even if they can prove their innocence beyond a reasonable doubt.

Now, some people that may actually have AIDS, may actually be innocent, and maybe they want to keep that fact a secret, and here you are, notwithstanding the fact that they can show by clear and convincing evidence that they were hundreds of miles away at the time of the alleged offense, that it was not them. They do not have an opportunity to be heard. They get tested, and there is nothing in the bill for confidentiality. This information just goes all over the place.

It requires that the test be given, even though in some circumstances there is zero risk of transmission. It says a person, if requested by the victim, even though there is no chance of transmission, the tests can be given.

There is no protocol, as I indicated, about confidentiality. You may have a situation where the victim actually has AIDS and wants to keep it a secret, and, all of a sudden, whether or not the perpetrator had AIDS or not, you have her subjected to the possibility of this information getting out.

It is a shocking process that we are here on; no opportunity to comment, no opportunity to require any due process, no opportunity to conform this to what many of the other States have done. Six weeks before an election, here we are with legislation with a good title, and no opportunity to constructively deal with it.

We asked the patron for 24 hours so we could consider some of these issues, and, no, here it is on suspension; no opportunity to review, no opportunity to amend, no opportunity for interested groups to comment. Here we are, vote it up or down.

Mr. Speaker, I reserve the balance of my time.

Mr. CANADY of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for again yielding me time.

Mr. Speaker, I would like to respond to some of the concerns raised by my good friend, the gentleman from Virginia. First of all, regarding the issue of a probable cause hearing that the gentleman brought up, I believe that the language in my bill sufficiently addresses that issue, in that a charge has to be made, an information or an indictment.

□ 1630

That typically involves going before a grand jury, a jury of your peers, and those processes do not bring, in most instances, trivial incidents of somebody who was hundreds of miles away at the time of the alleged crime. Typically, there has been an arrest, for example, followed by an arraignment.

The reason this is so imperative, a lot of these crimes happen on Friday night, and if we have to insert in the process a probable cause hearing, we are going to get beyond a 72-hour window. And if we really look at the pathophysiology of how this virus is transmitted, the current recommendations are that if we cannot go on antiretroviral within 72 hours, then we might as well not even do it.

Mr. Speaker, while certainly respecting rights is something that I am very concerned about, we are talking about life and death here, a potential death sentence to somebody who has contracted AIDS. Yes, there are case reports in the medical literature of people contracting AIDS through rape; so we know that it happens. We know that the transmission rate is very, very similar to the rate on needlestick injuries.

We know if we institute antiretroviral therapy within 72 hours of a needlestick injury, we can lower the transmission rate of AIDS by almost 80 percent. It is for that reason that I feel that a probable cause hearing would lead to unnecessary and inappropriate delay.

We are balancing the life of the other person against the rights of the perpetrators of these crimes.

Mr. Speaker, I would like to additionally point out that several of the other bills that we have taken up today did not go before the committee. The committee frequently waives jurisdiction in a case where they feel that a piece of legislation is so inherently appropriate that it needs to move forward, and I think that is the case, the committee's acknowledgment in this particular piece of legislation.

Mr. SCOTT. Mr. Speaker, will the gentleman yield?

Mr. WELDON of Florida. I yield to the gentleman from Virginia.

Mr. SCOTT. Mr. Speaker, I would ask the gentleman from Florida, in an indictment, does a defendant have any opportunity to be heard?

Mr. WELDON of Florida. Reclaiming my time, Mr. Speaker, certainly I am well aware of the fact that the gentleman from Virginia points out something that is correct, the defendant does not have any right to be heard; but the defendant has a period before a jury of his peers, a grand jury; and I believe that in that situation, a probable cause hearing would make unnecessary delay.

Mr. SCOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just point out, as the gentleman commented, that in an indictment a person has no opportunity to be heard. If we can prove that

it is a case of false identification, we never have an opportunity to bring compelling proof beyond a reasonable doubt that it could not have possibly been you; and, yet, you are subjected to the AIDS test.

The legislation before us also includes a provision that a person must be subjected to the AIDS test, even though there is no likelihood at all of a transmission taking place. The legislation talks about not rape, but sexual activity. That could be fondling. If requested by the defendant, the person could be subjected to an AIDS test.

Mr. WELDON of Florida. Mr. Speaker, will the gentleman yield?

Mr. SCOTT. I yield to the gentleman from Florida.

Mr. WELDON of Florida. Mr. Speaker, as the gentleman knows, being very familiar with the law, and, of course, I bring to this debate my experience as a physician having taken care of a lot of AIDS patients, most reputable prosecutors will look at exonerating information before they would bring an indictment before a grand jury; and those pieces of information are not totally excluded.

My concern with the gentleman's issue, the probable cause issue is that it would lead to sufficient level of delay that people would not be treated within the 72-hour window; and then, therefore, people would unnecessarily contract AIDS, and that the better good is to allow this provision to go forward; and that the rights of the accused would be sufficiently protected through the indictment process.

Mr. SCOTT. Reclaiming my time, Mr. Speaker, I would ask the gentleman to advise us as to how much time after an offense an indictment is normally obtained.

Mr. WELDON of Florida. If the gentleman would continue to yield, it is my understanding that frequently in cases where the information is compelling, that it can be brought within 72 hours.

Mr. SCOTT. Reclaiming my time, Mr. Speaker, an indictment 72 hours after the offense, including the investigation and the arrest and the convening of a grand jury is frequently done within 72 hours. Is that the information that we are going to base our consideration of this bill on?

I know the gentleman is a physician and not a lawyer, and perhaps if it had gone through the Committee on the Judiciary, we would find that a lot of these cases the indictment comes months after the offense.

Mr. WELDON of Florida. If the gentleman would continue to yield, I realize that all those things occurring within 72 hours can occur, but it is unusual, and that very often it takes longer. But I am also aware that we can place a patient on antiretroviral therapy while that process is working through, and that if we do run into problems with side effects from the drugs or if there are some serious concerns regarding the costs of the drugs,

that, if at a later time, we are able to get an HIV test that comes back negative, we can discontinue the drugs. Whereas under current State law in some States, we wait months or years sometimes before you learn the HIV status.

Mr. Speaker, what I find even more egregious is some of these perpetrators engage in plea bargaining, trying to reduce a rape charge to an assault charge in exchange for an HIV test, which I think is reprehensible and should not be permissible by any State law, and that is why I decided to move forward with this legislation.

Mr. SCOTT. Reclaiming my time, Mr. Speaker, can the gentleman advise why it is necessary or what compelling reason there is if the activity would place the victim at no risk of becoming infected with AIDS, why the AIDS test ought to be required?

Mr. WELDON of Florida. Mr. Speaker, will the gentleman yield?

Mr. SCOTT. I yield to the gentleman from Florida.

Mr. WELDON of Florida. Mr. Speaker, I am confused by the gentleman's question.

Mr. SCOTT. Mr. Speaker, reclaiming my time, on page 2, lines 12 through 19, it says that the State shall require the following: an AIDS test if the nature of the activity would have placed the victim at risk of becoming infected or the victim requested the defendants to be so tested.

So if the victim requested the defendant to be so tested, even though there is no chance of a transmission, then the test goes forward anyway.

My question is, why do we have the provision that the defendant be tested even though there is no chance of them being infected?

Mr. WELDON of Florida. Will the gentleman continue to yield?

Mr. SCOTT. I yield to the gentleman from Florida.

Mr. WELDON of Florida. Mr. Speaker, I believe that there is a component of this that is necessary to put people's minds at ease in these cases. While it may be a scientific fact that HIV transmission is unlikely to occur from certain other types of exchange of bodily fluids and that the risk is quite low, the victims of these crimes have zero tolerance for risk.

And while it may be easy for the gentleman as a lawyer or for me as a doctor to say, oh, do not worry, what that perpetrator did to you puts you at virtually no risk, that is not acceptable to them; they want to know. They want zero risk, and that is why I put that provision in the bill.

Certainly, as this piece of legislation moves forward through the Senate and goes to a conference, there may be some opportunity to adjust this language to put some further provisions in there that may make the gentleman more comfortable with the legislation, but that is why I included that language in there.

Mr. SCOTT. Reclaiming my time, Mr. Speaker, that is why we asked for 24

hours so that we could work out some of these provisions including, perhaps, some kind of confidentiality, because the results of the AIDS test are being made available to at least six, and possibly unlimited numbers of, people.

Mr. Speaker, I reserve the balance of my time.

Mr. CANADY of Florida. Mr. Speaker, I yield 6 minutes to the gentleman from Oklahoma (Mr. COBURN).

Mr. COBURN. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I say to my associate, the gentleman from Virginia (Mr. SCOTT), that I would like to address three or four questions. Number one is, one of the bases of his arguments is that there is no integrity in the testing system in terms of confidentiality; that has been proven totally false, the basis of that claim.

We as a medical community, as a public health community have not allowed leaks; that is exactly the same argument that was stated when children are born to mothers with HIV that they would not come in and get tested because somebody would find out.

In fact, what has happened is we have even more women coming in and getting tested because all women are interested in their children.

Mr. Speaker, the assumption that there is not integrity in the testing process and somebody outside who absolutely needs to know will violate that person's right is an erroneous assumption, and it is one that is continually used in the HIV epidemic.

The other point that I would make, so that the gentleman would surely know this, is that out of the 1.2 million people who have been infected with HIV thus far in our country, 600,000 of them still do not know they have HIV; they still do not know if they have HIV.

So whether or not an HIV test is appropriate or a non-HIV test is appropriate, there is enough behavior in our country that is not malicious that is associated with HIV infection that nobody knows who is HIV infected and who is not, because they all look the same. HIV is not a regarnder of persons of color or sex or life-style. It does not care. It does infect.

The other question that I would ask from the gentleman is, this is really a question of squaring off of rights. The gentleman from Virginia (Mr. SCOTT) has a great record of protecting individual's rights, and I think that is very important, that we could not ignore it.

I want to read through a few sets of stories and tell me whether or not we ought to be protecting the rights of the rapist or the accused rapist or the accused molester or those that were, in fact, victims of it. 41-year-old Alabama man raped a 4-year-old girl, infecting her with HIV which later claimed her life, 1996.

Had we known at the time his HIV status, the little girl would be alive. As a matter of fact, what we know now is

if, in fact, we treat early, multiple times, we eliminate the infection, even if there was positive HIV there.

That knowledge within a 72-hour frame will give us an opportunity to have at least one aspect of an assault reversed.

A 35-year-old man in Iowa raped a 15-year-old girl and her 69-year-old grandmother. He was infected with HIV. No access to know. They did not know it until after the fact, until somebody became positive.

In New Jersey, 3 boys gang raped a 10-year-old mentally retarded girl. The girl's family demanded that the boys be HIV tested. Three years after the girl was raped and the boys were convicted, the family was still fighting to learn the HIV status of the attackers.

I believe that our law is based on balance, balance of both sets of rights and the claim that we cannot know. As a matter of fact, let me just change direction. We would not even be having this discussion today if we handled HIV like the infectious disease that it should be. That fact, if we had proper partner notification, proper follow-up, proper exposure follow-up, this would not even be a question on the House floor, but because we did the politically correct thing at the wrong time and did not treat it like the disease it is, we now have 600,000 Americans that have died from it.

I think the question is, are we for the rapists or are we for the molesters? Are we for those people who take advantage of others in terms of life beyond the attempt to harm someone, or are we for the victims?

□ 1645

So the real test of this vote this evening in the Chamber is people are going to line up. They are either going to be for rapists and molesters, or they are going to be for the victims. That is certainly somewhat of an oversimplification, but we would not be here if we did not have the same rationalization that the gentleman put forward before, that we cannot test people and hold that confidential.

Mr. SCOTT. Mr. Speaker, will the gentleman yield?

Mr. COBURN. I yield to the gentleman from Virginia.

Mr. SCOTT. Mr. Speaker, I appreciate the gentleman yielding.

Frankly, we would not be having the discussion if we had 24 hours notice in which to discuss the bill. I think it could have been worked out.

Mr. COBURN. Reclaiming my time, Mr. Speaker, the gentleman knows that I have nothing to do with that. That is not changing the fact that we are here to discuss the facts of this bill.

Mr. SCOTT. When I was in the State Senate of Virginia, we dealt with the issue and gave the defendant an opportunity to be heard so that we are not imposing this test on innocent individuals.

The gentleman mentioned that there is confidentiality within the medical

situation of the results of the test. The fact of the matter is that in the bill, the information is divulged not just to medical personnel but to the victim, the defendant, the attorneys for the victim, the attorneys for the defendant, the prosecuting attorneys, and the judge presiding at the trial.

The SPEAKER pro tempore (Mr. PEASE). The time of the gentleman from Oklahoma (Mr. COBURN) has expired.

Mr. SCOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the information is also given to the judge presiding at the trial, and it provides that if the results are positive, such facts may, as relevant, be considered in the judicial proceedings conducted with respect to the alleged crime, by means that it virtually has to become public information in the public trial.

Mr. COBURN. Mr. Speaker, will the gentleman yield?

Mr. SCOTT. I yield to the gentleman from Oklahoma.

Mr. COBURN. Right. And today we do the exact same thing on syphilis.

Let me put forward to the gentleman that, number one, do we serve society's greater good if in fact we limit the spread of the disease; number two, do we serve the victim's greater good; and, number three, if in fact all those individuals that the gentleman mentioned are professional, they can be held in conduct claims against their own professionalism if in fact they divulge it.

The final point I would make in terms of the gentleman's argument is that it should be exposed. If somebody, in law, has violated somebody else and has given them a disease, one of the things we do when one is convicted of a felony is they lose certain rights.

Mr. SCOTT. Reclaiming my time, Mr. Speaker, there has been no opportunity for the defendant to express himself or show conclusive evidence he is innocent of the underlying charge. The fact that they may have AIDS becomes public during the trial, before they have had an opportunity to be heard.

The reason we are discussing this is the fact that before this information is spread all over the world, before they can say, "It was not me, I was 100 miles away, and can prove it," it is all over the world. We would not be having this discussion if we could work this out so we could have meaningful confidentiality, some meaningful opportunity to be heard. There would not have been this discussion. It was less than one business day, no opportunity to be heard, no opportunity to comment.

I will continue to read.

Mr. COBURN. Mr. Speaker, I would just ask the gentleman to think, if one of his family members—

Mr. SCOTT. Reclaiming my time, when I was a member of the State Senate, I worked on legislation just like this to give the victim the ability as soon as practicable to get the information. This does not have that.

The gentleman is talking about an innocent person who is having their private affairs exposed to the world. What good does that do?

Mr. COBURN. If the gentleman will yield, they are not exposed to the world, they are only exposed to the world if in fact it comes to trial. What is exposed today is those people who are plea bargaining to get out of the rape charge by granting testing for HIV.

Mr. SCOTT. Does the gentleman acknowledge that somebody could be factually innocent and could prove it by conclusive evidence, but does the gentleman disagree or will he acknowledge that that would become public?

Mr. COBURN. No, I will not acknowledge.

Mr. SCOTT. I ask the gentleman, how do they keep it private if the victim gets information, the defendant gets information, the attorneys for the victim, the attorneys for the defendant, the prosecuting attorneys, the judge, and the information can get used in a public trial? Then how does the gentleman keep that information private until the person can say, "I was 100 miles away from the alleged incident, it was not me, and I can prove it?"

Mr. COBURN. If the gentleman will continue to yield, is the gentleman saying that people are not held accountable for confidentiality otherwise?

Mr. SCOTT. If the gentleman reads the bill, it requires the information to become public.

Mr. COBURN. I do not know Virginia, but other States, if you have the information of public health knowledge that is considered confidential, then there is no right to distribute that information.

Mr. SCOTT. If the gentleman would read the bill, it is not in there.

Mr. COBURN. I have read the bill.

Mr. SCOTT. This is the bill. The bill requires the disclosure of information.

Mr. COBURN. At what time?

Mr. SCOTT. During the trial, before the defendant ever has an opportunity to respond.

Mr. COBURN. Right.

Mr. SCOTT. To show that he was not there, he was not within 100 miles, and the fact that he has AIDS becomes a matter of public information.

Mr. COBURN. If the gentleman will continue to yield, the gentleman's contention is that for those people today presently infected by HIV, it is more important to maintain their confidentiality than to treat and keep somebody else from getting HIV? That is what the gentleman just said. That is exactly how we have handled this epidemic. That is what is wrong with it.

Mr. SCOTT. If the gentleman would think back to what I had said, if the person is innocent of the charge and can prove it, then I see no compelling interest to expose the fact that they have AIDS. If they are in fact guilty, then the fact that they might have an opportunity to be heard would not slow things down one iota.

Mr. Speaker, basically if the other side had offered us 24 hours, even, to discuss the bill, I think it could have been done in the same form that Virginia did it, that gives an expedited opportunity to be heard and a right to be tested so everyone's rights are protected.

This provides no such rights. If someone has AIDS and wants to keep that information private, they have essentially, under this bill, no opportunity to do it because that information would be part of a public trial. Then, after the fact that they have AIDS has been made public, then they get to present their evidence showing that they were 300 miles away and could not have possibly been the one who is accused of the crime.

Mr. Speaker, this requires testing even though there is no risk of becoming infected. There is no confidentiality of the information. It is spread to a minimum of six, possibly dozens of others, even possibly more. It says attorneys for the victim, attorneys for the defendant, and that could be an entire law firm. There is no telling how many people would get the information. None of them are physicians.

This bill should have gone through committee. I am sure we could have worked out legislation, just like we did in Virginia when I was in the State Senate, we worked out legislation like this. We could have done it with the Violence Against Women Act, where the law presently deals with this issue.

But no, 6 weeks before the election here we come, vote it up or down. We do not have to consider any of this, we do not have to be able to review it, we do not have to be able to amend it or give people the opportunity to be heard, we just have to be able to vote it up or down.

That is not the way we ought to be legislating. This bill is unfair and unreasonable. It could have been fixed with some minor amendments, but we do not have the opportunity because it is right before an election and we have to take it up or down, take it or leave it.

Mr. Speaker, I yield back the balance of my time.

Mr. CANADY of Florida. Mr. Speaker, I yield the balance of the time to the gentleman from Florida (Mr. WELDON), the sponsor of the legislation.

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding time to me.

Of course, I have the utmost respect for my colleague, the gentleman from Virginia, and his experience on this issue in the Virginia legislature. I will point out that it did occur prior to the development of a stronger body of knowledge on how to prevent HIV infection.

The article that I cited that this legislation is based on was published in 1997 prior to the Virginia statute being implemented, and the authors of this article appropriately point out that for

HIV prophylaxis to occur, it needs to be initiated within 72 hours.

I also would point out that many States currently already comply with the provisions in this law, including my home State of Florida, and there have not been problems with release of information to the public.

I would also like to point out that any inappropriate distribution of information on HIV testing that was to be given by any legal professionals, then those people would be subject to the standard disciplinary actions that currently are in place.

Therefore, I feel that this is clearly a case of balancing the greater good. I believe the greater good is to protect the right of victims in this case because of the potential to save life. I urge all my colleagues on both sides of the aisle to support this legislation.

Mr. WAXMAN. Mr. Speaker, I rise to express my concerns over H.R. 3088, the Victims of Rape Health Protection Act of 2000. While I fully sympathize with the intent of this legislation, I am afraid that it lacks important safeguards with would allow for the full protection of victims' rights. I have no doubt that the absence of these crucial details can be attributed to the bill's hasty discharge from the committee of jurisdiction, and the complete absence of any deliberation by the Committee on Judiciary.

It is important that we understand current law as it applies to the rights of victims of sexual assault. According to the National Victim Center, 44 states have laws for the mandatory testing of sexual offenders. Of these states, 16 require mandatory testing before conviction, 33 require testing after conviction, and six require testing both before and after testing.

Under Federal law, HIV testing of convicted sexual offenders is a mandatory condition of States' receipt of certain prison grants. Under the Crime Control Act of 1994, Congress allowed victims of sexual assault to obtain a court order requiring the defendant to submit to testing.

Under current law, such an order may be obtained provided that probable cause has been determined, the victim seeks testing of the defendant after appropriate counseling, and the court determines both that test would provide information necessary to the victim's health and that the defendant's alleged conduct created a risk of transmission.

In contrast, this bill requires that States enact mandatory HIV testing laws where the alleged crime "placed the victim at risk of becoming infected with HIV" or if "the victim requests that the defendant be so tested."

For a bill that purports to protect the rights of victims of sexual offenses, I am troubled by its lack of important and fundamental considerations.

First, under this bill, it is possible that testing of the defendant would occur and the results of that testing be widely distributed—despite the express wishes of the victim. In other words, in cases of sexual assault with a resulting risk of HIV infection, this bill seeks to have States enact laws to compel testing—even if the victim did not request such testing.

This is not just a theoretical possibility. Victims may justly be concerned about the disclosure of test results. Despite our best efforts, there remains a stigma associated with HIV/

AIDS. According to a recent Department of Justice report, New Directions from the Field: Victims' Rights and Services for the 21st Century, "Advocates still report problems with insurance companies that, upon learning of the victim's HIV test or results, raise health insurance premiums or cancel the victim's policy altogether." This is clearly unconscionable, yet could easily result from this bill.

Second, we should be concerned with the converse situation, where only the victim's request will trigger testing of the defendant. Under this bill, testing must occur if a victim desires it, even in situations where one cannot reasonably believe the test is needed. I strongly support retaining the standard under current Federal law of having the court determine whether the test provides information necessary to the victim's health and whether the defendant's conduct may have created a risk of transmission.

Third, this bill fails to truly account for the interests of the victim. There is no provision of counseling, referrals or services for the victim. If we are going to expend scarce resources on timely testing of the defendant, we must ensure that their victims have complete access to counseling, testing and to health services—services which should include immediate, aggressive treatment. Nor is there any question that victims of sexual offenses should be entitled to testing for other very serious sexually-transmitted diseases, not just HIV/AIDS.

As the Department of Justice's report states, "Although testing the offender may be important to the victim, it should be emphasized that testing the offender does not replace focusing on the victim's medical and emotional needs." Indeed, many states require counseling for victims prior or in conjunction with the mandatory testing, as does current Federal law. But that would not be the case under this bill.

Finally, in another counterproductive departure from current law, the bill needlessly requires distribution of HIV test results—which are highly sensitive health information—to a large number of parties, some of whom in some situations may not require or even desire the information. Again, in contrast, states like Wisconsin have been sensitive to these legitimate victim's concerns, specifying that test results shall not become part of a person's permanent medical records.

I am troubled by these obvious deficiencies of H.R. 3088, and regret that neither the Committee on Judiciary nor the Members of this House were afforded an opportunity to correct them.

Mr. STARK. Mr. Speaker, I rise today to oppose H.R. 3088, the Victims of Rape Health Protection Act.

This bill places the wrong emphasis in dealing with the very important crime of rape by violating law-biding citizen's constitutional privacy rights and due process rights.

This bill inappropriately focuses on the defendant rather than helping the victim of rape. If the Congress really wants to aid the health of a rape victim, then this bill should include referrals or direct assistance for health services to rape victims. These health services should include making available the rapid testing for HIV and other sexually-transmitted diseases in order to allow the rape victim to take advantage of an aggressive treatment regimen that needs to begin within 48–72 hours after infection.

This legislation illegally encourages the violation of the due process rights of people who

may well be innocent law-biding citizens. The bill threatens states with the partial loss of their drug control grants if they do not test individuals accused of rape for HIV. These individuals have not been convicted of a crime therefore it is not right to subject them to a mandatory health test. This action is a violation of these individuals' due process rights that are afforded to them during a search and seizure.

This bill violates the privacy of United States citizens. The law requires states to provide health information of individuals' accused—not convicted—of rape to court officials and to the prosecutor. This information is private medical documentation that this law encourages States to make public. The release of this information to the public could adversely affect innocent law biding individuals who are found not guilty. With the public misconceptions and lack of understanding surrounding the HIV virus, these individuals could experience job discrimination and social exclusion if these records become public.

Moreover, this legislation unfairly targets individuals with HIV and gives the implication that having HIV as being a crime rather than a medical condition. It is time that this Congress began treating diseases such as HIV as a medical condition and not a crime.

It is disgraceful that the majority has decided to put such a controversial bill on the suspension calendar. This bill has not had a hearing or a mark-up in committee and it only has eleven Republican cosponsors. This is another example of the Majority trying to score election year points rather than passing thoughtful legislation that improves the health and respects the rights of all United States citizens.

Mrs. FOWLER. Mr. Speaker, today I rise in support of H.R. 3088. I believe that we in Congress must do everything possible to insure the emotional, mental and physical health of the victims of violent crime.

In recent years Congress has worked very hard to elevate the status of the victim in the criminal court process—by recognizing the need for victims' rights and writing those rights into law.

Now we have the opportunity to expand upon doing the right thing for the victims of violent crime. HIV testing of those charged with violent crimes is a step in the right direction. The second step—making it legal to tell the victims the medical test results—is essential for their emotional, mental and physical health. And, of course, timeliness of testing and notification of the victim is of the essence.

We will never be able to undo the harm that has been done to the victim, but we can take steps to control its long-term effects. I urge my colleagues on both sides of the aisle to take a stand on victims' rights. Vote yes on H.R. 3088.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PEASE). The question is on the motion offered by the gentleman from Florida (Mr. CANADY) that the House suspend the rules and pass the bill, H.R. 3088.

The question was taken.

Mr. WELDON of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the

Chair's prior announcement, further proceedings on this motion will be postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 6 p.m.

Accordingly (at 4 o'clock and 56 minutes p.m.), the House stood in recess until approximately 6 p.m.

□ 1800

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LATOURETTE) at 6 p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed today in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 4049, by the yeas and nays;
H.R. 4147, by the yeas and nays; and
H.R. 3088, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

PRIVACY COMMISSION ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4049, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HORN) that the House suspend the rules and pass the bill, H.R. 4049, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 250, nays 146, not voting 37, as follows:

[Roll No. 503]

YEAS—250

Aderholt	Bliley	Chenoweth-Hage
Allen	Blumenauer	Clement
Archer	Blunt	Coble
Armey	Boehler	Collins
Bachus	Boehner	Combust
Baird	Bonilla	Cooksey
Baker	Bono	Costello
Ballenger	Boswell	Cramer
Barcia	Boyd	Crane
Barrett (NE)	Brady (TX)	Crowley
Barrett (WI)	Burton	Cunningham
Bartlett	Buyer	Davis (FL)
Bass	Callahan	Davis (VA)
Bentsen	Calvert	DeFazio
Bereuter	Camp	DeGette
Berkley	Canady	DeLay
Berry	Cannon	DeMint
Biggert	Capps	Diaz-Balart
Bilbray	Castle	Dickey
Bilirakis	Chabot	Dicks
Bishop	Chambliss	Dooley

Doolittle	Kuykendall	Rogers
Dreier	LaHood	Ros-Lehtinen
Duncan	Lampson	Roukema
Dunn	Largent	Ryan (WI)
Edwards	Larson	Ryun (KS)
Ehlers	Latham	Salmon
Emerson	LaTourette	Sandlin
English	Leach	Saxton
Etheridge	Lewis (CA)	Scarborough
Ewing	Lewis (KY)	Schaffer
Foley	Linder	Sensenbrenner
Forbes	Lipinski	Sessions
Fossella	LoBiondo	Shadegg
Fowler	Lucas (KY)	Shaw
Frelinghuysen	Lucas (OK)	Shays
Frost	Maloney (CT)	Sherwood
Gallegly	Maloney (NY)	Shimkus
Ganske	Manzullo	Shuster
Gekas	Mascara	Simpson
Gibbons	McCarthy (NY)	Sisisky
Gilman	McCrery	Skeen
Gonzalez	McHugh	Smith (MI)
Goode	McInnis	Smith (NJ)
Gordon	McIntyre	Smith (TX)
Goss	McKeon	Smith (WA)
Graham	McNulty	Souder
Granger	Meek (FL)	Spratt
Green (WI)	Metcalf	Stabenow
Greenwood	Mica	Stearns
Gutknecht	Miller (FL)	Stump
Hall (TX)	Miller, Gary	Sununu
Hansen	Minge	Sweeney
Hastings (WA)	Moore	Talent
Hayes	Moran (KS)	Tancredo
Hayworth	Moran (VA)	Tanner
Herger	Morella	Taylor (NC)
Hill (IN)	Myrick	Terry
Hill (MT)	Nethercutt	Ney
Hobson	Ney	Northup
Hoekstra	Northup	Nussle
Holt	Ose	Oxley
Hooley	Oxley	Packard
Horn	Packard	Pascrell
Hostettler	Pascrell	Pastor
Hulshof	Pastor	Pease
Hunter	Pease	Peterson (MN)
Hutchinson	Peterson (MN)	Peterson (PA)
Hyde	Peterson (PA)	Petri
Inslee	Petri	Phelps
Isakson	Phelps	Pitts
Istook	Pitts	Porter
Jenkins	Porter	Price (NC)
Johnson (CT)	Price (NC)	Pryce (OH)
Johnson, Sam	Pryce (OH)	Quinn
Jones (NC)	Quinn	Radanovich
Kasich	Radanovich	Ramstad
Kelly	Ramstad	Regula
Kildee	Regula	Reynolds
Kind (WI)	Reynolds	Rivers
Kingston	Rivers	Roemer
Klecza	Roemer	Rogan
Knollenberg	Rogan	
Kolbe		

NAYS—146

Abercrombie	Doggett	LaFalce
Ackerman	Doyle	Lantos
Baca	Ehrlich	Lee
Baldwin	Engel	Levin
Barr	Evans	Lewis (GA)
Barton	Farr	Lofgren
Becerra	Fattah	Lowe
Berman	Filner	Luther
Bonior	Ford	Markey
Borski	Frank (MA)	Matsui
Boucher	Gejdenson	McCarthy (MO)
Brady (PA)	Gephardt	McDermott
Brown (OH)	Gillmor	McGovern
Bryant	Goodlatte	McKinney
Burr	Green (TX)	Meehan
Capuano	Gutierrez	Meeks (NY)
Cardin	Hall (OH)	Menendez
Clayton	Hefley	Millender
Clyburn	Hilliard	McDonald
Coburn	Hinchee	Miller, George
Condit	Hinojosa	Mink
Conyers	Holden	Moakley
Cox	Hoyer	Mollohan
Coyne	Jackson (IL)	Murtha
Cubin	Jackson-Lee	Nadler
Cummings	(TX)	Napolitano
Danner	John	Norwood
Davis (IL)	Johnson, E. B.	Oberstar
Deal	Jones (OH)	Obey
Delahunt	Kanjorski	Olver
DeLauro	Kaptur	Ortiz
Deutsch	Kennedy	Pallone
Dingell	Kilpatrick	Payne
Dixon	Kucinich	Pelosi