

SENATOR HALL: Thank you, Madam President and members. Again, I rise in support of the bill and to speak to some of the issues that have been addressed. The issue of what is clear and convincing evidence and how it applies, what that standard is, Black's Law Dictionary says that it's a degree of proof which will produce in the mind of the court a firm belief or conviction. Now what is wrong with that? A firm belief or conviction in the mind of the court. It goes on to say that proof sufficient to convince ordinary prudent-minded people. So in other words, you have to believe it. That's what clear and convincing evidence is. Sufficient to convince ordinary prudent minded people. It is not some overbearing burden that the prosecution has to hurdle. It is simply they have to get the judge to believe that the act, no matter what it may be, has some bearing on the case that they are trying. That's all. And the fact of the matter is that, you know, we talk about who supported it or who testified at the hearing, what happened was that people agreed before the hearing. Our hearings went until about seven o'clock that night, and there were a number of county attorneys who were there ready and present to testify on all the measures. They came to agreement, which happens many times, on their differences, the opposing sides, and they agreed to have one representative testify. Folks who were there were folks like Mr. Cooper, Mr. Sigler, Mr. Lacey from Lancaster County. They all supported this concept. The fact of the matter is that there really is no standard out there now. There has been talk about, well, relevant evidence is the standard that is being used. There is no standard out there now, and if we don't put this standard into law, the concern on part of some county attorneys is that there will be cases that exactly end up as Senator Kristensen pointed out. They will go to the Supreme Court and they will be thrown out, and that was the concern that Mr. Cooper raised himself, that there has to be a standard in the law that every county deals with or abides by, and that right now with no standard what happens is that there is a mishmash of ways in which the court deals with it depending on what court you happen to be in. What 598 does is put a standard in place that the court understands, that the prosecutors understand, and that the defense understands, and one in which at least two of those parties agree with; the third being an impartial group that isn't involved. I would urge you again to advance the bill. It does not, as Senator Hohenstein stated, is something that you need to live or die on. It clearly is an issue that puts in place a standard that we don't have, one that