

the case. 428 as it now exists would require that in each of the dozens or hundreds of guardianship cases that come before the courts each year that the court appoint an attorney to represent the incapacitated person regardless of the facts and circumstances of the situation. I think that the practical effect of the bill as it is is going to be to increase the cost of having a guardian appointed from somewhere around one or two hundred dollars which is probably what it is now to somewhere up to five or six or more hundred dollars. I think that would be a fair representation. First of all, let me tell you what all the amendment does so you know exactly what we are talking about. There are three distinct points. The first thing the amendment says is that the court "may" appoint an attorney, not that the court "shall" appoint an attorney and that is by far the most important part of the amendment. The second thing that the amendment does is to strike the requirement that the incapacitated person be present unless his or her attorney certifies otherwise. Now that language, if you care to look at it, is in that blue copy of 428 which is in front of you, and if you look on page 3 of your blue copy, subsection (d) up at the top says, "The person alleged to be incapacitated is entitled to be present at the hearing unless his or her attorney certifies that it is not in the best interest of the person to be present." That sounds pretty good and by and large it is a pretty fair requirement but the problem is I think that in a number of instances there will be incapacitated persons who are bedridden and perhaps Senator Johnson would care to clarify but it does appear that in that instance unless the attorney certifies otherwise somehow the bedridden person has to be present. Now maybe you take the hearing to the nursing home or maybe that is not what is intended by the language. I would be interested in hearing Senator Johnson's comments with regard to that particular provision. But at any rate, the second part of my amendment then would strike that new language and simply leave him with the right to be present in person or the right to be represented by an attorney should he or she so choose. The third part of the amendment deals with a notice provision that is on page 10, line 20, if you wanted to turn over there. One thing that Senator Johnson has provided in this bill is that in addition to giving the incapacitated person notice that a petition for guardianship has been filed, you also have to give them in addition a notice and that notice says a number of things and you can read them there on page 10; that you have the right to have a visitor appointed; right to be present at the hearing; the right to represent evidence, to present evidence; the right to request that the power of the guardian if appointed be limited by the court. This is unusual in the sense that ordinarily in the filing of petitions