

another, you are not going to meet that clear and convincing standard, and that evidence is not going to be admissible even though you may be able to show relevant plan and motive. If that's the case, you are not going to be able to meet that standard and I don't think that's appropriate. I think it is appropriate to have the hearing outside the presence of the jury to protect the person's rights if, in fact, you don't have evidence that ought to be permitted or presented in a court of law. But, frankly, the clear and convincing standard I think is too high and relevant evidence with the protection of an in limine hearing outside the presence of the jury before the trial I think is sufficient. My amendment simply changes the clear and convincing evidence to relevant, and makes sure that if, in fact, you have the hearing on that evidence outside the presence of the jury first, that if, in fact, the court determines that it is relevant evidence, it can later be used in a trial. I think the intent of the bill is a good bill. There have been abuses. In the past there have been attempts to use evidence that is too old, that is too remote, that doesn't really tie into the offense. I think that it's good to provide some protection with an in limine hearing, but I do not think it is appropriate to change the standard that we currently have in the law from relevant evidence, which is the standard now, to clear and convincing. My intent is to correct that situation, and I would urge adoption of the amendment.

SPEAKER BAACK: Thank you, Senator Hohenstein. Senator Hall.

SENATOR HALL: Well, Mr. President, if I could please, I would like, if possible, if the Chair deems it appropriate, to divide the question on the amendment. The portion of the Hohenstein amendment that deals with changing clear and convincing to relevant being one half of the amendment, and the second half being the addition of "first" on line 4, page 3 of the bill between "shall" and "be". I have no objection to the second half. I would endorse it with little debate. The first half, the change from clear and convincing to relevant guts the bill, and I think it should be dealt with separately and prefer that it be dealt with secondly.

SPEAKER BAACK: Senator Hall, I think that the amendment is clearly divisible at that point, and so we will divide it there. Senator Hohenstein, would you like, shall we take up the second section first as that is not controversial, and then we will take up the first section, is that okay with you?