

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

May 22, 2003

LB 270

SPEAKER BROMM: Senator Brashear, would you yield, please?

SENATOR BRASHEAR: Yes, Mr. Speaker.

SENATOR FOLEY: Thank you, Senator. Maybe we can pick up actually where you and Senator Bourne left off. You were discussing the crime of murder and how it's important to establish the actor's frame of mind in order to effectively prosecute the person for committing murder. But there are other crimes short of murder, for example assault. If a person commits an assault against another person, is it necessary to establish the actor's frame of mind in order to prosecute that person for the assault?

SENATOR BRASHEAR: You have to prove the intent to assault and the fact of the assault, beyond a reasonable doubt.

SENATOR FOLEY: You have to prove both the intent of the assault as well as the actual assault. But...

SENATOR BRASHEAR: Yeah, if it was an accidental assault, that's not the same thing. That's not what's comprehended

SENATOR FOLEY: Um-hum. But under the hate crimes statute approach you would have to prove all of that, the intent of the assault as well as the actual assault, and you would have to prove the underlying motivation, vis-a-vis one of these categories in the statute.

SENATOR BRASHEAR: That's correct. And if...

SENATOR FOLEY: Go ahead.

SENATOR BRASHEAR: I'm continuing our...and if you'll let us pass this then you have to prove it, not to a judge but to a jury, beyond a reasonable doubt.

SENATOR FOLEY: Right, by virtue of the bill that's before us. Under the old hate crimes statute, you did not have to prove that to the jury, and that's really the key difference.