

the question for the body. Is he aware, either through reading, or having observed a judge impose a sentence under the habitual criminal statute, of the judge imposing a sentence that somebody deemed too soft? That the judge just, for some reason, said this three-time loser should be treated in a way that would be considered soft. I am not aware of that having been done. I had indicated I was going to ask Senator Kristensen or Senator Bromm because each of them have been a prosecutor. So I'm just going to make the declaration again, and I stand to be corrected, nobody has made a showing that the present habitual criminal statute is not adequate. Senator Lindsay pointed out, and he is correct, that the way the present statute is drafted, prosecutors will use it as a basis for obtaining a guilty plea to the third felony so that there doesn't have to be a trial. That saves time, money, and all the other things that undergird offering a plea bargain. Maybe the prosecutor thinks he or she lacks sufficient evidence to ensure conviction. So if you've got on the books a statute which right now is used as a basis to get from accused persons a guilty plea on a third felony, why do you have to make it more harsh? If you've got a statute right now when in its application by judges cannot be criticized as being administered in a way that is too soft, why make a harsher punishment. I was hoping we could prevent this from becoming a political bill, and by that I mean we put in place requirements and punishments that serve no valid law enforcement or penological goals. I know that we can impose any sentence, we can create all kinds of sentences as we choose as a Legislature, but because we have the power to do it does not mean that it is always wise or in the best interest of society to do so. Now in this particular area it's one of those where I think the Governor was looking at every possible provision in the law that would allow him to draft the bill...excuse me, have one drafted which would allow an enhancement of a punishment. The habitual criminal statute seems like a perfect candidate because of the very name of it, habitual hooked onto the word criminal. In most people's mind, that means somebody who has made a life of crime. But, as Senator Beutler pointed out in his questions, and Senator Lindsay's responses, a person could commit a felony as a juvenile and not be charged as a juvenile but as an adult. Then that person lives 30 years and writes enough bad checks to be convicted of a felony.

SPEAKER WITHEM: One minute.

SENATOR CHAMBERS: And that might make him or her 35 years old,