

SENATOR LINDSAY: My under...

SENATOR BEUTLER: ...you don't get anything, nothing good happens to you for living an extended period of time without offenses, right?

SENATOR LINDSAY: Not automatically, no; You can apply for a pardon from the Pardons Board, and that would, I guess, take care of it, but other than that, no, the expiration of a period of time will not, under current law nor under the bill, would remove you from the provisions of habitual criminal.

SENATOR BEUTLER: Okay. The third thing has to do with prosecutorial discretion, could you describe how that works for us with regard to their habitual criminal statute. If I'm a prosecutor and I have somebody in front of me who is now...who has now committed their third offense, and are subject to the habitual criminal statute, do I have discretion as to whether to charge them with that or not?

SENATOR LINDSAY: Yes.

SENATOR BEUTLER: You do have discretion?

SENATOR LINDSAY: Under current law, yes. It is used right now as a...oftentimes as a negotiated, plea bargaining, I guess, to use the term that is commonly known, but it would be in order to obtain a guilty...

SPEAKER WITHEM PRESIDING

SPEAKER WITHEM: One minute.

SENATOR LINDSAY: ...in order to obtain a guilty plea on a charge, the person might...the prosecutor might say plead guilty or I will file a habitual criminal allegation. And then if they don't plead guilty, they file a habitual criminal, and then they're looking at a large (interruption)...

SENATOR BEUTLER: You know that bothers me a little bit in the sense that ordinarily prosecutors, prosecutorial discretion is justified in my mind because a prosecutor has to make decisions about what the facts are and how strong his case is. But in the case of a habitual criminal, why should the prosecutor have