

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

January 27, 2000 LB 120

line in the sand, scorched earth with this provision. When it went back to Senator Crosby, who is the progenitor of this bill, she said, you know I'm not comfortable with Dave's concept about the four-year-old stuff. So, when it came back it had...that's been taken out. It means that Ernie didn't see this language, at least in the form that Chris and I were working on it. So he has been acting in good faith. The piece that was taken out moves me in this situation, so let me tell you where I am on this whole fight. First, I think the fight between joint custody and sole custody is all too often a fight between the parents about being parents and it is a tool. Oftentimes, the fight over who will be the custodian is a fight initiated oftentimes by a father in an attempt to drive down child support. The claim for sole custody away from the wife is used by the husband to threaten something so important to the wife that she'll make concessions on child support to make sure that the custody is not challenged or taken to court. So sole custody is used as a tool there. Joint custody, however, is a tool on the other side, because our law says you can't have joint custody unless both parties agree. And if a father wants to get joint custody, he now has to get the permission of the wife, and it becomes a tool then at that stage. Sole custody is a fight between parents and a tool, joint custody is now a fight and a tool between both parents. And the whole problem is that's between parents, and it's not the "best interests of the child", which should be the guiding yardstick. So I don't like the way we do things now, and I agree with Senator Crosby on this. We now say joint custody can only come about because of joint agreement, and that makes it a tool and a weapon, and that should change. However, saying that there is either a preference or even neutrality on the joint custody indicates that joint custody is a neutral phenomenon in all cases, and child development tells us it is not, which is why I want to go back to best interests of the child. Look, John Bowlby, a number of decades ago, established pretty clearly in research that's been fought over and over again on both sides, and yet it still works to be true, that is the idea of attachment, child to parental attachment. And basically what he says, and it's elaborated elsewhere, is that very young children's emotional needs are urgent, immediate, and they don't fit the rest of the scheme very well. A baby in a shared custody arrangement may have to wait several days before that return to the parent who