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March 30, 2005 LB 361, 755, 756

in Section 29-3303 to comport with the existing judicial interpretation of the statute. And again, I want to point out that there was no testifiers in opposition at either the hearing for LB 755 or LB 756. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Bourne. (Visitors introduced.) Mr. Clerk, a motion.

CLERK: Mr. President, the first amendment I have to this component of the committee amendments is by Senator Friend, AM0903. (Legislative Journal page 976.)

SENATOR CUDABACK: Senator Friend, to open on AM0903 to FA128.

SENATOR FRIEND: Thank you, Mr. President. Members of the Legislature, Senator Bourne did a good job of describing what we're dealing with here on this division of the question. What my...what this proposed amendment does, AM0903, to FA128 and then the bill, it's essentially...AM0903 is what I believe, based on my investigation of the issue, an enhancement; this amendment, an enhancement; and will provide uniformity in the rest of the statute change. Subsection (2) of the...of FA128 says, in the absence of probable cause, more or less, here are the exceptions: that the sample is knowingly given, that refusal is there, and refusal doesn't provide the probable cause, and that no pressure or threats or coercion or et cetera were involved in the situation. The new language that I am The new language that I am proposing...and it reads as such, starting with the old language. On page...or, excuse me. A court order...excuse me. The new language provides uniformity in the statute by pointing out that the exceptions are there in subsection (2). So the new language would essentially be this: No DNA sample shall be obtained from any person for any law enforcement purpose whatsoever without probable cause, a court order, or voluntary consent, as described in subsection (2) of this section. So that's essentially it. I did talk to Senator Chambers about the amendment. Like I said, I think it provides some uniformity, and hope you'll, I guess, be in agreement with that assumption. I would ask for the adoption of AM0903 to the Judiciary Committee amendment. Thank you.