

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

March 15, 2005 LB 206

bottom of page 1 and the top of page 2. The way the immunity would work today, if the committee amendment is adopted, it says that no treatment program or employee shall be liable for acts taken in good faith to comply with this act, except if they use gross negligence, recklessness, or willful or wanton acts. And then there is an exception that talks about damage or injury during transportation or if they're under the influence of alcohol and drugs. And so what we tried to do in the committee amendment is come up with a compromise. The green copy of the bill said absolute immunity. The committee amendment says there is some form of immunity, up to a point. The reason we did that is that when the act states that they should have the least restrictive type of custody, that could mean a treatment facility owned by a nonprofit organization. Denny...Senator Byars might have the names of those groups. I'm not...I'm not as familiar with this program as he is or this area as he is. The point that I'm trying to make is, if there is...if there isn't some form of immunity or liability, these facilities won't take these kids and they'll end up in jail. And I don't know a lot about this area, but I know that that is not the right place for a DD kid, so...or a DD person, not necessarily a kid. So I'm willing to listen to Senator Chambers. The committee amendment was a compromise. Again, it was a compromise from the absolute immunity found in the green copy. I personally believe that there has to be some form of immunity or these facilities, when they're presented with this individual, will simply say, no, we're not going to take them. And then what's the police officer going to do, you know? And my understanding is, this development...the DD person has committed some form of a crime where they could be put into a...in a jail. So when that private facility, who is totally opened up to liability under Senator Chambers' amendment, refuses that person, where are they going to go? Imagine a DD person in a jail cell. I don't think that's the appropriate place. Quite honestly, that's the reason for the bill, because that's where they're going today. They don't need to be there. They need to be in a least restrictive place. I don't know what I'm going to do with Senator Chambers' amendment. I do believe that if somebody acts in a negligent manner they should be held accountable. Whether that's civilly or criminally, I don't know. But I do think there has to be some protection for these facilities; otherwise, they won't take