

SENATOR LINDSAY: Senator Kristensen, there was an earlier amendment, I believe from Senator Hall, on the question of the...what would be the mandatory minimum, or what would be the minimum on a second offense. And there was an attempt to try to change that, and I just want to try to set the record what exactly 3901 does. Now the way I...if I could ask you to turn to the beginning of the bill, to AM3901, go to bottom of page 2, line 24, top of page 3, on second conviction it says, mandatory minimum of 30 days imprisonment. And then look to 39-669.07, I think is the statute, it would be page...I think 9, page 9 of the 3901, lines 19 through 21. Where that...that section says that if probation is ordered, that part of the probation shall include as one of its conditions confinement in the city or county jail for 48 hours. That provision...is it the intent of the legislation that the minimum, if probation is ordered, remain as in current law, that being the two days?

SENATOR KRISTENSEN: Yes, absolutely. I mean we do not make any changes in the minimum penalties, if probation is granted. You still will spend 48 hours, not 2 days, because some people interpret that differently, 48 hours on a second offense, even if probation is granted.

SENATOR LINDSAY: Okay. And that, where we have mandatory minimum, on page 3, line 4, that's interpreted the same way page 2, line 21 is interpreted on first offense. First offense, under current law, I understand, has a seven day mandatory minimum, and yet if probation is ordered that jail time does not have to be served, if the judge so...

SENATOR KRISTENSEN: Exactly, that's right. That's the incentive for probation is that if you comply with the terms of probation, maybe to get some treatment, some counseling, or some other things, then you will not serve the punishment of jail. And usually that occurs with first time offenders. Quite frequently if you have a second offense, you're less likely to probably get probation, but even if you do you're still going to be going to jail.

SENATOR LINDSAY: Okay, thank you. I just wanted to make that clear for the record. There was some question on that in the...on the Hall amendment. Now the Hall amendment did do some other things, but that was one of the things I was aiming at. I wanted to make it clear for legislative history that that is how