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February 5, 2001 LB 155

SENATOR CUDABACK: Thank you, Mr. Clerk, for that. Next agenda item.

CLERK: LB 155, Mr. President, a bill by Senator Chambers. (Read title.) The bill was introduced on January 4, referred to the Judiciary Committee, advanced to General File. I have no amendments to the bill, Mr. President.

SENATOR CUDABACK: Senator Chambers, you're recognized to open on LB 155.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, this is a very simple bill in what it does. It relates to the offense of sexual abuse of an inmate. That offense occurs if a person subjects an individual, who is confined...confined in a correctional institution and new language, "or a city or county correctional or jail facility" or who is under parole supervision to sexual penetration or sexual contact as those terms are defined in Section 28-318. It is not a defense to a charge under this section that the inmate or parolee consented to such sexual penetration or sexual contact. A couple of years ago, or maybe last year, the department asked me to introduce a bill that would make this offense a violation, if committed, by an employee of the Department of Correctional Services or the Parole Administration. That was done. Subsequent to that, I received calls from local law enforcement officials asking that the provisions of the law be extended to local jails and county correctional facilities, so that their employees would be under the same restrictions. The key to all of this is the fact that an individual in this position is vulnerable to the individuals who might commit this kind of act. Therefore, the mere expression of consent by the vulnerable protected person does not constitute legal consent so as to provide a defense. A problem of this kind arose in Lancaster County. When the investigation was undertaken, it was determined that there had been inappropriate contact but the statutes that they were attempting to use applied only at the state level. So, apparently, there may have been some question as to consensual contact. This takes away all of that. No person who has custody or charge of another individual should be