

criminal law it is a rare, rare case when we punish somebody criminally for a negligent action. Generally speaking, the law says that when something is done negligently, there is a right to damages, a civil right to damages from one person to another for the damage done, but because it was not intentional or knowingly done, it was not criminal in nature and therefore we do not punish with criminal sanctions. But in this statute, in the first place, and this was done before today, we decided that we were going to take that extra controversial step and punish negligent actions in the case of child abuse. So we are out on a limb already on this statute, and what are some of these negligent actions for which parents might be punished. If they place their child in a situation and endangers his or her life or health, let's say a mother backs a car out of the driveway and accidentally runs over the child. Is that a negligent action that endangered the life or health of the child? Well, it obviously was. And under this statute that mother would be subject to the penalty if it were prosecuted. Second criteria, cruelly confined or cruelly punished, I don't know what those words mean exactly but I can tell you that they are not very well defined in our case law and what "cruelly punished" may be according to the courts remains to be seen. The third criteria of child abuse, derived of necessary food, clothing, shelter or care, again we can get into some very legitimate and serious arguments about what is necessary food, what is necessary clothing, what is necessary shelter and most of all what is necessary care. We are talking about love and affection and now the state has the right to go into the family and determine whether there is sufficient love and affection in the family, not only the right to do that, but then the right to punish criminally if there is not enough love and affection in the family. I am pointing out to you these things because the intent of LB 347 is to make child abuse, including negligent child abuse, a much harsher offense than it has ever been before in this state. We are changing it from a misdemeanor to a felony and, again, we are subjecting a parent to five years in jail and \$10,000 fine, not only for intentional and knowing abuses, but for negligent abuses. Generally speaking, I don't think the criminal law should apply to negligent actions. I certainly don't think a felony offense is appropriate for a negligent action of this type where the action itself could be minor indeed. Does this bill prohibit corporal punishment of children? Can you spank your kid or is that cruelly punishing? So, the last thing before I tell you what my amendment does I would point out to you that the bill says that on second or subsequent convictions under this section, "any person so offending shall be guilty of a Class III felony", and a Class III felony has a maximum of twenty years imprisonment. So a judge could conceivably