

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

April 27, 2005 LB 117

concerned with senior citizens and their ability to get this. But my concern, and I certainly don't speak for Senator Stuthman and Senator Bourne, this is my own opinion, I'm wondering if, in your mind, there is another number we could talk about. If 18 does not work for you, is there another number? I'm very adverse to leaving it wide open and I'll explain why. I mean, there's so many situations where somebody that is manufacturing methamphetamine can get his little brother and call him, give him 40 bucks and say, here, go find five of your friends, go to the drugstore, buy some Sudafed. I mean, it's as simple as that. That can happen. At that young age, they don't know the difference between right and wrong. They don't know what they're doing is a crime and where that Sudafed is going to be turned into methamphetamine. So I'm wondering, I'm just wondering out loud to you, and you can have the rest of my time to answer this, if you like, if there's another workable number in there that we can at least talk about.

SENATOR CUDABACK: Senator Chambers.

SENATOR CHAMBERS: Senator Aguilar, when you're doing with a social problem like we're dealing with here, there's no perfect solution. There are problems, no matter what you do. When a court is faced with a situation in the context of a lawsuit, the court must make a decision. It cannot come down with a no decision. So it has created what it calls a weighing process. It weights on the one hand what is asked for by one person against what might be in the best interests of society. There's a clash between a societal need and an individual right. If the individual right is going to have to give way to give the other side who is representing society what they want, the one representing society has to show there's an overwhelming or compelling need and justification to overbalance the individual right which ordinarily is guaranteed by the constitution. It can't be just a matter of convenience or speculation or hoping. There is something very firm and definite that will have to be shown to exist to justify overcoming the individual right. You're either going to have to show a strong societal harm that can be dealt with only by doing away with this individual's right, or you can show that the individual right is really not that consequential. And so, if society can show any worthwhile