

MAINE STATE LEGISLATURE

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Legislative Record
House of Representatives
One Hundred and Nineteenth Legislature
State of Maine

Volume III

Second Regular Session

March 23, 2000 – May 12, 2000

Appendix
House Legislative Sentiments
Index

ONE HUNDRED AND NINETEENTH LEGISLATURE
SECOND REGULAR SESSION
35th Legislative Day
Tuesday, April 25, 2000

The House met according to adjournment and was called to order by the Speaker.

Prayer by the Honorable Thomas J. Kane, Saco.
Pledge of Allegiance.

Under suspension of the rules, members were allowed to remove their jackets.

The Journal of yesterday was read and approved.

SENATE PAPERS
Non-Concurrent Matter

Bill "An Act Concerning Fingerprinting and Background Checks for School Employees"

(S.P. 987) (L.D. 2540)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-691) in the House on April 13, 2000.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-692) AS AMENDED BY SENATE AMENDMENT "A" (S-735)** thereto in **NON-CONCURRENCE**.

Representative BRENNAN of Portland moved that the House **ADHERE**.

Representative TRAHAN of Waldoboro moved that the House **RECEDE AND CONCUR**.

Representative MURPHY of Kennebunk **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative McAlevey.

Representative **MCALLEVEY**: Mr. Speaker, Ladies and Gentlemen of the House. I won't get into a long discussion of this, but I would say for those 27 students who have been sexually abused by educators in the last 10 years that this is not statistically insignificant. It is a major life crisis in their lives. They have been scarred for life. As I said when we debated this earlier, no educator would allow a child to run into a burning building or run into the path of a vehicle and be hurt, neither should any educator allow a child to be exposed to a sex offender. Children are required by this body and the other chamber to attend school until they are 18 years of age. We have determined that that is in their best interest. We have determined that is mandatory. If they don't show up, their parents can be held accountable. With that responsibility that we give them, we also have a responsibility. We are not on a witch hunt looking for teachers. We are looking for the predatory pedophile who chooses education for one purpose and one purpose only and that is to have access to children to have sex. That is what we are looking for. Fortunately, only a very, very small amount of people have been decertified for that reason. How many is enough? Twenty-seven children who will grow to

adulthood have been scared for life by being sexually abused by an educator. Enough is enough. Thank you.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Etnier.

Representative **ETNIER**: Mr. Speaker, Ladies and Gentlemen of the House. I have been mercifully quiet on this for the last six and a half hours of debate we have had and I will try to be brief today. I knew months ago that this would be the most contentious issue we faced this session. I have received a lot of phone calls about it. I have probably received more phone calls, I kept a tally in opposition to fingerprinting in general, then I have in support. If I lose the next election because I support fingerprinting, that is how it goes. MEA has supported me loyally in the past as I have supported them with my pathetically high voting record on their behalf. I don't care if they ever support me again or not. I never asked for their support in the past and I don't need it in the future. They are upset with my position on this and I understand that and I understand their position. I understand both sides of this argument and I respect both sides of this argument. I respect those people who support those people who support this bill as I do. As much as I hate to support this bill, because I think it is an unnecessary flaw of our times that we have to support this sort of measure. It reflects poorly on our society, but I believe we do. I also respect those who oppose this measure, because I respect their concern about the civil rights violation being present in the requirement for fingerprinting as a person who believes strongly in civil rights and a member of MTLU in the past and all those organizations that we all subscribe to. I, too, had concerns about this especially months ago when I first heard about the issue. In fact, at that point I was opposed to it, but as I learned more about it, I came to feel strongly that those issues are not real and that the civil rights are not really an issue at all. When it comes down to it, if there is an affront here to civil rights, the idea of an affront to the tens of thousands of teachers who have to have their fingerprints taken once is far less of an affront than the potential of an affront to at least one or even more than one child who is sexually abused. I view that civil rights violation, if you want to call it that. In either case, as being far more upsetting to me if there was even one child than the tens of thousands of teachers who may have to get fingerprinted.

I will admit to a bias. The good Representative from Kennebunk brought up our children coming to this chamber. I have brought my children to this chamber before. I will do it again some day, I hope. That is the bias that I have. It is for the children. I know that even the people who oppose this bill love children as dearly as I do. I am not trying to imply that don't, but that is where I am coming from here. I speak from my heart on that basis. I speak for the parents in my district who also have young children. I have always loved my teachers. I would like to mention one that I didn't back in high school, but we don't need to go there. I loved all my other teachers and they have done a great job even though I haven't fared too well by it, myself, personally. I don't have anything against teachers. I give them the utmost respect and we don't pay them enough and we don't give them enough respect. That is not what we are talking about here today.

What I want to lay out to you is I support people who are opposed to this bill. I understand where they are coming from. I support people who are in favor of it. I understand where they are coming from, but this idea of this Committee Amendment "B" as amended by Senate Amendment "A" to me, is not a

compromise. I understand what compromises are. We do them on a day-to-day basis here. We did it the other day in the budget. They are worthwhile things and necessary thing to move forward on key issues in the state and there are goals that are achieved by compromises and they are worthwhile goals. This Committee Amendment "B," I don't view it as a compromise. With all due respect to those who might support it, I view it as simply a cop out. It implies that all of the 46,000 current employees excepting those 12,000 or 13,000 who already have had their fingers smudged with ink are somehow or other above the law in some way and there is no need to have them fingerprinted and that there is certainty that all 100 percent of those remaining current employees have nothing in their background that we should be aware of. I can't buy into that. I don't know that. Does anyone in this chamber know that? I doubt it. This compromise that we are being asked to Recede and Concur on today that I view with such distain, frankly, is just a means to appease the current population of teachers and to appease the current union members in the union and to come up with some sort of magical date approximately 90 days from now. From that date on, all teachers who are run through this process will be subject to fingerprinting, but for some reason or other, before that date they weren't. Is that fair? Is that ethical? Is that a civil rights violation? I don't think so. If you think it is wrong to fingerprint teachers because it is a civil rights violation in any way, shape or form, then vote against any form of fingerprinting and feel good about that because that is what you should be doing and I respect you for that. If you feel like I do, that it is an unfortunate thing we do have to proceed with at this point in time and it is the responsible thing to do as a state having control over the public schools and the employees of them as we do as legislators, then support it, but don't go for some compromise in the middle that is really an affront to both sides of the argument. Thank you very much for your time.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Sullivan.

Representative SULLIVAN: Mr. Speaker, Ladies and Gentlemen of the House. I also hope not to take too much of your time. It certainly has been an issue that has been spoken about both in this chamber and outside. Again, I will put on a disclaimer. I am a teacher. I have many concerns. One is the superintendent in Biddeford, my community, who is a little concerned about what we are going to do about the taxi drivers that bring our children to school. It is a private business. We worked on a bill about children who have special needs or for disciplinary reasons are taken out of school. We certainly make arrangements when they cannot ride safely on the bus. Biddeford is fortunate enough to be able to have a transportation company. The school must now demand that the taxi cab drivers are fingerprinted in order to bring the children to school to be educated because of the laws that we have helped make, along with the federal government.

When I was standing before you last week, it seems like six months ago, I told it was a piece of feel-good legislation. I still believe that. I also told you that I know DHS may say that they are caught up, but they are not. They have simply limited what they deem as emergency and what they deem as less of a priority. In Portland, this past week, the chief of police had to move in and take seven children, the youngest of which was three, and have the court remove them from their home. DHS came in and said they have been working on that case for six to seven months and they needed to move at a slow pace. Yet

seven children, who were at risk, DHS needed to move at a slow pace. It was too slow for those children, two of whom now have lead poisoning for life. DHS is overwhelmed. It can't keep help. We are not doing our children any favors.

I am concerned about the public relations. We have tried, you people that were here prior to myself, with learning results to raise aspirations and public trust in our public schools. Maine has number one students. Tests prove that out. Yet, for the last three weeks, in particular, but as the good Representative from Kennebunk, Representative Murphy said, really since we walked in here in January. There has been a public relations move that what we have is pedophiles lurking in our schools. Everything we have worked so hard for in Maine for our children and we talk about education being the key, what the public has heard is that our schools are full of pedophiles. I just heard that if you are a pedophile, spend your four years in college and become a teacher. It is a heck of a message to send here. I am personally affronted by that. You can take any single organization or any single profession, police officers, clergy, store clerks, it doesn't make any difference. There are sick people in our society and unless we do pull everybody over and do a background check and fingerprint everybody. This is a feel good piece of legislation.

I am concerned about small businesses. Why? There are bus companies who contract out to schools. Who pays the bills there with the small bus companies? It is not the schools. It is not the State of Maine. It is business. They pick up the tab again. Again, we need to change society. We need to make mandatory reporting. We need not to make sweetheart deals to leave people when there are allegations, we need to report them to the police and they need to be treated as crimes. We need to do the right thing and to simply pass the bill makes us feel good and we say we have done something because every single one of us what to do what is right. I firmly believe that. What is right? It is society demanding that we ask for serious consequences when people are convicted of sexual crimes against our children. We need to treat allegations as real. We can no longer condone it. We can't be an ostrich and put our head in the sand and say we will fingerprint everybody and that relieves us as society from protecting our children. It does not. I believe part of our responsibility is to build a trust in our public school system. I have done it personally. I hope to do it as a lawmaker. I ask you to look at this and think, what do we really want to achieve? If it is safety, there are a lot of things that we can do as a group to truly protect our children. Thank you very much Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Brennan.

Representative BRENNAN: Mr. Speaker, Men and Women of the House. In 1997 this issue went under the hammer. I sat here in 1997 with a number of other people that are currently here and it went under the hammer. Why did it go under the hammer? It went under the hammer because all the major parties involved with this issue had come to an agreement and a recognition that this was a reasonable public policy. The MEA, the School Board Association, the superintendents, the principals, the Maine State Police and the Department of Education all agreed under the hammer. It was unanimous because the Education Committee and all the interested parties involved agreed that this is something that should move forward. In 1998, a year later, there was no legislation introduced to modify or repeal the law that was passed in 1997. There was a bill that was put in to pay for fingerprinting and background

checks. That did not pass, unfortunately. In 1999, there was not a bill put forward to repeal or modify the law passed in 1997. There was a bill put forward to pay for background checks. Unfortunately, that was not funded. This legislative session at the beginning of the session at cloture, there was no bill put forward to repeal or modify the law passed in 1997. Again, there was legislation put forward to pay for it. Consistently, since this law has been passed, there has not been an effort to repeal or modify or to address one single issue and that is the payment.

The good Representative from Winslow asked last week in the debate how did we get here and why did we get here. That is the answer. The reason why we are here today having this debate, I believe, is not because of whether or not this is sound public policy, it is because we haven't answered the question about who is going to pay for it. If we had acted last session to pay for this or if we had acted earlier this session, quickly, this session to pay for this, I don't believe we would be here today debating whether or not this is good public policy. Fortunately, we still have the opportunity today to keep good public policy and to address the issue of payment. I hope people will vote against the motion to Recede and Concur and instead keep good public policy and have the state pay for this issue, which we should have done back in 1997 and back in 1998.

The other point that I would like to make, and unfortunately it is going to be a little bit technical, but I think it is important to make. The Education Committee has spent four years looking at this issue every twist, every turn, every possibility and every nuance related to this public policy. Every time we have looked at going down one road because we think it may be a better policy, we stop and go back someplace else because there are some obstacles by going down that road. What was put before us last week coming from the other body as an amendment that was significantly flawed. It was so flawed that we had the FBI and the State Police saying that they didn't think they would be able to implement it. We now have another amendment from the other body that attempts to address some of those flaws that were articulated last week. Some of those issues have been addressed, but unfortunately, new and more problematic issues have surfaced. The amendment that has come before us now would allow each individual school board of this state to decide whether or not they would fingerprint or have background checks for teachers who are moving from one school district to another. Meaning that if somebody is currently employed in a particular school district and they are a veteran teacher and after August 1, they choose to move someplace else, it would then be up to the discretion of the school board to decide whether or not they would be fingerprinted or background checked. You could have the Brunswick School Board say we are going to do background checks and fingerprinting, but the Portland School Board could say we are not going to.

Is that a reasonable way to enact public policy? I think that. That is not local control. Not only would it allow local school boards the option of fingerprinting and background checks, but there is no time limit on how long the policy would be in effect. The school board could put it into effect one month and repeal that same policy several months later. We should not be writing public policy by one legislator's amendment. That is not a good way for this body to move forward. All it does is create more problems. We have waited a week for another amendment to this bill and what we have gotten back is an amendment that has created as many problems as it has attempted to solve.

Eleven members of the Education Committee worked on this bill for three months. We believe that what we have put before you makes sense. It is reasonable public policy and that it should stay in place. We should not be creating public policy through amendments and an attempt to address issues on a piecemeal basis. Thank you. Again, I hope you will vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from St. George, Representative Skoglund.

Representative **SKOGLUND**: Mr. Speaker, Ladies and Gentlemen of the House. The good Representative from Portland, my friend Representative Brennan, said that 11 members of the Education Committee worked on this for several months. I guess while the 11 were working on it, two of us were thinking about it. As I said last week, this has become a very difficult debate because it is about values. It is not about statistics. It is not about numbers and it is not about fingerprinting. It is about values. A few years ago we had a discussion here on the floor about desecration of the flag. It was a very moving, very significant debate. We had at the time Veterans of World War II who had defended their country in Europe and in the Pacific and they told what the flag meant to them. They told what their values meant to them. I think one of the values that they fought for was the right for people to feel free from constant police surveillance. If that wasn't one of the values they fought for, I have been misinformed for a great many years. I think the freedom to privacy is a very basic freedom even for schoolteachers. Perhaps I am mistaken about this, if I am, I hope someone will straighten me out, but it is my understanding that it does not end with the initial fingerprinting and background checks.

I understand there is an actual file kept on each teacher somewhere here in Augusta and every five years the police run another check on that teacher and add whatever information might come up to the file. If that is not so, please correct me, because that is one of the reasons why I am so adamantly opposed to this. I think those veterans of World War II, who spoke so eloquently on the floor, fought against police files on every citizen, whether they were guilty or innocent. I think another of the values those people fought for was the right to be assumed innocent and to have to prove your innocence by submitting to background checks and files even though you have not been convicted of anything. This is a very serious question about values. We hadn't realized how serious it was at first and that is why we let it go by.

One thing that disturbs me is how willing we are to think by slogan and to legislate by slogan. If it saves one child, it is worth it. We all believe that, but we all know it is not true. Is it worth giving up our right to privacy, our right to be assumed innocent, to save one child from sexual abuse because so many of those young men gave years of their lives, if they were fortunate enough to come home, opposing a mentality similar to that that we are so anxious to enact into law to ensure security for children? The first thing I want to repeat is, if anyone can explain to me that I am wrong about this file that will be kept and updated, please do so. The second thing that I would like to ask of the proponents of this is, which freedoms would you not give up to save one child? Is there a freedom you would not surrender to save one child? I know most of you, I believe, would give your lives individually to save a child, but do you have the right to surrender the freedom that our people fought for, the right that we want our children to have? I not only want our

children to be safe from predators, but I want them to be brought up in a free society where there is a right of privacy.

There is a third option on this. I still have Amendment "C," which would repeal this entirely. It would repeal fingerprinting and, if both of these amendments fail, I shall present Amendment "C" to repeal the whole thing and I can vote for that with a clear conscience and I hope to hear a response to my two questions, one, is it true there will be a file on each teacher and two, what freedoms would you not give up for one child? Thank you.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Matthews.

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. This debate is interesting on this issue. I appreciate the good comments of the gentleman, Representative Skoglund and I also appreciate the comments of the gentleman from Portland, Representative Brennan, the chair of the committee. I would appreciate an answer to the question I asked in this debate about how we got here. It seems to me though that that answer doesn't quite go far enough. It really doesn't cut it because it seems to me, ladies and gentlemen, that the one group that was not consulted about this change of the rule of law are the teachers. The Teacher's Association has said publicly, privately, that they made a mistake. The leadership of the union made a mistake. They didn't go to the membership and ask teachers what they thought.

I have four children, two teenagers and two 10 year olds. I am concerned about their safety just as every member of this body is. I am also a supporter of the Constitution and the Bill of Rights, the presumption of innocence. I think that there is an effort here with this legislation, a plan, to kill this bill. Let's not Recede and Concur and Adhere and then have it die between the bodies and then the status quo continues. The mistake continues. The denial of civil protections continues because we are taking one group of professionals and singling them out.

There is an ad I saw this morning before I came down to the State House and I am drawing a parallel here, but please forgive me. I shows a group of individuals dressed in police uniforms standing over workers in China. I imagine they fingerprint them and they background check them. They control everything they do in China. The message in the commercial was to vote against China's admission to the free trade because of their poor human rights record. Countries and individuals look to the United States of America because of our system of law, the presumption of innocence, the protection of civil rights and the teacher that I remember in high school, the one who probably had more of an impact on me than everyone. He talked about the presumption of innocence to our class. He talked about what it meant to be an American. He talked about the Constitution and the Bill of Rights. What do you say to a teacher when you pass this bill that they have been teaching in the classroom for 25 years or 30 years or 40 years and by the fruits of their labor, they have done good works in our community. Now, we are going to fingerprint you.

I am just appalled by this bill. It is amazing to me what we are willing to do. On the other side of this equation it seems to me we talk about the perpetrators of these ungodly crimes. I know as one member, I have tried to change some of our laws with respect to child abuse when I was a member of the other body in making our sentences tougher. The Judicial Branch needs to come to play here, too, it seems to me to make sure that they make these sentences tougher and some people need to get help. We need to put them out of society. We need to

deal with the perpetrators, the breakers of the law. To deal with the people that have not done anything wrong and now simply say we are going to make you fingerprint after 30 years of teaching. We are just going to take your group of individuals because we think that your group has somehow a corner on this problem. I am amazed. We are singling teachers out.

Having been a member of this body in the past when we did some things during the budget crisis, that, I am sorry that I voted for, and the colleagues in the Senate and House voted for. We have hurt teachers here. We have robbed their pension funds. We have made their jobs tougher and yet it is teachers that make such an impact on our children, our society, our freedoms, our values as Representative Skoglund said, it is a teacher in the classroom that has that impact. The vast majority of them are good people. We don't because we have a problem in America where we round people up and put them in a soccer stadium and make them submit to fingerprinting or background checks or hold them without charge. We don't do that in America. They do that elsewhere where the rule of law means nothing. We are a different society. The presumption of innocence is important. It seems to me that we have an opportunity. I don't particularly care for the amendment, Report "B," but I will tell you it seems to me that it can be at least a little bit fairer than taking a teacher in the classroom after 40 years and making them do this. I hope you will vote to Recede and Concur. I believe that the effort here is to kill this legislation today. Kill the amendment, Adhere and keep the status quo and the status quo is wrong. It is wrong and it needs to be changed. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative **MARTIN**: Mr. Speaker, Members of the House. I have not participated in this debate nor do I really intend to for any length of time. I do need to, for the benefit of my friend from Winslow, point out a couple of factors. I was a member of the Education Committee when this was enacted into law with the support of the School Board Association, the Maine Teacher's Association and every other group in this state coming forth. For a number of years this was tooted as, we being the leaders of how Maine is going to do something about the protection of children in our school systems. I understand that the leadership of the MEA has changed its mind for whatever reason. That is within their prerogative and it is within the ability of the organization to do that. The one thing that I learned as a teacher is that you need to be consistent and you ought not to be changing your mind every other day. That certainly leaves a very bad message for the children you are attempting to teach and to provide them any values in that process, because what they do is see you as wishy washy. That sends a very bad message in the long run, not only for the students that you are teaching, but also for the parents and for everyone else in the system. The law, in fact, went through this body in 1996 or thereabouts with great, as I said, a great deal of support and fan fair. The leadership of every single organization that I know of came before the legislative body and said we think it is a great idea.

I can expect that we can all change our mind as the Legislature does so well, but I think we need to understand that this will come back and back again. The second part of why I am scuffing my feet is how ironic it is for those who are in the teaching profession, as myself, to say that for those of us in the profession, we are protected from being fingerprinted, but let's do the new hires. They are not yet here. Let's put them on. I,

frankly, think that if we are not going to do it, then let's repeal the law for everyone and not simply make it effective for some and not for others. The third part of that goes with how much money we have now spent in getting to that stage. We have now done 13,000 or 14,000 teachers in this state and we are going to tell them we don't care. We are just going to throw those files away. We are just going to waste that money. I know it is going to happen and most of you in this room know it is going to happen. We are going to have a good published case that is going to hit us in the face in a few years, maybe next year or three years from now. The public in this state is going to say what is wrong with you legislators? You failed to protect our children and it is your fault and then the Legislature, in its infinite wisdom, will change its mind again and we will start this process all over again.

I have told others before that it seems to me if we are going to repeal, why simply destroy the records that have already taken place? I just don't understand that logic because we will have now said that we have wasted this money. We know it. If the Legislature wanted to do something about that, they should have done it two years ago before it started and not today. I think we are making a horrible mistake. I am not sure politically how one gets out of it, because we have created our own political mess and it is unfortunate that we are creating it for the rest of the state, especially for the teachers and for the students.

The SPEAKER: The Chair recognizes the Representative from Waldoboro, Representative Trahan.

Representative **TRAHAN**: Mr. Speaker, Honorable Members of the House. I would just quickly like to address what the previous speaker said about a case being in our media and being our fault. I suggest to you that a crime committed by a pedophile out there is not your fault. I have heard that kind of testimony here several times. It tries to lend to your conscience that if you don't pass this, somehow you are responsible for the crimes of a pedophile out on the streets. That kind of fear is unwarranted here. That person could have never had a history of a crime in this state or any other state in the nation or the world, no fingerprinting out there or no background check might have found them, but yet they created the crime and somehow you are responsible for that. Do not accept that kind of guilt, my friends.

Secondly, what is so great about our government is that it can change at any time. When the people rise up in one voice and say we do not accept this, we have the power, through our legislative bodies, to change law at any time. To say that a bill went through here unanimously, we must stick to it, would not be sticking to the basic principles of our form of government. Do not buy into that either.

I would like to address this yellow form that was circulated, Background Checks for all School Employees, revised Report "B" is still inconsistent. I circulated for this body a document called the Volunteers For Children's Act. It is a national, congressional piece of legislation that passed a few years ago. It is the origin of fingerprinting that we debate today. It is the federal legislation that allows states to develop policies around fingerprinting. I called the man who helped write this law and I ran Senator Murray's amendment by him and he had no problem with it. He said that it works. That is counter to what this form tells you and what we heard earlier. Remember, the man who helped write this form when I ran Senator Murray's new amendment by him, said it was fine.

There is another document that I would like to point out to you and that is the handout from that dreaded MEA that so many people like to take potshots at here. I remind you that MEA is just a representative of the people. If they are coming here and debating on this issue, it is the people that they represent that you should be taking potshots at and that is the people of Maine. Again, do not be part of that game. Nationally, a substantial majority of states, 31, only fingerprint new hires, if at all. If it was such a horrible policy for us to do new hires, how come a vast majority of states out there are doing new hires? I will tell you why. This debate has been heard many times all over our nation and I believe the civil rights issue is a part of this and that is the reason it does new hires. I will tell you why. Our laws, our Bill of Rights, our Constitution all put the liberties of the individual above the powers of government. It is legislation like this that turns that on its head. I will explain. Anytime you give the power to government to take 50,000 people and hold their livelihood hostage, you have taken the liberties from the individual and you have given it to the government. They hold in their hand a person's livelihood. They have gone to school. They have dedicated their lives to teaching and now you are saying to them that if you do not do this, if you stick on principles of this nation, that is your civil liberties, then we are going to fire you. We are going to take away your livelihood. There is your civil rights problem, my friend. You have allowed government to take the lives of people in their hands and control it, but when you do new hires, you have allowed that choice to be with the individual. If you say to that individual going in, you have to be fingerprinted to be a teacher, it is their choice. They say whether they will be fingerprinted or not.

I return to this document that came from the federal government. Read the front page, ladies and gentlemen, it is already a federal law and there are powers already for any state, any entity, to do fingerprinting and background checks. It already exists. Read the front page. The VCA relieves the states of a necessity to enact legislation consistent with Public Law 92544 as a prerequisite to access national criminal history record information under the authority of the NCPA. It already exists. The policy is in front of you. It is a 27 page document from the FBI that spells it out on what states can do. We should have had this document months ago because we could have developed law and policy around this document. The federal legislation that enables the fingerprinting and we could have come forward with a piece of legislation all of us could have supported. When you read this document you will find that teachers are not singled out. Any health care person can be fingerprinted or any person in daycare. We could have developed a state policy on all of these areas, not singling out one group, all of them. I say to you that this is the future. This is a picture of the future, a snapshot. The people that want this legislation started with teachers. There was no documentation that said there was a rise in problems in our schools. They were just singled out. This document, if you read it, I beg you to read it, it will spell out that these problems could be addressed. You know what is even more interesting. If you will turn to page 6, it allows for districts, entities, to pick and choose the people to be fingerprinted based on their contact with children, whether they are in an environment where the child would not be susceptible, that person would then be allowed not to have the prints. If a person was in a situation where they were in an area where they could abuse a child, then this document says, yes, fingerprint them.

We should have looked within our schools and identified every area of the school where the children were susceptible and then require fingerprints of those children that could abuse children, but that was not done. Here we sit in a mess. I say to you, this body, adopt Senate Amendment "B." We will do new hires to address the concern of pedophiles coming into the state, which has always been the argument from the beginning and then we will take a complete look at all areas as this federal legislation had intended and then we will identify the areas that need to be fingerprinted. More than that, we will respect our teachers and our support staff as well. Many of those individuals have no contact with children where they could abuse, but they are going to be subjected to the same kind of treatment as if they were. To me, that says we aren't out to protect the children, we are out to identify that person's history. What is the true intent here? I ask you to support the Recede and Concur motion. I thank you.

The SPEAKER: The Chair recognizes the Representative from York, Representative Andrews.

Representative **ANDREWS**: Mr. Speaker, Men and Women of the House. I would like to clear up a little misconception about this bill that has been going around. I hear teachers this and teachers that. This legislation infers that all teachers are suspects. Ladies and gentlemen, I have a slip here that states that 29 other categories that are involved with children in school that are also going to be tested. It is not just teachers. It is to test all people who become involved with our children in schools to protect them. Let's clean up that misconception right now. Have they been objecting? Yes, some of the support staff has objected, not to being fingerprinted, but having to bear the cost of it. These individuals make much less money than the professionals, but they will willingly submit to the fingerprinting if it will protect the children, but they do object to paying the cost.

I would also state that we are very wrapped up with civil liberties and civil rights. I state to you that all of us, teachers, nurses, lawyers here violate our newborn child's rights the day they are born when we have them footprinted and then when they enter school to fingerprint them to help identify them if they are ever abducted or this sort of thing. We start very young, but we do that to protect our children. Thank you.

The SPEAKER: The Chair recognizes the Representative from Buxton, Representative Savage.

Representative **SAVAGE**: Mr. Speaker, Men and Women of the House. I am going to address a couple of different issues and they are going to be all over the map so please bear with me. You all know that if I thought this was a constitutional issue, I would be turning myself inside out against fingerprinting, but it is not a constitutional issue. In fact, for proof of that, we can turn to one of the examples given by the folks who are against fingerprinting. The reference to teachers being the front line against child abuse. That is a pretty bad example, actually, for the side against fingerprinting because everyone on the front line in our country is fingerprinted and worse. We give lie detector tests to police officers that dig far deeper than their fingertips. We don't think that they are criminals, but the risks are very, very high and we make sure that when we put someone on our streets with basically the authority to kill if necessary, that we have the right person there on the street. The front line of the battlefield, well that is a soldier. I have never been to boot camp, but I have heard some bad things about it. I can't imagine that we think that every soldier is a criminal, but we fingerprint them, we DNA test them, we turn them inside out when they get their

physical. We know everything about them. The front line analogy, I think, goes to show us that this is not a constitutional issue. People who want to be police officers, people who want to be soldiers, people who want to be stockbrokers, people who want to be lawyers, people who want to be any number of different things in our society and want to take on the risks and the responsibilities attending to those endeavors are fingerprinted and checked and worse.

I have heard arguments about volunteers and why don't we do volunteers. I am just going to tell you a little sort of an example. It is not uncommon that people want to shadow attorneys in the course of their work. They want to see what it is like to be an attorney. Every time someone does that and they call me up and say can I be your shadow today? I say sure. We sit down and we talk about what it means to be an attorney and what the lawyer/client privilege is all about and what confidentiality is all about so that when that person comes into a meeting between me and my client, I have to make an assessment of whether or not, after I have gotten the permission of my client, about whether or not this person can be trusted to respect that privilege and respect that confidentiality. If they don't, it is my ticket. Volunteers I think fall in that same category. If they go to the school for a half hour or hour a week, the person that they are with, it is that person's ticket. Just like if someone comes to a lawyer/client privileged conversation with me. It is my ticket, not their ticket. I take care of that. I don't think the volunteer issue is a very strong issue.

Sometimes you find yourself having a lot more respect for people who just say we shouldn't do this because we don't want to do it. We shouldn't do this because we don't like it. I would have a lot more respect for that than I do for the argument that there are a lot of other problems out there that we need to solve and therefore, we shouldn't solve this one. It is like saying there is a big burning building two blocks away and we don't have enough resources to cover that and we have a small little brush fire right here and we can stamp it out on the way by, but we have this big fire down the road. I think we can stamp out this small little brush fire. Very, very few teachers are doing this, however, the ones that are causing a great deal of anguish to the victims. Thank you.

The SPEAKER: The Chair recognizes the Representative from Naples, Representative Thompson.

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. I also am going to continue with my vote and vote against the motion to Recede and Concur and vote to Adhere to the position that this House took. I have been here for six years now and I have seen what we have tried to do to help children. We passed a bill to require public notification when a child molester is released from prison. We have increased the number of DHS workers. We have added people to the list of people who are mandatory reporters. We have increased the number of judges and prosecutors in our system. We removed the statute of limitations on criminal prosecution of sexual offenders. We have removed, this session, the civil statute of limitations of people who have offended. There is a bill on the table, right now, that gives life sentences to second offenders, life sentences.

I have also heard discussion that one of the problems is superintendents not doing their job in writing up people that are let go and let them go to another district. Maybe we can work on that. Maybe we can improve on the areas I have already spoken about and we can get DHS to do a better job. All the things that I

have mentioned have one thing in common. They are all after the fact actions. Every one of these actions take place after a child has already been abused. Think about that. Every one of these other actions are only a reaction to a child already being abused or a series of children already being abused. What we have already done, let's get that straight, the law is already there. The actions here are an attempt to change it. What we have done is put something in place that are one of the few things that we can do to prevent a child from being abused. After all, isn't that what it is all about.

We hear this is a referendum on teachers. When we are debating, defining the question is often everything. Isn't it really a referendum on our children? I have personally heard testimony in my committee over the past two years and in previous committee work before that, but particularly in the last two years of children being abused by their teachers. Does that make it a common occurrence? No, but it makes it very real. When I saw a face in front of me of an adult who had been abused by a teacher and nobody found out about it for 20 years, it makes it much more real than asking what are the statistical results of this law? I will tell you the statistical results of this law once it is fully implement is that no teacher or other school employee in this state will have a record. We will ensure that none of them have a child abuse record or a child neglect record. These are children that don't have a choice about going to school. The teacher can still choose not to take the fingerprinting and leave their profession. We all make choices when we go into public service. Teaching is a public service profession. We make choices as legislators as to whether to run for election and subject ourselves to the scrutiny that we are subjected to. Teachers enter into a public service profession and are subject to scrutiny. The balancing act is that we are protecting the children.

Teachers are no different than every other profession. There are pedophiles in every imaginable profession, but only in teaching do we make our children go there. They spend eight hours a day with these teachers, five days a week. Do they develop the relationships with these teachers that often carry on after hours into social events, school activities and athletic events? It is a unique situation. Report "B," which you are being asked to Recede and Concur to is the compromise. I, for one, am not willing to compromise on my children. I ask that you oppose the motion to Recede and Concur.

On motion of Representative SAXL of Portland, **TABLED** pending the motion of Representative TRAHAN of Waldoboro to **RECEDE AND CONCUR** and later today assigned. (Roll Call Ordered)

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 519 and Joint Rule 213, the following items:

Recognizing:

Jason Cole, of Lebanon, upon being named Telecommunicator of the Year for the State of Maine. Mr. Cole, a dispatcher in Alfred for York County Communications, has prevented crisis situations from turning into tragedies countless times. We extend our congratulations to him on receiving this honor, and we extend our sincerest appreciation for his dedication to saving lives;

(HLS 1274)

Presented by Representative McALEVEY of Waterboro.

Cosponsored by Senator LIBBY of York, Representative CHICK of Lebanon.

On **OBJECTION** of Representative McALEVEY of Waterboro, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Waterboro, Representative McAlevey.

Representative **McALEVEY**: Mr. Speaker, Ladies and Gentlemen of the House. As you know, we have the privilege and the honor from time to time to recognize special people throughout the State of Maine for monumental achievement or effort. Jason Cole is a dispatcher at the York County Communications for five years. They dispatch for over 30 agencies. Jason was honored by the National Emergency Number Association. It is a national group who selected him as the Maine recipient this year for two specific reasons, three actually. He is a good dispatcher, number one. Two, there are two individuals alive today because of his efforts that he went the extra mile for as a dispatcher. The first, he received a phone call from a very distraught mother whose child of less than one year had drowned in the bathtub. He took the appropriate efforts and dispatched the appropriate medical personnel and then he talked mom through the process of removing the child from the tub, resuscitating the child who was unconscious and had drowned. That child is alive today because Jason had the wherewithal, the training, to do this.

In the second incident Jason received a call from a distressed individual who was threatening suicide and had the mean in hand to take their life. He sent the appropriate emergency personnel, fire, rescue and police and he kept that individual on the line and occupied with dialog convincing that person not to take their life. That person is alive today.

Jason exemplifies everything that is best about our emergency communication personnel in this state who work 24 hours a day around the clock in eight or sometimes 12 hour shifts. It is that type of dedication to his work and his service that should make all of us proud of these people in this profession. I am honored to present this sentiment today recognizing his heroic efforts. Congratulations Jason.

The **SPEAKER**: The Chair recognizes the Representative from Lebanon, Representative Chick.

Representative **CHICK**: Mr. Speaker, Ladies and Gentlemen of the House. I had a rare privilege this morning to come up on the third floor from the caucus and I met the chairman of the York County Commissioners, Commissioner Layman. He started to introduce me to some people that were in his presence. It was a rare occasion because Jason Cole was there with his mother. Due to his assignment Sunday morning, he wasn't at the breakfast, but I had Easter breakfast with his mother Diane. It was a pleasure to be introduced to someone you have known for a long time. I believe that in these days of young people being recognized for duty at various jobs in the State of Maine, I think this is a high honor. It is really warranted for Jason Cole that he was able at this time to make the right decision and we would read about something that was well handled rather than the report that we sometimes got from people who failed to recognize what they are dealing with. I would say also that it is something that I have heard mentioned here this morning by the good Representative Skoglund talking about people who have had the opportunity to serve in the military, but to Jason Cole,