

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

March 30, 2004 LB 868

have a set of circumstances where an innocent, unsuspecting individual is involved. That is individual A. We have individual B and maybe in conjunction with C, D, and E, but at any rate at least an individual B who is going to be allowed to perform some service or activity that affects individual A, and A trusts and relies on individual B. B, rather than living up to that trust, violates the standard of exercising due care and A suffers an injury as a result. Under the law, failure to exercise due care or negligence which results in injury to a person is actionable, meaning that person A can sue person B for the damage or injury suffered by person A because person B was negligent, and negligence means the failure to exercise due care. Now simple negligence is the ground floor. As I analyze these concepts, gross negligence exercise the second floor. Willful and/or wanton exer...they occupy the third floor and are just half a floor below intent or intentional. When you get to the point of willful or wanton action, you are doing something that you can know is going to hurt a person and get away with it if the law says you're not going to be liable unless your conduct is willful and/or wanton. When we're dealing with these little children or children, they may not be little, they have been entrusted by their parents or guardians to the...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...care of these educationists, whatever role they might play. The child experiences a life-threatening event, and a person is authorized under the law to administer to that child and be very negligent and yet immune from liability. That is not how you cause people to be careful. You cause people to be careful when they are going to be held accountable for how they discharge their duties. And I think the highest standard ought to be imposed on those who are dealing with children, especially children who are experiencing a life-threatening situation. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Mr. Clerk, a motion.

CLERK: Mr. President, Senator Chambers would move to amend the Raikes amendment with FA1634. (Legislative Journal page 1334.)