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LB 270

SENATOR BOURNE: Exactly. So again,...

SENATOR BRASHEAR: The motive.

SENATOR BOURNE: ...you cannot convict an individual, I don't believe in any state anywhere, of murder unless you examine that individual's state of mind at the time they commit the crime. And then Senator Foley objected to somehow enhancing this penalty. Senator Brashear, I'm hoping to still engage in a dialogue with you. And Senator Foley mentioned that we shouldn't enhance the penalty, but I can think of several instances in our statutes right now that we enhance penalties for particular crimes. I'm thinking of felony murder, Senator Brashear.

SENATOR BRASHEAR: That's correct.

SENATOR BOURNE: What that says is if, and you might have to help me here, but if a person commits a crime...if...commits a murder during several enumerated felonies, I think it's murder, or excuse me, robbery, arson, rape, I think there's two more and I can't recall what they are, but it doesn't matter, but...

SENATOR BRASHEAR: You're doing better than I could have.

SENATOR BOURNE: Okay. If the individual commits murder during the commission of a robbery, rape, assault, burglary, then they assume that the state of mind for the first-degree murder transfers to...from the underlying felony and so they can get a capital crime. They can get the death penalty for that. So basically, Senator Brashear, I just wanted to clarify the record that, number one...and please agree with this if this is an accurate statement...number one, we absolutely, positively have to look at the state of mind of an individual for any murder conviction.

SENATOR BRASHEAR: Yes.

SENATOR BOURNE: And we have several instances in our statutes where we actually enhance the penalty based on what we, the