

areas. Another judge said the appointment of counsel might very well take from three to five days and any hearing scheduled thereafter would have to be arranged around prior scheduled commitments of appointed counsel because all criminal matters take precedent under the Constitution over civil matters. This is a civil matter. If the judges or the attorneys that would be appointed are involved in a criminal case, you cannot, by constitutional statute, change that. And they're saying three-day, and I would suspect possibly, in some cases, five is going to very much infringe upon that. Another judge says, I probably would have these hearings within three days if the pregnant female can travel to the county in which the court happens to be sitting in on the second or third day. Due process requirements would require that a judge, first of all, have a hearing to determine whether or not the applicant would want to proceed per se or by an attorney. This process is complicated by the fact that the right to counsel in a proceeding under LB 425 would not be a right to counsel derivative of the Sixth Amendment inasmuch as the consent proceedings would appear to be civil in nature and the constitutional right to cancel is guaranteed only in criminal matters. Therefore, no public defenders or attorneys that contract for public defense work would be required or expected to represent an applicant in a civil proceeding. The only recourse the court would have would be to direct the applicant to seek Bar Association pro bono appointed counsel, or to seek legal aid because the bill provides for no funding of the payment of counsel appointed. And I will have another amendment that will deal with that. I guess what I'm trying to point out is...

SPEAKER BAACK: One minute.

SENATOR BERNARD-STEVENS: ...a lot of times when we take bills that are written for other states and we say we want that specifically for Nebraska, without looking at the different variations we have in the state, that we make mistakes. The three-day waiting period is one of those mistakes. There are many more in the bypass system but this is one that Senator Lindsay has been very gracious, in my opinion, and very helpful in working with me on this and his amendment of five certainly is more reasonable than three. And I would urge the adoption of that particular amendment.

SPEAKER BAACK: Thank you, Senator Bernard-Stevens. Next,