

If we have, I'll sit down but if I can have five more minutes of your attention on this I'd like to close on my amendment to LB 335. Some tough issues here and I think Vard Johnson put the question very, very succinctly with respect to the physicians and LB 335 and whether or not they should be covered for adult abuse. The difficulty with Vard's analysis is that his answer to this, Senator Chamber's answer to this and others' answers is that the adults may not be protected, that there should be no reporting, that there should not be a criminal charge for those who abuse the elderly for cruel confinement or cruel punishment or intimidation or coercion or sexual assault, the things that are enumerated in LB 335. But since we are incapable of sticking our nose to the grindstone long enough to come up with an acceptable policy because we can't gut out a tough and complex issue we have to throw in the towel and simply leave adult individuals who may not be in a position to fend for themselves well, at the mercy of those who may wish to abuse them. I don't accept that and that is why I offer this amendment. Yes, it is a tricky, complex piece of billdrafting but I think it is as best as I can do in the situation. Yes, I would like to have doctors reporting adult abuse and not have privileged communication. My analysis is, politically we can't get those fragments of 335 that are valuable if we make that exchange. That is why it is in there. I would love to draw the perfect bill that Vard outlines. I don't think it can pass politically. So what is in there and why is it there? I choose, rather than to pick and choose from a smorgasboard of professions who should be exempt, I choose to alter our position based on the individuals protected and this is my policy. Children are beyond legal capacity. They are not, by law, capable of taking care of themselves. We do not allow them to serve as witnesses in cases. We do not allow them to bring lawsuits in their own name. We do not say that they are capable of contracting. We say as a matter of law, children do not have legal capacity. Because they do not have legal capacity and because a six year old isn't going to go down and file with the county attorney a charge of assault and battery, we create a special class for them and we say child abuse is special. There should be reporting from everybody when we know about child abuse. Because they have no legal capacity we overrule attorney-client, physician-patient, clergy and laymen privileges because they are a special category who can't protect themselves. Then with respect to the adults who are over sixty or the disabled, we pick and choose. Yes, some of them probably have legal capacity. Yes, some of them serve in this body. They don't need an intermediary but it is also the case that physically as a fact of life there is a higher degree of propensity for invalid individuals, for people subject to duress, to confinement and punishment and abuse and in recognition of that