

Supreme Court on that issue alone, on that issue that what happened was that the evidence was brought in, it was prejudicial to the case that was being tried at that point in time, and the court upheld it because they said there is no provision in law that requires the prosecution to have to prove anything other than it is on their record, which is the equivalent of being relevant. That's exactly what it is. It is on their record so it is the equivalent of being relevant. So the jury basically gets it. The jury gets to look at that, and there is, as you know, just think about it. If you are sitting in the jury box and the prosecutor says, well, this individual was convicted of beating his wife ten years ago; he has a conviction over here of assault and battery, that would be relevant to the case of assault and battery because it involved the same kind of act. Even though assault and batter happened to be on the other patron of the bar, it's relevant to the issue of whether or not that individual has a violent nature, if he has acted violently in the past. Those two crimes are totally separate and distinct. The evidence of spouse abuse should not come into evidence for a trial on assault and battery, but it will under the Hohenstein amendment. And what you have to remember is that as a juror, what you are going to do is you are going to listen to everything that the prosecutor says. They've got a tremendous advantage. They are on the side of right, good, justice in the state. They write the laws, basically. They have the ability to influence the people in the jury box more than anyone else in that court outside of maybe the judge, and that's very skeptical because judges are really nothing more than bureaucrats. But, anyway, the issue of the prosecutor and his ability to talk to that jury and wave out there that record and say, look, this individual was convicted in the past of doing something very similar. Therefore, it is more likely than not that they did this crime, and that is all it takes for many cases to swing over a juror for purposes of, well, you know, I'm not sure that he did this one, but if he did that beating in the past, he probably very likely did it today or did it last week. All this bill does is it says before the jury gets to look at that evidence the prosecutor has to convince the judge clear and convincingly, which means basically 70 percent. If you could break down the burdens of proof to percentages, preponderance of the evidence is more than 50 percent, 51 percent. If you can do clear and convincing, it would be roughly around 70 percent.

SPEAKER BAACK: One minute.