

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

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The House proceeded to third consideration of **SB 12, PN 12**, entitled:

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for bail.

On the question,  
Will the House agree to the bill on third consideration ?

Mr. **VEON** offered the following amendment No. **A1515**:

Amend Sec. 1 (Sec. 14), page 1, line 11, by inserting after "unless" the prisoner is charged with an offense which is graded as a felony of the first degree and

On the question,  
Will the House agree to the amendment ?

AMENDMENT WITHDRAWN

The **SPEAKER** pro tempore. On that question, the Chair recognizes the gentleman from Beaver, Mr. Veon.

Mr. **VEON**. Thank you, Madam Speaker. I am withdrawing that amendment.

The **SPEAKER** pro tempore. Thank you very much.

On the question recurring,  
Will the House agree to the bill on third consideration ?

Mr. **FEESE** offered the following amendment No. **A1576**:

Amend Sec. 1 (Sec. 14), page 1, lines 10 and 11, by striking out "for which the maximum sentence is death or life imprisonment" and inserting or for offenses for which the maximum sentence is life imprisonment

On the question,  
Will the House agree to the amendment ?

The **SPEAKER** pro tempore. On that question, the Chair recognizes the gentleman, Mr. Feese.

Mr. **FEESE**. Thank you, Madam Speaker.

Madam Speaker, the intent of the Senate bill is to make certain offenses not bailable.

Under the Constitution as it exists now, capital offenses — that is, offenses for which the death penalty may be imposed — are not bailable. The intent of the Senate bill was to include within that category of offenses offenses for which life imprisonment could be imposed; that is, first-degree murder, when there are no aggravating circumstances, or second-degree murder, which we commonly refer to as "felony murder."

The bill, however, as it is drafted does not achieve that purpose, so this amendment is merely to clarify that that is in fact the purpose, and it is agreed to by Senator Fisher, who is the prime sponsor of the bill in the Senate.

Thank you, Madam Speaker.

On the question recurring,  
Will the House agree to the amendment ?

The following roll call was recorded:

YEAS—192

|              |            |           |               |
|--------------|------------|-----------|---------------|
| Adolph       | Fajt       | Manderino | Schuler       |
| Allen        | Fargo      | Markosek  | Scrimenti     |
| Argall       | Farmer     | Marsico   | Semmel        |
| Armstrong    | Feese      | Masland   | Serafini      |
| Baker        | Fichter    | Mayernik  | Shaner        |
| Bard         | Fleagle    | McCall    | Sheehan       |
| Barley       | Flick      | McGeehan  | Smith, B.     |
| Battisto     | Gamble     | McGill    | Smith, S. H.  |
| Bebko-Jones  | Gannon     | Melio     | Snyder, D. W. |
| Belardi      | Geist      | Merry     | Staback       |
| Belfanti     | George     | Michlovic | Stairs        |
| Birmelin     | Gigliotti  | Micozzie  | Steelman      |
| Blaum        | Gladeck    | Mihalich  | Steil         |
| Boscola      | Godshall   | Miller    | Stern         |
| Boyes        | Gordner    | Mundy     | Stetler       |
| Brown        | Gruitza    | Nailor    | Stish         |
| Browne       | Gruppo     | Nickol    | Strittmatter  |
| Bunt         | Habay      | Nyce      | Sturla        |
| Butkovitz    | Haluska    | O'Brien   | Surra         |
| Buxton       | Hanna      | Olasz     | Tangretti     |
| Caltagirone  | Harhart    | Perzel    | Taylor, E. Z. |
| Cappabianca  | Hasay      | Pesci     | Taylor, J.    |
| Carone       | Hennessey  | Petrarca  | Thomas        |
| Cawley       | Herman     | Petrone   | Tigue         |
| Chadwick     | Hershey    | Pettit    | Travaglio     |
| Civera       | Hess       | Phillips  | Trello        |
| Clark        | Hutchinson | Piccola   | Trich         |
| Clymer       | Itkin      | Pistella  | True          |
| Cohen, L. I. | Jadlowiec  | Pitts     | Tulli         |
| Cohen, M.    | James      | Platts    | Vance         |
| Colafella    | Jarolin    | Preston   | Van Horne     |
| Conti        | Kaiser     | Ramos     | Veon          |
| Cornell      | Keller     | Raymond   | Vitali        |
| Corpora      | Kenney     | Readshaw  | Walko         |
| Corrigan     | King       | Reber     | Washington    |
| Coy          | Krebs      | Rieger    | Waugh         |
| Curry        | Kukovich   | Roberts   | Williams      |
| Daley        | LaGrotta   | Robinson  | Wogan         |
| DeLuca       | Laughlin   | Roebuck   | Wozniak       |
| Dempsey      | Lawless    | Rohrer    | Wright, D. R. |
| Dent         | Lederer    | Rooney    | Wright, M. N. |
| Dermody      | Leh        | Rubley    | Yewcic        |
| DeWeese      | Lescovitz  | Rudy      | Youngblood    |
| DiGirolamo   | Levdansky  | Sainato   | Zimmerman     |
| Donatucci    | Lloyd      | Santoni   | Zug           |
| Druce        | Lucyk      | Sather    |               |
| Durham       | Lynch      | Saylor    | Ryan,         |
| Egolf        | Maitland   | Schroder  | Speaker       |
| Fairchild    | Major      |           |               |

NAYS—4

|        |        |        |            |
|--------|--------|--------|------------|
| Bishop | Horsey | Oliver | Richardson |
|--------|--------|--------|------------|

## NOT VOTING—4

Carn                      Colaizzo                      Josephs                      Kirkland

## EXCUSED—3

Cowell                      Evans                      Reinard

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question,  
Will the House agree to the bill on third consideration as amended?

Bill as amended was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

The Chair recognizes the gentleman, Mr. Richardson.

Mr. RICHARDSON. Yes, Madam Speaker. If we are on final passage, I would like to be recognized.

The SPEAKER pro tempore. We are on final passage. The gentleman is recognized.

Mr. RICHARDSON. Thank you very much.

Here is another bill.

SB 12 eliminates bail for those charged with capital offenses and, when imprisoned, the condition most likely to reasonably assure the safety of individuals and the community. It supposedly amends section 13, Article I, of the Pennsylvania Constitution, which is exactly the same as Article VIII of the United States Bill of Rights.

In effect, by voting for this bill the members of the General Assembly are saying that the Eighth Amendment to the United States Constitution does not apply in Pennsylvania. The Eighth Amendment provides that "excessive bail shall not be required." Even though the constitutional standard to determine when bail is excessive has not been clearly defined by the Supreme Court, they have held that bail set higher than an amount reasonably calculated to assure that the defendant will be present at trial is excessive. The court has never held that a defendant has a right to be released on bail no matter what the charge. So several States already prohibit release on bail in capital cases.

The point that I would like to make in opposition to SB 12. This is a democracy. We have the right to free speech and the right not to be detained without a trial. This bill goes beyond depriving murderers in capital cases of right to bail. Anyone determined by law enforcement to be dangerous to the community could be held without bail. If this bill was law during the sixties, then Dr. Martin Luther King, Jr., and many others that led or participated in the civil rights movement would have been locked up indefinitely prior to trial.

And, Madam Speaker, I am pointing this out because it amazes me that when you were talking about wanting to take on the responsibility of stopping those individual persons from being able to have a right to bail, we are saying here now in the Commonwealth of Pennsylvania that you should not even be considered. There may be all kinds of situations that occur, and I have been around a long time to know that for whatever reason, the kinds of matters that we are doing in terms of taking on these measures and these bills are

only reactionary steps to dealing with issues and not practical realities that exist out there every single day.

I believe that this is another bill that will be challenged and found to be unconstitutional.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Philadelphia, Mr. Horsey, on final passage.

Mr. HORSEY. Madam Speaker, may I interrogate the maker of the bill?

The SPEAKER pro tempore. It is a Senate bill, sir.

Mr. HORSEY. May I interrogate the defender of the bill on the right side, Jeff Piccola?

The SPEAKER pro tempore. Do you wish to interrogate the chairman of the Judiciary Committee?

Mr. HORSEY. Yes, Mr. Piccola, because it came out of his committee. Thank you.

Well, Madam Speaker, can I just ask one question?

What is the intent of the bill? I mean, what is the purpose? When is the last time someone guilty of a heinous crime on bail, on bail, committed a crime? I need to know that. Thank you, Madam Speaker.

## REMARKS SUBMITTED FOR THE RECORD

Mr. VEON submitted the following remarks for the Legislative Journal:

Mr. Speaker, I rise today in an effort to protect one of the cornerstones of the American justice system: the belief that a man is innocent until proven guilty. SB 12 amends the Pennsylvania Constitution and provides that any accused may be denied bail — his freedom — if it is believed that he MAY be a danger to the community or a person.

Bail is meant to ensure that the accused will appear for a future due-process hearing. Only in extreme cases when the punishment outweighs any possible bail, should bail be denied. Such is the case with capital offenses where the accused may lose his life. Bail is a regulatory matter which ensures that justice will be served at a later due-process hearing; it is not a means by which to punish. Benjamin Franklin said, "Anyone willing to give up freedom for security deserves neither freedom nor security."

Aside from the philosophical problem, this proposal invites abuse since any determination as to dangerousness is highly subjective and may not relate in any manner to the crime of which the person is accused. Denial of bail could easily be based on stereotypes relating to ethnicity, appearance, association, wealth or lack thereof, or any other subjective criteria unrelated to the present offense.

The courts, under SB 12, will be able to deny an innocent man his freedom based on reputation and prediction of certain actions at some point in the future. This court decision will be made in most instances by a district justice who has no legal training. I do not think that is a wise thing to do.

William Penn went to great effort to ensure that bail was a guarantee to all Pennsylvanians. As an innocent man who was denied bail and freedom by his English jailers for political reasons, Penn ensured that the original Pennsylvania Charter in 1682 contained a strong guarantee to bail except in capital cases where proof was evident.

Mr. Speaker, I want everyone to realize that anyone can be ACCUSED of a crime and one day any of us could be in a situation where our individual freedom depends upon the granting of bail. It is our right and the right of every Pennsylvanian that we are voting away by voting in favor of SB 12. We have already voted away our right to confront a witness face to face. What is next?

Mr. Speaker, SB 12 does not address the issue of crime. SB 12 does not prevent victimization; neither do many of the bills which we have addressed during this Special Session on Crime. We are kidding ourselves if we think we are making our communities safer for Pennsylvanians. To properly address the issue of crime and prevent victimization, we must look at the root

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cause of crime and address issues such as economic development, job training, and education. We need to give people hope and the opportunity to succeed.

I, therefore, am strongly opposed to SB 12 and would encourage a negative vote.

On the question recurring,  
Shall the bill pass finally?

The SPEAKER. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

YEAS-177

|              |            |           |               |
|--------------|------------|-----------|---------------|
| Adolph       | Fairchild  | Lynch     | Schroder      |
| Allen        | Fajt       | Maitland  | Schuler       |
| Argall       | Fargo      | Major     | Scrimenti     |
| Armstrong    | Farmer     | Markosek  | Semmel        |
| Baker        | Feece      | Marsico   | Serafini      |
| Bard         | Fichter    | Masland   | Shaner        |
| Barley       | Fleagle    | Mayermik  | Sheehan       |
| Battisto     | Flick      | McCall    | Smith, B.     |
| Bebko-Jones  | Gamble     | McGeehan  | Smith, S. H.  |
| Belardi      | Gannon     | McGill    | Snyder, D. W. |
| Belfanti     | Geist      | Merry     | Staback       |
| Birmelin     | George     | Michlovic | Stairs        |
| Blaum        | Gigliotti  | Micozzie  | Steelman      |
| Boyes        | Gladeck    | Miller    | Steil         |
| Brown        | Godshall   | Mundy     | Stern         |
| Browne       | Gordner    | Nailor    | Stetler       |
| Bunt         | Gruitza    | Nickol    | Stish         |
| Butkovitz    | Gruppo     | Nyce      | Strittmatter  |
| Buxton       | Habay      | O'Brien   | Sturla        |
| Caltagirone  | Haluska    | Olasz     | Surra         |
| Carone       | Hanna      | Perzel    | Tangretti     |
| Cawley       | Harhart    | Pesci     | Taylor, E. Z. |
| Chadwick     | Hasay      | Petronie  | Taylor, J.    |
| Civera       | Hennessey  | Pettit    | Tigue         |
| Clark        | Herman     | Phillips  | Travaglio     |
| Clymer       | Hershey    | Piccola   | Trello        |
| Cohen, L. I. | Hess       | Pistella  | Trich         |
| Colafella    | Hutchinson | Pitts     | True          |
| Colaizzo     | Itkin      | Platts    | Tulli         |
| Conti        | Jadlowiec  | Preston   | Vance         |
| Cornell      | Jarolin    | Ramos     | Van Home      |
| Corpora      | Kaiser     | Raymond   | Vitali        |
| Corrigan     | Keller     | Readshaw  | Walko         |
| Coy          | Kenney     | Reber     | Waugh         |
| Daley        | King       | Rieger    | Wogan         |
| DeLuca       | Krebs      | Roberts   | Wozniak       |
| Dempsey      | LaGrotta   | Robinson  | Wright, D. R. |
| Dent         | Laughlin   | Rohrer    | Wright, M. N. |
| Dermody      | Lawless    | Rooney    | Yewcic        |
| DeWeese      | Lederer    | Rubley    | Zimmerman     |
| DiGirolamo   | Leh        | Rudy      | Zug           |
| Donatucci    | Lescovitz  | Sainato   |               |
| Druce        | Levdansky  | Santoni   | Ryan,         |
| Durham       | Lloyd      | Sather    | Speaker       |
| Egolf        | Lucyk      | Saylor    |               |

NAYS-22

|             |           |            |            |
|-------------|-----------|------------|------------|
| Bishop      | Horsey    | Melio      | Thomas     |
| Boscola     | James     | Mihalich   | Veon       |
| Cappabianca | Josephs   | Oliver     | Washington |
| Carn        | Kirkland  | Richardson | Williams   |
| Cohen, M.   | Kukovich  | Roebuck    | Youngblood |
| Curry       | Manderino |            |            |

NOT VOTING-1

Petrarca

EXCUSED-3

Cowell

Evans

Reinard

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

The SPEAKER pro tempore. There will be no further votes taken today.

**HOUSE BILL  
INTRODUCED AND REFERRED**

**No. 107** By Representatives MICHLOVIC, CALTAGIRONE, MELIO, ROBINSON, FAJT, JOSEPHS, YOUNGBLOOD, PISTELLA, TRAVAGLIO, ROONEY and L. I. COHEN

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, imposing civil liability on owners of firearms and prohibited offensive weapons who fail to notify police when such weapon is stolen or missing.

Referred to Committee on JUDICIARY, March 22, 1995.

**SENATE BILLS FOR CONCURRENCE**

The clerk of the Senate, being introduced, presented the following bills for concurrence:

**SB 34, PN 91**

Referred to Committee on JUDICIARY, March 22, 1995.

**SB 50, PN 106**

Referred to Committee on JUDICIARY, March 22, 1995.

**SB 54, PN 63**

Referred to Committee on JUDICIARY, March 22, 1995.

**BILL REMOVED FROM TABLE**

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. PERZEL. Madam Speaker, I move to have HB 103 removed from the table.

On the question,  
Will the House agree to the motion?  
Motion was agreed to.