

February 26, 1980

LB 749

CLERK: Mr. President, I now have amendments by Senator Johnson.

SPEAKER MARVEL: Senator Johnson.

SENATOR JOHNSON: Mr. Speaker and members of the body, the amendments have been passed out by a Page and they are on your desk. They say, Amendments to LB 749 on top. As you may recall when this bill was first advanced from General File I spoke against it. I said that I felt that the providing of visitation rights to grandparents represented an undue interference in the relationship of a parent to the parent's child. I did not receive a lot of support for that point of view as the bill handsomely moved from General File to Select File. I thought it was quite possible that I could be wrong, so I took the time to look at what some of the legal scholars in the area were saying on the issue, and what I learned was that at least twenty-one states have now provided visitation rights to grandparents through statutes, that the high courts of several states have by common law development found that grandparents should, in certain circumstances, be allowed visitation rights, that there have been some legal problems that have developed with the visitation rights issue, particularly the problem as to what does occur when the child is ultimately adopted by another parent, what about the outstanding visitation rights that the grandparent has. So, the more I read the more I said, well, you know, it may be that I was a little out of step with prevailing philosophy, and maybe the better part of the valor in this issue is to try to construct a grandparent visitation rights bill that tends to address some of the problems that has occurred in other states and is a fair and reasonable measure. So that is what I did, and that is what you have on your desk. It is an amendment to the bill which preserves the bill in its basic form but addresses some of the difficult questions. What the amendment does is very simple. It says, that a grandparent of a child may apply to a district court by petition, application for intervention, writ of habeas corpus or such other procedures as may be appropriate to the case, for reasonable rights of visitation, so that, number one, the bill gives standing to a grandparent to go to court to assert visitation rights. Number two, the bill makes reference to the kind of proceedings that can be used to avail oneself of this right. Under the existing law, under the...actually under LB 749 as presently written, the right itself is to be exercised pursuant to court rule. There are no court rules on the matter. Now, visitation rights to the grandparent