

SPEAKER BAACK: Maybe you need your glasses there, Mr. Clerk.

SENATOR HOHENSTEIN: I apologize, Mr. Clerk. That's probably my handwriting. The amendment essentially says that a disclosure made during the mediation process remains confidential except there is a different procedure established in cases of child abuse, and that the reports of child abuse made during the mediation process shall be reported to the district judge, and an in camera hearing shall be held to determine whether the reports are founded, and if further investigation is merited. That is what the amendment says. Now the effect of that would simply be that if, in fact, the mediator had a report of child abuse, everybody in these cases are mandatory reporters, what they would normally do is they would report this probably immediately to law enforcement or maybe to the Department of Social Services. This does one different thing. It says, look, you are in a mediation process. We are trying to promote two goals of mediation, one is to develop a parenting plan and try to work at this for the benefit of the children. That obviously is counterbalanced against the concern of nonreporting of child abuse in any circumstances. My feeling on the original stage of this debate was that the reporting of child abuse should not come second. This means, this amendment to the Chambers amendment would simply mean that there would be a different way to report it, and it would be reported to the district judge. Now they are in the mediation process, so they are already involved with the district judge in the mediation process. The judge would then get that report from the mediator, there is a report of child abuse. The judge then would hold an in camera meeting, confidential, and not public, an in camera hearing between the parties, and there is some discretion as to how the judge would do that, but the judge would hold that hearing to determine whether the reports are founded. That is the language that they use, whether there is a founded report of child abuse. It may be nothing more than a rumor. It may be nothing more than that somebody said something. I guess what we don't want to do is see that the mediation process completely disintegrates automatically, and if, in fact, the judge has determined that really there is no basis, maybe he talks to the parties, they acknowledge that, well, this is just something that I heard, there's really no basis to it, the judge then can allow that mediation process to continue. If, in fact, the judge determines that there is a report of child abuse that is founded, then, of course, the further investigation may be merited. Then the judge is going to stop the mediation process,