

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

March 9, 2006

LB 57

attack pregnant women and their unborn children? How should the law treat them? And the answer that I've offered, via this legislation, is that those third parties should be subject to criminal prosecution, just as they are now under our fetal homicide statute, which has been used successful four times since we enacted it in 2002. That was the purpose of the bill. The bill obviously had a public hearing before the Judiciary Committee, and all the testimony was focused on how to treat the third-party assailant under our criminal statutes. There was no public testimony, there was no public hearing on the question that Senator Beutler is raising, which is what do you do if the mother is using an illegal drug? Senator Beutler is raising a valid question, but that was not part of this bill. It never was intended to be part of this bill from the very onset. We were always focused on the third-party assailant only, because that's what we did successfully four years ago under the fetal homicide statute. Senator Beutler is going to create, if his amendment is adopted, and again I'm going to ask you to vote no, but if his amendment attaches he's going to create an inconsistency, because under the fetal homicide statute there's no criminal prosecution of the woman, of the mother. It's only the third-party assailant. So where will this statute be applied then, if it's enacted? It's going to be applied based on our experience under the fetal homicide statute and under the experiences of other states. By and large, this is going to be applied in drunk driving cases. The case of Kevin Mattini that we had a year or so ago in Omaha, Kevin Mattini, out driving on a Saturday night, drunk as can be. His blood alcohol three times the legal limit, driving the wrong way down 30th Street, smashes into pregnant Linda (sic) Turco. She suffers a broken leg, but her unborn child is killed. And under the fetal homicide statute, the Douglas County Prosecutor put her in prison...put...excuse me, put him, Kevin Mattini, in prison for the killing of the unborn child. That's how that law was applied. That's how we anticipated the law would be applied, and that's how the fetal assault statute will be applied as well, in most cases. In most cases, I believe that's how this law will be put into use. Prosecutors will have a tool to criminally prosecute third-party assailants against pregnant women and their children, most often in a drunk driving situation. Senator Beutler is raising an interesting question,