

charged with a criminal offense and who successfully challenges the constitutionality of the statute, ordinance, rule or regulation under which they have been charged may apply to the Supreme Court to recover the legal fees for their defense. The Supreme Court may, at its discretion, award those legal fees which would be paid by the body who criminally prosecuted under its rule, regulation, ordinance or statute to pay that legal defense. And that is only if they are successful in finding that particular ordinance or rule under which they are prosecuted as unconstitutional, and only in the case of a criminal action. In other words, a divorce action, a suit against one citizen against another that is in the civil side could not use this particular change. I would anticipate it to be used very seldom, but would be a protection against a private citizen...for a private citizen that may not have very many resources from being prosecuted and found guilty and then finding that that particular thing he was prosecuted for was unconstitutional, to begin with. I think it's fair, I think it's a protection for our citizens and I would ask you to support me in advancing LB 125 to Select File.

SPEAKER BAACK: Is there any discussion? Senator Kristensen.

SENATOR KRISTENSEN: Thank you, Mr. Speaker. First of all, as I preface this, I'm going to vote for this measure to advance it on, but I think that this is a bill that you're going to see in years to come and I want to warn you, maybe not warn you, but at least put it into your mind about what is going to occur, is that this is a bill that if there is a bill that we pass that is unconstitutional, we may well pay the defense costs if that goes to the Nebraska Supreme Court on a criminal matter and is found to be unconstitutional and that's a rule or regulation. The chilling effect is not on the prosecution. You may hear that during some of the debate that this is going to chill prosecutions. I don't think that is true at all. The chilling effect will come back to this body and that this body needs to be aware that when you pass any more criminal laws, in the past we should be careful; in the future we should be careful; this is just one more reason and a reason you can point to about why you should be careful in the future about passing other criminal laws, is that you may come back some day and wind up paying the cost of defending that if we don't draft careful bills, pass good constitutional criminal bills. And, so in the future when you hear other debate about, well, we've got to be careful of this bill because it could cost us some money because it is