

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
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SENATOR CHAMBERS: ...do before we get lost in some of these emotional appeals which can be made when we get to the bill as amended, I hope you will adopt this amendment which makes it explicit that the bill has no retroactive application. That is the part of the amendment that is before us at this time, and I hope you will vote to adopt this part of the amendment.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Bourne, on the amendment to the amendment.

SENATOR BOURNE: Thank you, Mr. President. I left here Friday and I knew that Senator Chambers and Senator Brashear were wrong. (Laugh) I come here this morning, and I'm not so sure they're wrong about the retroactivity. As a matter of fact, I think they're probably right. I still have some concerns with the equal protection provision. But before we get to that I wanted to kind of clarify. Senator Brashear keeps indicating that felony murder is not first degree murder, and it is. A person commits murder in the first degree if he kills another person: one, purposely and with deliberate and premeditated malice; or, two, in the perpetration or attempt to perpetrate any sexual assault in the first degree, arson, robbery, kidnapping, hijacking of any public or private means of transportation, or burglary. And then it goes on to another provision in first degree. So felony murder is first degree murder, and that's important because later we're going to talk about the proportionality argument. In Sunday's...to move onto the equal protection part, when Senator Chambers...this morning I read his handout where he talks about the Reeves case, and I'm reading through that and I'm thinking, well gosh, he's right again. (Laugh) But then I remembered in the Sunday World-Herald there was an article in the World-Herald, as I indicated, and the title of the article was "New Felony Murder Bill Draws Ire". And there is some passages in there, which I've handed out to you, and it says, I'm absolutely confident the Supreme Court would set aside all those death sentences and order them to be resented to life in prison, this according to Lancaster County Attorney Gary Lacey. Lacey says he's convinced that even if the Legislature approved an amendment indicating the new law is not retroactive, such a law would violate the Equal Protection Clause of both state and federal