

March 18, 1982

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you don't have to give this kind of an elaborate notice. Now maybe there is some argument that there should be this kind of a notice in this instance, but the third part of my amendment deals with line 20, the sentence, "The right to have a visitor appointed", and I changed the word "visitor" to "attorney" to notify them that they have the right to have an attorney appointed. Then if they have an attorney and they want an attorney, the attorney can go about having a visitor appointed, or for that matter can simply hire his own investigator to do and perform the functions that the visitor would perform. That basically is the amendment. I might mention that there have been some materials passed out to you. It looks like Senator Burrows' initials is on that sheet which is some interesting information from the Nebraska Chapter of MRAA expressing some of their concerns with the bill, a couple of which are picked up in this particular amendment. I do want to make the statement that I am not interested in killing this bill. Senator Johnson has set out a whole number of guidelines in a number of areas to be looked at by the courts and to be considered by the courts and I think they are extremely helpful and extremely valuable but I am coming in part from my own experience and the experience of some people that have talked to me. I think that by and large, probably 95% of the cases or more, there is absolutely no problem in the appointment of a guardianship. The parent of an incapacitated person or the child of an incapacitated person in the case of the elderly simply want and must take the legal action to have the guardianship appointed. There is absolutely no controversy and it makes some sense to keep the expense as low as possible. If you require the appointment of an attorney, not only is there the expense of the attorney itself, but given the limited nature of the guardianship that is now recommended basically by these provisions, I would think that any attorney doing his job well would want to examine those items that the bill requires a visitor to examine or hire a visitor to make those examinations, because without making those examinations, the lawyer cannot ascertain what his proper function is in recommending the extent of the guardianship. So what I am saying is that I think you are going to have the expense of the attorney and you are going to have the expense of a visitor that will go with it once you have the attorney, and I might also point out to you that in many of these cases, of course, the expense of that attorney and the expense of the visitor is picked up by the counties, and so there would be some expense to the counties under this bill the way it is right now. That expense I think would be limited in a reasonable manner if we continue to leave to the discretion of the court

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