

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office

January 25, 2000 LB 120

necessary authority is something that we will have to decide. The way I read the law as proposed by Senator Crosby was that it wasn't mandated that the court do this, it was...it was the first consideration of the court to look into whether or not joint custody should be awarded. Now currently, as Senator Redfield has said, we have law that provides for joint custody, but it provides for joint custody upon agreement of the parties, and that's the way that we have been operating the court system. I would like to share with you some correspondence that I received from one of my district judges. And he said, frankly, the bill is almost unworkable in that in most dissolution actions there is such a split between the parents that joint custody will be untenable. However, having said that, the bill, if it passes, will not have too great an effect on the way that we do business now. And the way that we do business now, at least in my district, and it should certainly be throughout the state in this manner, the parties come in and they...the court must determine who shall have the custody of that child, and if the parties can agree, and I know of a number of cases where it occurs this way, the court has granted the joint custody, but they've also put some provisions on there so that it's a workable proposition. And I think that we need to arm the court with authority. But I certainly don't think we need to mandate to the court how it shall do this. This is something that is up to the individual judge, and if that's not satisfactory, there is an appellate procedure where that can be reviewed. But I think that we need to look at the practicalities of this thing. You can't mandate that people be friends. You can't mandate that people conduct their lives in total accord all the time, that's just not the way people conduct their own lives. But I think we've already got sufficient authority within our law to provide in the event that the parties are able to work it out. But I think that all of these matters are subject to, visitation rights, custody rights, all of these things are subject to review by the court. I'm certainly concerned that the amendment that's proposed by the committee would put a great number of details into the process that would make a lot more room for contentiousness between the parties, the parties continually coming to the court saying my schedule has changed now, we have to have a total review of the situation. I think that we need to make this practical. A high percentage of what our courts deal with now are either criminal matters or domestic matters.