

SENATOR SCOFIELD: Senator Chambers.

SENATOR CHAMBERS: Madam Chairman and members of the Legislature, I'm sure there aren't too many listening to this discussion, but I'm going to say some things for the record anyway. Senator Pirsch's amendment begins by saying, on page 1, line 5, strike "as a condition of probation" and here is what you have. This is much broader than the law has been. A sentencing court may order the defendant to make restitution to any victim of any offense, period. Any court can order any defendant to make restitution to any victim, period, not as a condition of probation, not as a condition of anything, just a flat requirement of restitution, period. Now, let's say that a person, and we're not in favor of anybody committing a crime, but let's say that a person causes a bus to go off the highway by sprinkling tacks on the highway or pouring oil on the highway deliberately. Everybody who is injured is a victim. There are some insurance companies that have difficulty paying off those types of claims. By opening the whole thing in the fashion that Senator Pirsch's amendment does I think is an unwise policy decision and that was not what was heard in the committee. That is not what the Judiciary Committee amended. They were talking about making restitution a condition of parole. Now, the committee felt, those who advanced this amendment, that it is all right to make restitution a condition of probation because there is a trade off. When you get probation you don't have to spend time in jail. So if you're a person of means, you don't go to jail because you can make restitution and you get probation. If you are not a person of means and you cannot make restitution, you don't get probation, you go to jail. Then you get over to the parole end of it and a lot of people don't know the difference or distinguish between probation and parole. Probation is before you ever go to jail. In lieu of going to jail you get probation. Parole is what occurs after you have been sent to prison and it's a form of early release. What Senator Pirsch and Senator Schmit want to say is that if you are not able to pay for the damage done by your crime, that can be considered by the parole board in denying you a parole. So if you are a person of means, you have a much better chance of getting out. One of the conditions that must be considered by the Board of Parole is whether or not you will make restitution. If you've got means, you buy your way out and I don't care what Senator Pirsch or Senator Schmit or anybody else says,