

May 2, 1985

LB 612

SENATOR CHAMBERS: Not to the bill itself. The only thing adopted so far is Senator Hoagland's amendment which says that there will be a hearing in open court...

SPEAKER NICHOL: One minute.

SENATOR CHAMBERS: ...about this custody and it struck the requirement that primary residence be established for a child.

SENATOR HIGGINS: It did strike that requirement.

SENATOR CHAMBERS: It struck that so that's where we are now. We're back on the amended committee amendment. It hasn't been accepted yet.

SENATOR HIGGINS: Thank you, Senator.

SPEAKER NICHOL: Senator Hannibal.

SENATOR HANNIBAL: Mr. Speaker and members, I now have a chance to explain my purpose and the history behind this situation and I would ask that you listen, if you will, and then I will be happy to defend or answer any questions or have our debate if we want to. We have a situation with joint custody that we have a statute and if by any chance you have read the bill, you'll see that the statute says right now that the judicial system, the court will establish custody of the children in the case of a divorce. That can be sole custody. It can be joint custody. It can be neither party can have custody. They take the children away from both parties if the court sees fit. Now what happened with that? In effect before this Trimble case came up, what did happen was there was sole custody in most cases given, joint custody in a few cases given and in a very few cases there was a case where they were taken away and given to third parties. 1984, last summer in July we had a Supreme Court decision that came down that said, this is the Trimble v. Trimble case, it was a suit where the husband, Mr. Trimble, John Trimble brought suit against the wife seeking joint custody. It went through the courts. The Supreme Court upheld that, no, John couldn't have joint custody. They left sole custody in the hands of Elizabeth Trimble. That was the Supreme Court decision. However, the problem comes in because the Supreme Court went further than