

that it was relevant, then it could go to the jury and the jury, in addition to all the other facts that it received at a trial, would then determine whether there was evidence beyond a reasonable doubt for a conviction.

SENATOR BROMM: Thank you, Senator Hohenstein. I think it's important that we and the entire body understand that. We are not dealing here with the guilt or innocence of the accused on the crime that they are charged with but simply whether or not the evidence of prior acts or the conduct of individuals involved, whether or not the evidence is relevant as to whether or not this person has carried out a pattern of the same type of activity in the past. To insert a threshold of clear and convincing evidence, as the original bill does, to me makes a very high threshold, a very high threshold for this kind of evidence to be used. And for that reason, I do support the Hohenstein amendment. I think the Hohenstein amendment does retain the standard with regard to this kind of evidence that we have now but it provides a safeguard of having an opportunity for the court to most definitely have to review this in advance to determine whether or not this proof should be submitted to the jury. I think the amendment is a good amendment and I urge the body to support the Hohenstein amendment to this bill.

SPEAKER BAACK: Thank you, Senator Bromm. Senator Kristensen.

SENATOR KRISTENSEN: Thank you, Mr. Speaker and members of the Legislature. I rise to support the Hohenstein amendment as well. One of the things that I look at in regards to this bill is that you're changing the burdens of proof here substantially. In a criminal trial, and there is a section of law that defines relevant evidence and, basically, relevant evidence means any evidence that tends to make a fact exist or not, it is more probable or not that it happened, and you take all of those facts together, and that's when you have the burden of proof that Senator Bromm is talking about, that ultimately you are going to have to convict beyond a reasonable doubt. I know of no other place, and if someone can point it to me, I'd be glad to see it, but I don't think there is any other place in the criminal law that requires evidence to need clear and convincing proof. That's a burden of final determination. You want to make sure that all the facts get presented in a case that's relevant. If it is not relevant, if it has nothing to do with the fact or with any proceeding going on in the criminal trial, then it shouldn't be admissible in court. But if it is