

under the circumstances that will exist if this amendment that we're talking about is added, if that is going to become a basis for invoking the habitual criminal statute then two of those felonies would have to be motor vehicular homicide. In other words, if a person had committed motor vehicular homicide one time, that would not constitute a violent felony for the purpose of invoking this 25-year mandatory minimum sentence. If you're going to use motor vehicular homicide for that purpose, two of those three felonies would have to be motor vehicular homicide. I hope that it's clear at least what it is I'm trying to say. And this is why, personally, I don't think we ought to use motor vehicular homicide as a part of this habitual criminal scheme, in the first place, but if it's going to be used and people fear, as Senator Crosby does and some others have indicated, that a person who does this may be inclined to drive under these circumstances and do it again. At that point, if a third felony is committed or if a prior felony had been committed and the last two were motor vehicular homicides then the habitual criminal statute could be invoked. But say that a person committed motor vehicular homicide and then a bad check offense, then knocked somebody in the head in a fist fight and it constituted a felony so that we have a crime of violence, then the motor vehicular homicide would not be the violent crime that would be a basis for invoking the 25-year mandatory minimum. But if the first one had been motor vehicular homicide, the second one had been the bad check, and then the third felony had been a motor vehicular homicide then you could invoke...the prosecutor could, the 25-year mandatory minimum. I don't think the mandatory minimum is a good idea anyway, but I wish that somebody were here who could explain to me why it is necessary to change this statute in the first place. What the existing statute says, that we're amending, this is the manda...this is existing habitual criminal statute and it's in 29-2221, subsection (1), whoever has been twice convicted of a crime, sentenced and committed to prison in this or any other state or by the United States or once in this state and once at least in any other state or by the United States for terms of not less than one year each shall, upon conviction of a felony committed in this state, be deemed to be an habitual criminal and shall be punished by imprisonment in a department of correctional services, adult correctional facility for a term of not less than ten nor more than sixty years. What it says in so many words, if two crimes are committed, however they're designated, because one could be in another state, if a person were sentenced for up to a year on each of those two crimes, then a