

me try and give you some further background and tell you why the bill ought to be killed. First off, the bill is very likely unconstitutional, suspect, whatever other term you want to utilize. There is an opinion that just came out that I have distributed to you that indicates the very heart and nature of the problem that we have with this issue and that is who will make the decisions and who will pay for those decisions involving these children. And clearly this has been a point of contention between our judicial system and our executive branch for some period of time. The executive branch, in the form of the Department of Social Services, has taken the position for quite some time that they have the authority, as they have felt they had for some time, and had exercised that authority. The courts felt differently and the lawsuit did end up going to the Supreme Court which ruled in favor of the Department of Social Services just over a year ago, said you cannot interfere, from the judicial branch, with the executive function performed by the Department of Social Services. This bill is nothing more, in my estimation, than a circumvention of that Supreme Court decision of just over a year ago. It attempts to set up a system that still maintains, in the judicial branch, the decisions about what will happen in terms of the placement of these wards of the state under the care of the Department of Social Services. Yes, it isn't the court having direct power completely, but it will, through the judicial system in general, have a review panel of judges reviewing a court decision to override a Department of Social Services decision dealing with placement of these children. In other words, the executive branch makes a decision, the judicial branch doesn't like the decision, the department appeals and the judicial branch makes the overall decision through this review team. You still don't get away from the fundamental fact and the Supreme Court decision of just over a year ago, you can't do that. The judicial branch cannot function as the executive branch of our state government. And I think the Attorney General's Opinion, if you get a chance to read it, will clearly lay that out for you. I understand where Senator Coordsen is coming from, I understand where the other co-sponsors of the bill are coming from. We are all concerned about what happens to these children. I think my record on that has been very clear over the years. I've introduced a number of pieces of legislation to help protect our children, concerned about our children. I want them to be cared for in the best possible situation. But I think in terms of constitutionality you have that issue raised, and I hope you understand why we need not further pursue the