

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

March 29, 2000 LB 1167

knows better and that a judge can make sure that these persons who are appointed as guardian ad litem, as I understand it, in some instances really are doing what is in the best interest of the child. They may be doing what is in the best interest of expediting the proceedings. They may be doing what is in the best interest, as they perceive it at the moment, but I don't know that that's in the best interest of the child. And I am quite surprised the more I hear about how judges have initiated these programs without statutory authorization and, too, the information that I have been receiving, in fact if not condoning, it's incenting and promoting the unauthorized practice of law. Now that's...those are strong words within the law community. I don't understand how they could have done what has been reported as actions by the judges. This amendment, as it currently stands, doesn't do much to correct that. In fact, it makes it a little bit easier for a judge to say, well, the Legislature said that I could appoint an untrained in the law person to be a co-guardian ad...a co-guardian ad litem. A guardian ad litem has responsibilities to the court and I quite frankly don't know how you're going to have a co-guardian ad litem, one of them a lay person, one of them a lawyer, and they are going to be able to sort out what is in the best legal interest of the child. I think that is an extremely difficult relationship to impose on any lawyer, whether you have the lawyer working in conjunction with another lawyer or you have the lawyer working in conjunction with a lay person who doesn't know what the law is. I find it an incredible proposition at least in that respect. Now I have signed on with Senator Kristensen and others to an amendment that would remove that provision. While I think that that puts perhaps to rest the idea that these persons can be appointed as a guardian ad litem, or even as a co-guardian ad litem, I'm still more than a little bit uncomfortable with the amendment, but I don't think I would speak on it again...

SENATOR CUDABACK: One minute.

SENATOR WICKERSHAM: ...if that amendment was adopted. I know that ultimately we will come...that someone will come back and ask us to support this program with more than good words and a statute.