

intellectual dishonesty but it's a legal concern about what kind of liability would exist with that language.

SENATOR HALL: In other words, the legal liability does not exist, the ADA for purposes of the suit does not exist if it's not referenced in this bill?

SENATOR WESELY: It exists in terms of federal liability. The question is, what kind of state level liability now is created as a result of that language.

SENATOR HALL: But as a state actor, the Department of Public Institutions could be brought under a federal law...

SENATOR WESELY: Right.

SENATOR HALL: ...by someone who felt that they had violated that law.

SENATOR WESELY: That's correct.

SENATOR HALL: But the mere reference in the statute somehow is going to make the case stronger?

SENATOR WESELY: We're worried about a state action being possible under that language.

SENATOR HALL: In addition to a federal action?

SENATOR WESELY: Right.

SENATOR HALL: So you don't...you don't argue that there is...there would be grounds or there would be cause for someone to file a federal action today?

SENATOR WESELY: Oh, no, I don't dispute that at all.

SENATOR HALL: And you somehow feel that this language that you're going to carve out of Section 9 would allow for state action?

SENATOR WESELY: It's a possibility that concerned us.

SENATOR HALL: Why doesn't the balance of Section 9 leave cause for that same concern?