

File. Then you can vote it up or down, it may or may not come back on Select File. We will deal with it at that time. Between now and then, I'd like you to listen to what the county attorneys have to say. We have addressed the issue in a vote. I would like to move on. I'd urge you to advance the bill to Select File. Thank you, Mr. President.

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

SENATOR PIRSCH: Thank you, Mr. Speaker and members of the Legislature. Senator Lindsay, you are right. This bill is very good policy, excellent, if you are a defense attorney. I see only one county attorney supporting this in committee, and, quite frankly, I appreciate what Senator Kristensen and Senator Hohenstein tried to do with their amendment. I think we need to pursue this. I think that was a mistake not to adopt Senator Hohenstein's amendment, and then I could support this bill. Without it, I cannot.

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

SENATOR BROMM: Mr. Speaker, fellow senators, we spent a couple of hours or an hour and a half yesterday on one small aspect of the crime bill, which may or may not have even been a change in the state of the law dealing with whether or not someone who is convicted of a crime with a mandatory minimum sentence should be given...should have a chance for probation. The practice now is, and I think it is implied in other statutes, that you can't get probation where there is a mandatory minimum sentence. Nevertheless, it doesn't matter. We are dealing with criminal law. This morning we are coming in, we are making a substantial change, a substantial change. It might be three or four lines, but I can tell you in the way trials are conducted with regard to child abuse, with regard to people who are charged with a series of sexual offenses, with regard to a series of burglaries, a series of other felonies, this will make the threshold for the prosecution much more difficult to show that this person has, indeed, had the pattern of conduct that would make this person more likely to commit this crime than someone who did not have this pattern of conduct. Clear and convincing evidence is much more than a preponderance of the evidence. If you have a scale, and you have a preponderance of the evidence, if the scale tips one way or the other, the preponderance is what you have. If you have a 51 percent of the evidence, the scale tips in that direction. Clear and convincing evidence is