

May 11, 1979

LB 378

mentally disordered sex offenders but instead leave that optional. Now the statute that we are repealing, the sexual sociopath law requires that misdemeanants be treated as felons. Now the reason we are loosening up those restrictions is because there are many, many misdemeanants that come through the court every year in various kinds of sex crimes. It is an extremely expensive process to process someone as a mentally disordered sex offender because of the psychiatric and psychological bills that are piled up by the county in trying to determine whether someone is a MDSO or not. By the time that process is completed, there will be only six or seven months left in the potential sentence for a misdemeanant. So it really doesn't seem to us to make sense to require that every single misdemeanant be processed but instead leave that to the discretion of the court following the recommendations of the defense attorneys or the prosecutors so that seriously mentally disturbed sex offenders can be picked up but persons who obviously aren't can be processed out of the system without that great expense. Now the second important change that the amendments represent over the current version and over current law is that a defendant is brought in after a conviction either by a guilty plea or by trial and he is sentenced, he is sentenced to the underlying offense, and then he is sent over for treatment as a MDSO if he is determined by the court to be a MDSO following the recommendations of the psychiatrist and psychologist that have examined him. Now the reason for that is, that is really a pretty basic protection for the defendant. You might have a defendant that is convicted, for instance, for a five year felony or a thirty year felony, but because he is a first offender, he would normally be sentenced to only a year, year and a half. Now in that case, we think it doesn't make sense and it isn't really in the rehabilitative interest of the state to send somebody off for a potential of thirty year commitment as a mentally disordered sex offender when the court really would only be intending a sentence of a year, a year and a half. So by bringing him back first to get his sentence of say year, year and a half, and then sentencing him to treatment, he has the protections of treatment within that particular limited time period, and then of course under the act, he has to be released or processed by the civil commitment proceedings at the conclusion of his sentence, in that case a year and a half, rather than the conclusion of the maximum term for his offense which might be as much as thirty years. All right, now the third major change that we are making in this particular set of amendments is to put a special section in to give the courts and the prosecutors some