

May 3, 1995

LB 712

don't think Senator Matzke would lose any votes if this amendment was agreed to...

PRESIDENT ROBAK: Time.

SENATOR BERNARD-STEVENS: ...so I don't look at it as a hostile amendment and rise in support of this Chambers amendment.

PRESIDENT ROBAK: Thank you, Senator Bernard-Stevens. Senator Chambers.

SENATOR CHAMBERS: Madam President and members of the Legislature, courts when they have a case before them will often engage in fictions. Senator Matzke talks about how long and thoroughly a woman considers this decision and that's what Senator Bromm talked about, but in the April 6th edition of the Omaha World-Herald is a case about a young woman named Tina Jones. She had a baby who was born February 24th of last year. She relinquished custody of the child the following day, February 25th. Then three days later she wanted the child back. She was told that her relinquishment was irrevocable, she could not get the child back. She filed suit. The trial court said that the relinquishment was legal. The appellate court said the same thing. But this is the woman I had mentioned before who had an IQ established at a level of 72 by educational and clinical psychologists. They testified to her IQ. Now if this were a man and his rights were involved, they would say at that level we don't expect him to understand legal forms and legal documents. But this court stated that she understood the relinquishment form when she read it. Senator Matzke, Senator Wesely, will talk about the complexity of this issue. There are things we discuss that some senators may not follow, but this woman with an IQ of 72 was said to have understood the legal ramifications of this decision because they wanted to take from her her baby and keep the child. The reality is what we should deal with when we formulate policy. The court can engage in fictions as it often does. We will engage in fiction also when it suits our purpose, but there are not many people on this floor who would say that a person with an IQ of 72 is going to be deemed an authoritative voice on any subject, but when it comes to her giving up her baby she is deemed to understand as much as a lawyer. I think that is not a reflection of the true facts in her case. The fact that this case did occur shows that there is a need for the amendment that I'm offering, so that something is in the record on this bill. This bill, in its