

SENATOR KILGARIN: Thank you, Mr. President and colleagues. I have kind of been on both sides of this thing on the Judiciary Committee. I talked with the sponsors of LB 213 and worked with Senator Nichol and legal counsel for the Judiciary Committee and basically I was kind of the swing vote to get it out of committee in a way and after spending considerable time reviewing the differences between Senator Nichol's draft and the sponsor's draft, I did decide to go with the sponsor's draft. A recent Attorney General's opinion which I don't know if it has been handed out to you, but basically supports what we are doing except for the standard and that is the main argument here but let me go ahead and tell you a few things other than the standard about Senator Nichol and DeCamp's draft or amendment that I feel and the Attorney General feels our draft is a little bit straighter on and probably constitutional. The first thing the Nichol-DeCamp draft does not do is it does not make the act retrospective to Almarez and Simants and some of the other people who are already in mental institutions. Now, Hoagland, Pirsch, Cullan and Hefner's draft does make it retrospective and the Attorney General says that is okay. Also the sponsor's draft includes the probable cause hearing whereas Senator Nichol and DeCamp's draft does not. The Attorney General says the probable cause hearing is necessary. Without it there would be serious constitutional problems. You also have the media amendment and letting the media know what parts of the file are available for publication and what are not. The Nichol-DeCamp draft does not contain that provision. Now the standard that Senator Nichol and DeCamp are trying to propose is the Mental Health Commitment Standard, 83-1009. Let me just read that to you because I think it will shed some light on the sponsor's reasons for not wanting to adopt that standard. Defined, mentally ill dangerous person shall mean any mentally ill person or alcoholic person who presents a substantial risk of serious harm, etc., and the near future clause is also in there. But the point I was trying to make is that it says, "alcoholic person." Do you really feel alcoholic person should be included in the standard? Senator Hoagland and the sponsors of the bill, their standard is a little bit more open. It is basically whether the person is dangerous to himself, herself, or others by reason of mental illness or defect or will be so dangerous in the foreseeable future, as demonstrated by an overt act or threat. Nowhere in there is mentioned alcoholism and I don't think alcoholism should be in there and that is one of my main reasons for supporting the sponsors of this legislation, trying out this new standard, giving it a chance in the courts. There are other states that have similar standards. There is precedent for trying this standard and I think