

SENATOR KRISTENSEN: Sort of an advisement of rights?

SENATOR CHAMBERS: Yes.

SENATOR KRISTENSEN: I don't think that that's unreasonable.

SENATOR CHAMBERS: You don't think it's what?

SENATOR KRISTENSEN: Unreasonable.

SENATOR CHAMBERS: Oh, okay, so then that part of it I won't proceed any further with and that's why I didn't add it in the amendment that I've got. Here is what this amendment does. It takes what is in the bill now and says it changes it to the opposite of what is in the law now. The way the law is written now, it says, notwithstanding any rights that the parties, under the rules of discovery or civil procedure, would have, nothing that is revealed during this discussion before the mediator can be required to be revealed in a court, nothing, with the exception being the abuse that might come forth. What my amendment would say is that, except for the rights that they have under the rules of discovery or civil procedure, all records and so forth would not be available in a court pursuant to an order. Now before you have a knee-jerk reaction against this, let me put into the record what a smart attorney ought to do. A smart attorney should advise his client to participate in the mediation. Then that attorney should advise his client to discuss every single thing that could be used by the other party if it goes into court for any reason and then none of that can be revealed in any court proceeding. That's the kind of law you all want to keep on the books, and since you've made up your minds you're going to support it no matter what, I want you to know what you're supporting, I want it to be clear from the record that I told you and you still wanted to keep it. My amendment may not change all of that, but the material that would be available by way of discovery and civil procedure would still be available for use by a court. If that's not the case, any lawyer properly representing his or her client would insist that they spill everything that could possibly come up in any court action, and once that is done, any communications made confidential by the act which become subject to judicial or administrative process requiring the disclosure of such communications shall not be disclosed. And what does that include which shall not be disclosed? All records, notes, other documentation, written or electronic, of the mediation process,