

opposition to the deletion of Section 9.

PPRESIDENT MOUL: Thank you, Senator Wesely. Senator Beutler.

SENATOR BEUTLER: Madam President, members of the Legislature, I would like to make a brief comment and then ask Senator Landis a question if I may. I think Senator Lindsay is raising one of those points that everybody wants to consider and be clear on. The language I wanted to cite, and I believe that I am supportive of Senator Landis's version of this. There is language in the bill in this particular section that says a decision to grant or withhold consent shall be made in good faith, shall be made in good faith, and what that means to me anyway is that a number of those examples that Senator Lindsay raised are certainly not decisions made in good faith. And should the question be raised or should a question be in the mind of a child or of a parent or of a sibling, I assume it is their right to ask for injunctive relief that the court to prevent the physician from proceeding on the basis of that consent and I guess I would ask Senator Landis if that is true or not true. If I'm a sibling of yours, Senator Landis, and your wife has consented and I think she has done it for some reason other than what is in your best interests or the best interests of the family, I think, in fact, that it's not done in good faith in accordance with the language of the bill, could I not ask the court to prevent the carrying through of that particular consent?

SENATOR LANDIS: Yes, I think that's correct.

SENATOR BEUTLER: Okay.

SENATOR LANDIS: If you recall the circumstance that this body has been made aware of in which a religious organization sought to stop the pulling of a plug from a patient in Omaha, the mechanism that they used under existing law was the injunctive form of relief. They sought an injunction and then the court hearing was whether the injunction should lie, whether it should be made permanent and that was the format in which the legal case is made. That would be true about any kind of a conflict, a conflict presently, in a waiting room between family members who disagreed or under Section 9. Injunctive relief is the one that you would use because it's the only one that would be timely.