

Senator Abboud did not do in his discussion was to tell you what the current law is. The current law does make reference to daytime, but it says that if, in the opinion of the judge, the public interest requires the warrant to be served other than at daytime, then the warrant can specify that it will be served at anytime, meaning it can be served at night. The reason for daytime serving of warrants has nothing to do with electric lights and people farming and things like that. The idea is that the state should not come in the dead of the night and terrify people with that dreaded knock or the kicking in of the door. So a distinction is made. In the ordinary course of events, daytime means the hours between sunrise and sunset which this state's Supreme Court logically and intelligently ruled, and based on Black's law dictionary, daytime is the period when without the aid of artificial light you can discern the features of a person. For the model penal code, the period of nighttime for the purposes of burglary would be one hour before sunset, one hour after...one hour before sunrise, one hour after sunset. That is when nighttime is. So the period between is daytime. I don't think we ought to artificially define this term. Rather than have the police disregard the clear statement in a warrant that daytime is when a warrant should be served and daytime means what the citizen understands it to mean, there should be some instruction of the police as to the meaning of daytime. My amendment would simply put a definition of daytime into the statute and it would track what the State Supreme Court said, that daytime will be the time between sunrise and sunset. If a judge can be shown that an emergency situation exists, the law as it stands now if you will read the top of page 3 of the green copy, this language is there, that it may be served at anytime. So there ought to be a distinction between the two. A warrant can issue for somebody if they have a traffic ticket, have not paid it, and did not show up for court. If you have an appearance for any purpose and don't show up, a warrant can issue for you, and I am sure we will all agree that the types of incidents for which a warrant can issue vary in seriousness. A person should not have to face the police kicking a door in after the sun has gone down on some trivial matter. If the police do have the type of situation where the public interest requires the warrant to be served at night, the judge will be shown that and the judge will make the determination. So since what this bill is attempting to do is define daytime, I hope that you will accept this amendment, and in the State of Nebraska define daytime to mean what daytime has always meant. The federal definition is artificial. It doesn't say anything