

individual makes these photographs, takes photographs of a child in a position or involved in some sexual act, that that individual will be convicted of a particular penalty. Now that penalty was a Class III misdemeanor for the first offense and then offenses after that, a Class II felony, or excuse me, the first offense was a Class III felony and the second following convictions was a Class II felony. So at that time we did increase the penalties for an individual making these photographs to a Class III felony for first offense. Now what the Higgins amendment will provide is that an individual who sells these photographs is charged with the same conviction as the individual that actually makes and exploits these photographs. So an individual that simply gets a photograph of a child in child pornography and hands it to another individual shall be committing the same crime, committing the same offense as the actual child molester that took the photograph. My belief is that it should be one scale less to discourage individuals from making these photographs and that's the reason why there is a difference between the scale. I guess I'd like to make the penalties severe, make it a Class I felony because I think the children, especially a child, is probably the most innocent individual that we have in society and we should be there to protect them.

SENATOR LANDIS: Your time is up, Senator Abboud.

SENATOR ABOUD: With that, I urge you to reject the Higgins amendment. Thank you.

SENATOR LANDIS: Senator Hoagland, followed by Senator Chambers.

SENATOR HOAGLAND: Mr. President and colleagues, I'd just like to second what Senator Abboud has said and what I expect Senator Chambers will say and urge all of you to oppose the Higgins amendment for the simple fact that if we adopt the one-year mandatory minimum for first offense, possession with intent to distribute, we will be significantly throwing out of whack the penalty schedule in the Nebraska criminal code which as you all know is based on model language, uniform language, and was adopted after two years of hard work by this Legislature in 1975 and 1976. Now, believe it or not, the comparative penalties of all of the various criminal statutes through the Nebraska Criminal Code have been thought through in great detail by legal scholars. Nebraska bases its criminal statute on the same model penal code that many states, New York, California, many states throughout the nation base their criminal statutes on and we