

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

March 23, 2004 LB 1241

have the money yet, and the family didn't have that much money to begin with. And as a result of trying to make the car payment and to then cover other expenses, they got a notice from their mortgage company that they...the mother hadn't made payments on the house. And so it became a very strong financial burden to the family to be able to deal with this and, yes, the mother was emotional. She was concerned. She said, if my son did this to somebody else, they or their insurance company would have to pay that cost; why doesn't the state, who assumes responsibility for this ward of the state, this young man who was in state custody, why shouldn't the state, acting then as that young person's parent, also have some responsibility? Now legally, technically, as I understand it, the state doesn't have that financial obligation. I think Senator Wehrbein is right there. So we are not, as a state, if we pass this claim, acknowledging that we are at fault or that we have a legitimate claim to financial responsibility. So there's no admission of guilt on the part of the state, we decided in the committee. There is no acknowledgement that we legally are bound to pay this claim. But under these individual circumstances, those of us in the committee who supported this thought that it was the right thing to do, and that this is not the first time that a claim has been taken out of the disapproved category and put into the approved category. So each...

SENATOR CUDABACK: One minute.

SENATOR PREISTER: ...claim can be looked at on an individual basis, an individual determination made, and just like frequently happens in litigated cases, because we're paying this is not an admission of responsibility, it's not an automatic admission of liability. And in fact, we're told that the state does not have actual liability or responsibility, and we are not admitting fault. But the members of the committee thought, under these circumstances, where there was an extreme hardship, where even though maybe better decisions could have been made, this young man was victimized, he was victimized by a ward of the state, according to the police report, and we felt that as a state we should assume some financial reimbursement to the family. Thank you. I hope that gives some background and some clarity.