

SENATOR LINDSAY: Right.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Are there any objections to the request to substitute? If not, proceed, Senator Lindsay.

SENATOR LINDSAY: Thank you, Mr. President, members. The amendment to 769 which has been passed around is the substitute amendment, the one that we will be taking up. That amendment does two things. First of all, I will start with paragraph 2, because that is what we have been discussing a little bit this afternoon. This is the amendment that would repeal the original Section 28-347. The reason why the repealer is necessary is, as Senator Ashford touched on a bit, and as I touched on a little bit, and then Senator Smith had some questions on that, was because the original section was the subject of a lawsuit filed in the federal district court of Nebraska in which the statute was found to be unconstitutional and a permanent injunction was issued. That injunction would, and since there was no appeal taken, that injunction would remain in effect as to those defendants who are named in the lawsuit. The question that it poses is whether that statute is still in effect as to those law enforcement officials or prosecutory officials who would not have been named as defendants and that is the reason for the repealer, that it would clear this up to show exactly which statute is in effect. The first paragraph is a paragraph which would amend Section 9, strike the original section, and would substitute the language "Any person who knowingly performs an abortion in violation of this act shall be guilty of a Class I misdemeanor." And this addresses one of the concerns that Senator Chambers and others brought up yesterday, and I know Senator Chambers has already warned me that he has going to have something to say, either about, I would hope about the amendments, instead of about me, but this is...was a little bit unclear in the original, as originally drafted. It may or may not have been vague to the extent of being unconstitutionally vague. Since several people in this body I guess disagreed as to the language of it, it seems only prudent to clear that up. What this would do is specify exactly who would be the subject of criminal liability. In this case, it would be the person who actually performs the abortion as opposed to having the...using the language "performance of an abortion" would result in the crime that had occurred. With that, I would urge the adoption of the amendment. Those questions I am able to answer I will