

third offense is a felony, then that would justify invocation of the habitual criminal statute. Under the existing law, and everything I've said so far is the existing law, that would allow a sentence of ten to sixty years. Even if the third...even if the third crime were a felony based on bad checks, that could trigger the prosecutor invoking the habitual criminal statute. And, as Senator Lindsay pointed out, although not as directly as I'm saying it now, I don't think, in most cases when this happens a guilty plea is forthcoming. If the person doesn't even think that he or she is guilty of the offense but there's a good chance they might be convicted, and that's the way the prosecutor puts it, you haven't got a prayer. Look how the jury is made up. Look at the judge you've got. You better take what I'm offering you or you could get sixty years and they take what's being offered. So right now as a club the habitual criminal statute is fulfilling the function that the prosecutors want. When it actually is pushed in a trial and imposed or a judge sentences somebody under it, a sufficiently stiff sentence is always given so that nobody has said that the habitual criminal statute is not strong enough. I think what is being offered by this committee amendment is overkill, but I hope you will at least consider what I'm offering to you now and that's to say that if you're going to use motor vehicular homicide, which currently is not used for the purpose they are trying to use it, then two of those felonies would have to be motor vehicular homicide. If you have any questions, I will try to...I'll answer them and I'll try to do it in a way that is clear.

SPEAKER WITHEM: Thank you, Senator Chambers. Senator Pirsch, followed by Senator Lindsay.

SENATOR PIRSCH: Thank you, Mr. Speaker. I do have a question for you, Senator Chambers.

SPEAKER WITHEM: Senator Chambers.

SENATOR CHAMBERS: Yes.

SENATOR PIRSCH: I have a list of the habitual criminal section which is strictly the Class I, II and III felonies, and when they added vehicular homicide which is a Class IV felony, is it?

SENATOR CHAMBERS: You mean right now. Yes, that's what it is now.