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Judiciary Committee  
February 26, 2015

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[LB13 LB15 LB347 LB502 LB566]

The Committee on Judiciary met at 1:30 p.m. on Thursday, February 26, 2015, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB566, LB13, LB15, LB347, and LB502. Senators present: Les Seiler, Chairperson; Colby Coash, Vice Chairperson; Laura Ebke; Bob Krist; Adam Morfeld; Patty Pansing Brooks; and Matt Williams. Senators absent: Ernie Chambers.

SENATOR KRIST: Okay. We're going to get started today. Senator Seiler is presenting in a different committee. Senator Coash, who is the Vice Chair, is presenting here next. So I'm going to take over as Chair for a small time today until Senator Coash is done. Please turn off your cell phones, pagers, anything that makes noises, or put it on silent, please. We'll be discussing LB566, LB13, LB15, LB347, and LB502 today. They will be held in that order. If you're going to testify, please pick up--what color are those sheets?--white sheets and fill them in with the appropriate information. If you're going to testify, when you come up to the mike make sure you talk into the mike and make sure you spell your first and last name. It's not that...that's not for us. It's for the transcribers, to make sure that they know who you are, so that they can blame you for the comments that you're making (laughter). So just speak clearly into the mike, if you would, please. So with that, I'll let the senators introduce themselves that are here at the table and we will start, starting with Senator Williams. Senator Williams. Senator Williams, introduce yourself.

SENATOR WILLIAMS: Sorry. (Laughter) Matt Williams from District 36.

SENATOR KRIST: Bob Krist, District 10 in Omaha. Our committee LC today?

JOSH HENNINGSEN: I don't have a microphone, but Josh Henningsen.

OLIVER VanDERVOORT: I am the committee clerk, Oliver VanDervoort.

SENATOR EBKE: Laura Ebke, District 32.

SENATOR KRIST: And Senator Coash is at the table and it is all yours, Senator Coash.  
[LB566]

SENATOR COASH: (Exhibit 1) Thank you, Senator Krist. Good afternoon, members of the Judiciary Committee. For the record, I'm Colby Coash, C-o-a-s-h. I represent the 27th District here in Lincoln. I come to you today as a member of the State-Tribal Relations Committee, a

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former Chair of that committee, to introduce LB566. This is a bill that changes provisions in the Indian Child Welfare Act, which is also known as ICWA. So if I say the name "ICWA," it stands for the Indian Child Welfare Act. First, a little background on ICWA. The United States Congress enacted ICWA in 1978 after recognizing that a disproportionate number of Native American children were being removed from their homes and placed in foster care. Congress recognized that maintaining ties of culture and tradition are essential to the well-being of children and families. Federal ICWA guidelines are broad in nature in order for states to develop their own versions. Nebraska adopted its version of ICWA in 1985, which basically mirrors the federal ICWA, and has not made any changes since that time. I introduced a similar bill last year, but it never moved out of the committee due to some concerns by opponents. In order to find constitutionality viable...constitutionally viable solutions to those concerns, numerous meetings have been held during the last interim between an ICWA Coalition, HHS, county attorneys, and other interested parties. We are determined to pass a bill that will help keep Native children out of foster care and with their culture. Now, before I proceed, I have to...something came to light just last week or, excuse me, earlier this week, that the fed...that since I introduced this bill the federal government's Bureau of Indian Affairs, or the BIA, has published new ICWA guidelines just recently. Now we are still reviewing that document, but it is effective immediately in Nebraska. Overall, it is my understanding that the new guidelines that the BIA put out are quite supportive of the provisions in LB566. I have worked pretty hard, our office has worked pretty hard with a pretty broad spectrum of people, including county attorneys who brought quite a bit of concern to this last year, and I want to continue to work with them. I've worked specifically with the county attorney's office here in Lancaster County and will continue to do so because that partnership is helpful. And what we're going to try to do following this hearing is really dive into those guidelines and see where they...where it's mirrored in this bill and where it's not. There is concern that we don't want to get ourselves in litigation if we move beyond what the federal government has allowed. So that has yet to be determined but, in any case, I want to make sure that this bill gets a good hearing and becomes a vehicle to do something which I'm committed to do. I became interested in making changes to ICWA a few years ago after reading the Nebraska Kids Count report from Voices for Children. Specifically, it stated that Native American children are extremely overrepresented in our child welfare system. They represent just 1 percent of the total population but account for 7 percent of the children who are waiting for adoption and 6 percent of who are adopted. Native American children are more likely to be state wards than their peers. And in Thurston County, home of the Winnebago reservation, about 1 in 25 children are removed from their home and put into state custody. That is twice the rate of the county with the second highest removal rate in our state so that's pretty alarming. Continuous efforts are being made to assist tribes and counties with decreasing the removal of Native children from their homes. And the intent of ICWA is to ensure that if a Native child is removed from the home, then a greater effort will be made by judges and the state to place that child with next of kin or at least within the tribal community. LB566 clarifies the responsibility of child welfare stakeholders through strengthening our state law by defining key areas of ICWA, clarifying

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existing pieces of ICWA, and ensuring that the tribes have a voice. There are several key components of the ICWA that are not currently defined in federal or state statute but are still critical to ensuring cultural competency in Indian child welfare cases. For example, federal and current state law require that any party seeking to effect a foster placement of or termination of parental rights to an Indian child under state law shall satisfy that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent breakup of the Indian family. There currently is no legislative definition of active efforts in Nebraska for attorneys or caseworkers to rely upon. However, there are standards in court, precedent, federal guidance, and legislation from other states, which LB566 utilizes to ensure a uniform application of law. Similarly, there are no federal legislative definitions of a qualified expert witness or best interests of an Indian child; however, LB566 defines all these terms in a way that respects the inherent sovereignty of tribes, creates a clear process for attorneys, judges, and caseworkers to follow in ICWA cases. In defining these terms, LB566 helps achieve the purposes of ICWA. Active efforts is defined, beginning on page 7, in statute 43-1503, (a) through (i), to clarify what Nebraska's responsibility is to Indian children in custody proceedings. This definition is the same one used by the BIA and ensures that Nebraska has a culturally appropriate and uniform standard to apply in preventing the breakup of Indian families. The definition of qualified expert witness was added to clearly identify individuals that are able to testify as an expert witness in ICWA cases. The list of qualified individuals mirrors the Bureau of Indian Affairs guidelines that our courts have routinely followed and it also places prioritized individuals that are familiar with tribal customs. However, this prioritization does not preclude a juvenile court from assessing the credibility of any individual person that may be deemed to be an expert witness. LB566 also ensures that tribes have a voice in the process. Tribes in Nebraska have expressed concern that there is a misunderstanding in the history and purposes of ICWA. As Nebraska continues to move forward in reforming our child welfare system, it is imperative that tribes have an essential role in creating the policies that will apply to Indian children. First, LB566 simplifies and streamlines the process in other states to participate in Nebraska's juvenile court proceedings; and secondly, it creates an official mechanism designed to foster cooperation between tribes and the state to create an...investigative policies that affect Indian children. So that's what the bill does. It's a little history of where we got here. And I'll be glad to ask...answer any questions. [LB566]

SENATOR KRIST: Any questions for Senator Coash? I do have one and then...I'm sorry. Did you? [LB566]

SENATOR EBKE: I was just going to... [LB566]

SENATOR KRIST: Senator Ebke. [LB566]

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SENATOR EBKE: Thank you. I was just going to ask about the fiscal note. You want to talk about that a little bit? [LB566]

SENATOR COASH: I sure can. And I talked with the...with Liz in the Fiscal Office, who does a great job, and she has to do...she has to build a fiscal note off the language that we give her. I think that there is some misunderstanding about what we would expect the state to do with regard to reasonable active efforts. And I think what the Fiscal Office has to do is presume that you kind of go all the way every time with regard to reunification. And some of those...and if you did that, you get a fiscal note like this. And if you go back to a difficult definition of reasonable, this fiscal note comes down. But I think there are some ways to tighten the language of this bill so that it's not explicit that you have to do everything all the time. You have to...it's a precarious position we put the state in. You have to ask them to pick their heads up, look at the best interest of the child first, the totality of the circumstances, and try to make your best decision on what's for the child and that's a challenge. What we're trying to do is, through this bill, is say all children have rights. But the federal government and our state has said children who are Native Americans have some special rights, some extra rights, because of the history that I outlined and how often in the past they've been removed from the home. And so we want to put some additional protections in there. And so it still has to be done within that reasonableness framework, but that's the result of the fiscal note and we're going to continue to work with the Fiscal Office on that. [LB566]

SENATOR EBKE: Okay, thank you. [LB566]

SENATOR KRIST: Thank you. Senator Coash, just for the record, the expert in ICWA in the Department of Health and Human Services is a position that is one deep, as you understand it? [LB566]

SENATOR COASH: That's correct and it's currently unfilled, which is a challenge. [LB566]

SENATOR KRIST: Because of an extended medical leave, I think, or...? [LB566]

SENATOR COASH: Yeah, it was filled and circumstances dictated that it was vacated and it remains vacated and that's... [LB566]

SENATOR KRIST: Which I think is an action item for us to really look at because, without someone who can fill that position and is qualified to tell us what these federal regulations and our legislation would do, we're at a little bit of a loss. I would almost suggest that, given the population base, and we've had this discussion before, that the department needs to look at, at

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least, filling it with two people that can look at what needs to be done. Would you agree?  
[LB566]

SENATOR COASH: I would agree that the need is there. And I've been on top of this issue of where are we with filling this and what I will tell you is the expert witness that we need is a pretty narrow skill set and it's...you can't...you know, frankly, you just can't take a caseworker and say, now you're an expert witness. You have to have a caseworker who's got some pretty specific knowledge and skills to be able to provide that service and it's a challenge. And as you know, HHS has a challenge filling its caseworker positions, period. But this is...that is absolutely a key spoke in this wheel to making this mechanism work and being able to have that position and execute it appropriately. [LB566]

SENATOR KRIST: And the other thing I would note is that I've had several of my own constituency, as well as issues that have come before me on different committees, where an ICWA representation or federal regulation or state regulation would have required a non-Native American person to be removed for safety reasons from reservation property, which is again a very intricate problem/issue that requires somebody who knows what they're doing with the federal and the state regulations. So I would hope that that conversation will come up on the floor and I would hope, as a result of your efforts, that we may be able to press necessity for filling that position or maybe another position. [LB566]

SENATOR COASH: I don't want to speak for the department, but I think they'd agree with you. This is highly important for them and they just, frankly, have a challenge finding an appropriate person to fill that role. [LB566]

SENATOR KRIST: Thank you, Senator. Any other questions? Okay. I know you're going to be here to close, so. [LB566]

SENATOR COASH: Yep. [LB566]

SENATOR KRIST: First proponent, first proponent speaking in support of LB566. And I failed to mention when we began, we'll be using the light system here in Judiciary and it's a three-minute timer. So for two minutes you're going to have a green; for a minute you're going to have a yellow; and then a red light is going to go off and we'll try to get you to wrap up at that point. Welcome. [LB566]

JILL HOLT: (Exhibit 2) Thank you, Senator Krist and members of the Judiciary Committee. I am Jill Holt, J-i-l-l H-o-l-t. I'm the ICWA specialist for the Ponca Tribe of Nebraska. Today I am

testifying on behalf of the Nebraska ICWA Coalition in support of LB566. The Nebraska ICWA Coalition was formed in 2007 and meets monthly to identify ICWA issues in Nebraska with the goal of working together to resolve those concerns and to improve awareness of and compliance with the Indian Child Welfare Act. The coalition consists of tribal representatives, advocates, and other stakeholders, including all four tribes of Nebraska, the state of Nebraska Division of Children and Family Services, Nebraska Appleseed, Legal Aid of Nebraska, Nebraska Families Collaborative, the Foster Care Review Office, independent and tribal attorneys, and other concerned citizens. We recognize the need for continuous education of juvenile and county court stakeholders about the Indian Child Welfare Act, why it was enacted, and why it is still necessary today. And we are very pleased that LB566 incorporates many of the ideas identified by the Nebraska ICWA Coalition. Many people wonder why the ICWA was enacted and why it remains a critical protection for Native children. Simply put, maintaining ties to culture and tradition are essential to the well-being of children and families. Kids are better off when they grow up connected to their culture. Through clarifying the responsibilities of child welfare stakeholders and strengthening our state law Nebraska can realize the goals laid out in the Indian Child Welfare Act and reduce the disproportionality of Native children in foster care, keep families united, and encourage a connection between families and tribal culture. The changes suggested by LB566 are grounded in legal precedent, best practices from other states, and specific feedback from Nebraska stakeholders. As a supplement to our testimony we're providing a "Top Ten ICWA Myths Fact Sheet," which is a publication of the National Indian Child Welfare Association. And we'd like to highlight just a few of the most common misconceptions about the ICWA. First, the ICWA is not a race-based law. ICWA, like other federal Indian legislation, is based on the unique political status of tribes and Indian people, not race. This status, established by Congress, the constitution, statutes, and treaties, has been affirmed and reaffirmed by U.S. Supreme Court decisions for 200 years. Second, the ICWA does not ignore the best interest of Indian children. ICWA is designed to promote the best interest and unique needs of the Indian child. ICWA is not just considered good practice for Native children by experts and practitioners, but the principles and processes ICWA embodies were recently described by 18 national child welfare agencies as the gold standard for child welfare practice for all children. Third, the ICWA is as important today as it was in the 1970s. ICWA still provides much-needed protections for Indian children and families. Statistics tell us that Indian children today face many of the same issues as when ICWA was enacted. The federal ICWA provides a mechanism that specifically enables states to enact additional statutory protections at the state level and several states, including Iowa, Minnesota, and Oklahoma, have recognized the need for heightened statutory protections and have enacted a more protective state ICWA statute. The clarifications and protections in LB566 are similar to those passed by other states and Nebraska should join these states in order to ensure there are culturally appropriate and uniform standards in ICWA cases to help achieve the purposes of the original act. The Nebraska ICWA Coalition thanks Senator Coash and the State-Tribal Relations Committee for their work on this issue. We fully believe this legislation will be instrumental in reducing the highly

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disproportionate numbers of Native American Children involved in the child welfare system in Nebraska and we respectfully request that the committee vote to advance LB566. Thank you. [LB566]

SENATOR KRIST: Thank you, Ms. Holt. Any questions for Ms. Holt? Anybody want to move to Nebraska and become an ICWA rep? (Laughter) Thank you. [LB566]

JILL HOLT: Thank you. [LB566]

SENATOR KRIST: Welcome. [LB566]

KIM HAWEKOTTE: (Exhibit 3) Good afternoon, Senators, members of the Judiciary Committee. I am Kim Hawekotte, K-i-m H-a-w-e-k-o-t-t-e, and I'm the executive director at the Foster Care Review Office. Just as a reminder, the Foster Care Review Office is an independent, state-created agency. We're not affiliated with the Department of Health and Human Services, any other child welfare entity, or the courts. Our role under Nebraska statutes is to independently track children in out-of-home care, review their cases, collect and analyze data, and to make recommendations on their conditions. One of the data sets that we do collect that I want to bring up today during our case file review process is with regard to Indian children that are under the care of Department of Health and Human Services. One caveat I need to put on the data that I'm going to talk about is we do not have authority to review any Indian children that are under the tribal courts. So if they're under the tribal courts, that is a separate, sovereign entity. So these are strictly children that are within the Department of Health and Human Services. In our annual report in December of 2014--I put the chart on the second page--we looked at the number of children in out-of-home care by race as of June 30, 2014, and then compared it to the census population of children in Nebraska. When you look at American Indian children, they are 2 percent of the population in the state but they are 5 percent of the children that are in out-of-home care. Another study that we did as an entity was really to look at children that had reentered out-of-home care--in other words, this was their second, third, fourth, more time of removal from the family home--and we wanted to see if race was an issue there. What we found when we did that analysis was that, again, while Indian...American Indian children were 2 percent of the population, those children that had been removed two or more times, they were 10 percent of the population. So when you think about that, that means that, and the concern to us was that, for Native-American children, that second removal exceeds the amount of their first removal. So these children are coming out of home more than once out of the same situation. One other study we are currently working on that I just want to point out the data is a collaborative study. It's with the Court Improvement Project, Inspector General (of Child Welfare), HHS, NFC, and us, where we looked at all children across the state that have been continuously out of home three years or longer. We wanted to see what their barriers were to

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achieving permanency. What we found with regards to race in that is, again, while Native Americans are 2 percent of the population, 6 percent of the children that have been out of home three years or longer were Native American which, again, is three times the amount of the children. I have recommendations in my report as to what we feel needs to be done. We do and are a proponent of LB566. I have been a trial attorney in juvenile court prior to this for over 25 years. This clarification as to the law needs to be done in order to ensure that our court systems are working effectively. So thank you for the opportunity and I'm available for any questions. [LB566]

SENATOR KRIST: Any questions for Ms. Hawekotte? Senator Williams. [LB566]

SENATOR WILLIAMS: One quick question here. Thank you, Senator. With your experience as being a trial attorney and looking at these cases and your experience looking at laws in other jurisdictions, does LB566 get us where we need to be? [LB566]

KIM HAWEKOTTE: I believe what LB566 does a good job of doing is taking a lot of the current case law that we have here in Nebraska with regards to ICWA cases and actually codifies it into statute and also does make it into compliance with federal law with regards to these cases. We have been a little bit out of sync for many years on these and have relied on case law instead of statutory law to govern that. So I would say, yes, Senator. [LB566]

SENATOR WILLIAMS: Thank you. [LB566]

SENATOR KRIST: Any other questions? Thanks for coming, Kim. [LB566]

KIM HAWEKOTTE: Thank you. [LB566]

SENATOR KRIST: Next proponent. Welcome. [LB566]

DARLA LaPOINTE: (Exhibit 4) Thank you. Good afternoon. Members of the Judiciary Committee, I am Darla LaPointe, D-a-r-l-a L-a-P-o-i-n-t-e, treasurer for the Winnebago Tribal Council. I am here to testify in support of LB566 on behalf of the Winnebago Tribe of Nebraska. The Winnebago Tribe of Nebraska supports the Nebraska ICWA Coalition in their efforts to clarify ICWA standards to ensure the best delivery of services for children involved in child welfare proceedings. The Winnebago Tribe is one of the three tribes in Nebraska that provide child welfare services on behalf of the state of Nebraska. In the last few years there has been an unprecedented increase in communication, cooperation, and partnership between the state of Nebraska child welfare offices and the four tribes of Nebraska. This increase is largely credited



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to the tribes' desire to better serve the needs of their children. However, the tribe appreciates the state's responsiveness to our requests. Clearly, we all have the common goal of providing the best services possible for children involved in these systems. The Nebraska ICWA Coalition meets monthly with open invitation to all people with an interest in the welfare of Native children and families. The coalition is working to promote a clear understanding of what the competent enforcement of ICWA looks like. LB566 supports the spirit of that desire for clarification by providing clear standards for placement preferences, definitions of active efforts, guidance on selection of qualified expert witnesses, and guidelines for maintaining regular communication with the tribes. The federal ICWA law was passed in response to generations of children lost to assimilation. Indian country is still feeling the effects of that shameful time in American history. We are confident that the data being presented today will support and illustrate that statement. The importance of tribes having a say in the future of their children cannot be overstated. LB566 provides early notification to the tribes. Early notification ensures that the tribe has a place at the table and can take an active role in the provision of safety, stable and culturally relevant supports for Native children and families. LB566 is not very different from good case management. It codifies some of the gray areas that can be difficult and confusing for the front line Child Protective Services workers to navigate. Better communication and clear expectations can only result in better outcomes for not only Native but all children and families involved in the child welfare system. We believe that our state government representatives want good things for the children and families in Indian country. This can best be demonstrated by listening to the people who live and work in those communities. We are the people who have a vested and concrete interest in the safety and well-being of our future generations to safeguard the survival of our tribal nations. On behalf of the Winnebago Tribe, I would like to thank Senator Coash and the State-Tribal Relations Committee for introducing LB566. Thank you to the Judiciary Committee for your time and attention today. Thank you. [LB566]

SENATOR KRIST: Thank you. Any questions? Seeing none, thank you for coming. [LB566]

DARLA LaPOINTE: Yes. [LB566]

SENATOR KRIST: Next proponent. Welcome. [LB566]

JULIET SUMMERS: (Exhibit 5) Thank you. Good afternoon, Senator Krist, members of the committee. My name is Juliet Summers, J-u-l-i-e-t S-u-m-m-e-r-s. I represent Voices for Children in Nebraska in supporting this bill. All children in Nebraska deserve to grow up in a safe and loving home. We support LB566 because it changes provisions of the Indian Child Welfare Act to provide better...to better provide culturally competent care to Indian children and families who come into contact with the child welfare system. Although significant progress has been made in our state child welfare system in recent years, a particularly troubling issue persists

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in the data that requires our attention, and that's the issue of the disparities. You've already heard these numbers today, but we do have it laid out in a chart. Approximately 2 percent of our child population is Native American, but more than double that are in out-of-home care and the numbers grow as you look at children in four or more placements, children who are out of the home for longer than 25 months. LB566 makes important clarifications to the ICWA that will enhance our state response to cases of abuse and neglect for children who are consistently overrepresented in our system. Connection to culture and family is a crucial part of overall well-being for children and especially for Native American children in that system. When children cannot remain in their own homes with people that they know and trust, it's important to ensure that further trauma is minimized by engaging family and community connections with fidelity. The racial disparities present in our system today are a tragedy and demand special attention as we consider how to improve the safety, permanency, and well-being of all children. And I see I have some extra time, so I'll also note that, as a former trial attorney myself, I would echo what Ms. Hawekotte said, that this is an important step to take to bring our legislation in line with federal guidelines and to provide practitioners, caseworkers, judges up-front with clear definitions of what's expected, particularly when it comes to active efforts. And I would also echo the concern about the lack of qualified experts and how specific that role is and how desperately we need more than one person doing that. I have had more than one case where adjudication was delayed by months and months because we couldn't get that one expert in. So it's delaying permanency for these children who really need it. All that said, we respectfully would urge the committee to advance this bill forward. And I thank you very much for your time. [LB566]

SENATOR KRIST: Thank you. Any questions for Ms. Summers? Thank you so much. Thanks for coming. [LB566]

JULIET SUMMERS: Thank you. [LB566]

SENATOR KRIST: Next proponent. Welcome. [LB566]

AMY MILLER: (Exhibit 6) Good afternoon. My name is Amy Miller. That's A-m-y M-i-l-l-e-r. I'm legal director for ACLU of Nebraska and I was asked to speak today specifically to the concerns that were raised both last year by the county attorneys and this year by some private adoption attorneys that would like to make their jobs easier. In my testimony I've laid out for you some of the most recent Supreme Court decisions, as well as the Nebraska Supreme Court decisions, and the three main criticisms that we understand have been raised by opponents to this reform. The first argument is the Nebraska Legislature can't go any...they can't do anything more than what the federal ICWA has provided, and that simply is not true. The federal law is a floor and was expressly created as a floor by Congress. Our state is certainly at liberty to provide a

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higher ceiling for Native American children in our state and that's spelled out in the Congressional language. On the bottom of page 2 of my testimony you'll see that the United States Code, Chapter 25, Section 1921, says courts can apply state or federal law, whichever provides a higher standard of protection. In other words, those who would say that there is a procedural barrier to LB566 are ignoring the clear terms of the Congressional mandate. The second argument that we saw raised last year, I think by the County Attorneys Association, suggested that treating Indian children and Native American parents differently might raise some type of equal protection problem because we're providing more protections for this group than we are for other groups, whether based on race or national origin, and, again, this is simply not true. You did hear it mentioned briefly in one of the previous testifiers. This is not actually a race or a nationality issue. This is an issue of political association. The tribal membership is actually considered by the U.S. Supreme Court and Congress the same way that being part of the Republican Party or part of the Democratic Party is. The tribes make their own choices and these political...association. Since it's not a racial classification, if there was a challenge saying there was an equal protection problem, would only get rational basis review. And as you know, the state always wins when it's a rational basis test. The third argument that we've heard from folks is that this doesn't adequately weigh the best interest of the child. As you've heard repeated, the folks who are in the trenches will tell you the courts are applying the best interest of the child but they're doing it with procedures that make sure that Native American parents and the tribes have had adequate protections based on the horrific history of genocide, cultural and literal, that we've had in this country. As the U.S. Supreme Court has repeatedly said, ICWA and the Nebraska version are simply making sure that Indian child welfare determinations are not based on a white, middle-class standard, which in many cases might foreclose placement with an Indian family. It's a balance to provide additional care for this community. It's for those reasons that we provide support for LB566 and are very appreciative of Senator Coash and the committee's repeated bringing forward despite the objections. [LB566]

SENATOR KRIST: Thank you. Any questions? I'm not in the habit of ever correcting you because I know you always come prepared, but I think what you said was the courts...in the U.S. Code the courts can apply, and I think the word is "shall" apply. [LB566]

AMY MILLER: Shall apply. [LB566]

SENATOR KRIST: Shall apply. [LB566]

AMY MILLER: Thank you, Senator. You're correct. [LB566]

SENATOR KRIST: So it's even (laughter)...yes, thank you very much. [LB566]

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AMY MILLER: (Laughter) I am pleased to be corrected. Thank you. [LB566]

SENATOR KRIST: Just wanted it on the transcript, that's all. Thank you very much. [LB566]

SENATOR MORFELD: I have... [LB566]

SENATOR KRIST: Oh, I'm sorry. [LB566]

SENATOR MORFELD: No, you're fine. [LB566]

SENATOR KRIST: Senator Morfeld. [LB566]

SENATOR MORFELD: Thank you, Senator. Being as this isn't the first rodeo on this, on this bill, and I wasn't here last year to hear, has some of these concerns been addressed in this legislation? Are these...it seems like these concerns that you brought up weren't concerns that should be addressed in legislation. They're just simply... [LB566]

AMY MILLER: LB566 this year is slightly different than last year, but the substantive provisions are the same with some changes in language. So I think the problem is the objections come from a place...at the risk of sounding snarky, Senator, I believe that when state or county officials tell you that ICWA and the Nebraska state law component are very burdensome, yes, because they're intended to be. And if that requires a little bit of extra work on the part of a county attorney before he or she takes a child and puts them in foster care, that was the exact Congressional intention and this, the Legislature's, intention. So I think the objections primarily come from a more fundamental disagreement. I don't think they like ICWA. But the...as I understand it, and I wasn't part of the past negotiations, it sounds as if there's been an effort to have more communication since last year and making sure that some of the arguments that were suggested last year, which sounds scary--you can't do this, it's unconstitutional, it's a breach of the separation of powers, or it violates a preemption clause--those concerns are just absolutely not correct. [LB566]

SENATOR MORFELD: Yeah. And thank you for clarifying that. I'm not suggesting that any of these concerns should be addressed in the legislation; I was just trying to get a little bit more background on the opposition, so thank you,... [LB566]

SENATOR KRIST: Anybody else... [LB566]

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SENATOR MORFELD: ...which I'm sure I'll be able to hear from the actual opposition.  
[LB566]

SENATOR KRIST: Any other questions? Thank you. I can assure you, you've never sounded snarky to me. (Laughter) So thanks for coming. [LB566]

AMY MILLER: Thank you, Senator. [LB566]

SENATOR KRIST: Next proponent. [LB566]

ANGI HELLER: (Exhibit 7) Good afternoon. [LB566]

SENATOR KRIST: Welcome. [LB566]

ANGI HELLER: My name is Angi Heller, A-n-g-i H-e-l-l-e-r, and I'm here representing Nebraska Families Collaborative in support of LB566. NFC, Nebraska Families Collaborative, as I'll call it from now on, NFC, has had the opportunity to work with the Nebraska ICWA Coalition on developing the language for LB566. In doing that, we've been able to identify how the language affects child welfare and how it affects what we're trying to do in meeting all of the standards of best practice for all of our families. And through that we have identified five key areas that are positively affected in child welfare by implementing this bill. My letter indicates or details all of those but two key areas that I would like to discuss is regarding our noncourt or voluntary families. Currently there are some differing opinions about whether or not, for our noncourt or voluntary families, we can make contact with the tribes. And...but it's not confusing. It's very clear in the law that, prior to any removal, that active efforts must be provided. So when we're working with our families on a noncourt or voluntary basis, there are those times where a child cannot safely be maintained in the home. And if we don't have the ability to have contact with the tribe and determine eligibility or membership and involve that tribe, we're not only affecting the court proceedings regarding active efforts of removal, if that's needed, but we're also not engaging with the tribe to identify how to best work with this family, reduce the number of removals, reduce the long-term stays in child welfare with these families. And so right now what we're doing is, at NFC, is doing releases with the families to the tribe. LB566 would change that. Additionally, the...it kind of ties in with the qualified expert witness, or the QEW. Because we're building more relationships with the tribes, sending them more information, engaging with them more, it is improving our...in a very short period of time we're seeing that the tribes are able to respond to us and say, yes, we can act as that qualified expert witness, yes, we agree that this is not the route that we want to go but you have provided every effort and these kids need permanency. So it's upon us, I believe, in case management to build those relationships with the tribes, communicate with them, and that will take away some of those barriers with

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identifying the QEW in that preferential order. I thank you for your time and I'm welcome...happy to answer any questions. [LB566]

SENATOR KRIST: Any questions for Ms. Heller? Thank you for coming, appreciate it. [LB566]

ANGI HELLER: Thank you. [LB566]

SENATOR KRIST: Next proponent. Welcome. [LB566]

GWEN VARGAS PORTER: (Exhibit 8) Thank you. Gwen Vargas Porter, G-w-e-n, Vargas, V-a-r-g-a-s, Porter, P-o-r-t-e-r. I'm here on behalf of the Omaha Tribe. Udo wo githe tha ti te--it's good that you're all here. As an elected Omaha Tribal Council member, I provide you with the testimony on behalf of the Omaha Tribe of Nebraska. September 25, 2012, an interim study was completed on our homeland of the Omaha Tribe. On that day, we were...heard many individuals testify on why ICWA is important to individuals and to tribes. We thank you for taking the time to hear many heartfelt testimony, testimony surrounding Indian child welfare. I want to point out some things to you that are of some significance to the Omaha people. I do see that the meaning of Nebraska is shared on the Internet but also noticed the tribe that possibly contributed to the naming and meaning of it is not recognized, being the Omaha Tribe whom has been here and still here. There were sister tribes that were all represented in this area, being the Ponca, Pawnee, Omaha, Kansa, and Otoe. The tribe that is referenced when researching the meaning of Nebraska is the Otoe. We all come from each other and our dialect is similar and the...and to translate Nebraska in the Omaha language, Ni bla ska, meaning: Ni is water; bla is flat; ska is white. To translate into English is Nebraska. I'm not trying to educate you on the history of Nebraska but only want to make you aware of the historical relationship between the Omaha people and the state of Nebraska. Our ancestors occupied this area for centuries before Nebraska became a state. The Indian Child Welfare Act law of 1978 is a federal law that...federal law. Tribes do not receive any special funding to assist with ICWA other than what is negotiated through the Indian Self-Determination and Education Assistance public law. What is made available diminishes every fiscal year. The approach that we are taking is to go upstream to prevent the children from entering the system by identifying why they are coming down the stream by taking a holistic approach with parents, families, systems, and communities. By taking one step at a time, it is to assist potential Native American foster homes to understand the Native American child welfare population. This population I feel are most vulnerable and susceptible to the continuation of intergenerational trauma that consists of substance abuse, violence, suicidal ideations, physical or emotional abuse/neglect, and institutionalization. In 2013, a subcommittee was established for planning purposes to address the lack of Native homes. This evolved the Native Families for Native Children Diligent Recruitment. This resulted in a grant being written

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and awarded. Changes were made in the Partnering for Permanence and Safety-Model Approach to Partnerships in Parenting, PS-MAPP, curriculum specifically tailored for Native Americans. The changes amended to the curriculum by adding onto of "Partnering for Safety." It's now Trauma Informed Partners (sic) for Safety (and Permanence), TIPS, now known as TIPS-MAPP. Today there are nearly 30 certified TIPS-MAPP trainers that are to contribute to the Native American child welfare system. There are certified TIPS-MAPP trainers that are now diligent recruiters that are employed on each of the Nebraska reservations; the cities of Omaha, Lincoln in Nebraska; last, but not least, Sioux City, Iowa. The diligent recruiters are to outreach and train potential Native American foster homes for Native children, ultimately with the support of major partners, professionals, and volunteers that this change initiative was made possible. It was with...it was the teamwork, compassion, and social advocacy that contributed to this becoming a living, breathing strategy that is now being immersed into Indian country throughout the nation. The Omaha Tribe supports LB566. Thank you. [LB566]

SENATOR KRIST: You put five minutes' worth of information in three minutes. Take a breath. [LB566]

GWEN VARGAS PORTER: (Laughter) Can I get some water? No, just kidding. [LB566]

SENATOR KRIST: Any questions? [LB566]

GWEN VARGAS PORTER: Thank you. [LB566]

SENATOR KRIST: Thank you for coming. [LB566]

GWEN VARGAS PORTER: Thank you. [LB566]

SENATOR KRIST: Next proponent. Welcome. [LB566]

ROGER TRUDELL: Thank you. Chairman, committee members, my name is Roger Trudell, R-o-g-e-r T-r-u-d-e-l-l. I'm the chairman of Santee Sioux Nation, northeast Nebraska. Can't go any further--you'll be in South Dakota. So we're here in support of LB566. Unfortunately, our member of the ICWA committee has an ill relative and is not able to make it today. So I don't have a prepared testimony. I just want the committee to know that we are in support. We did adopt a resolution in support of LB566. So that, if you haven't received it, it'll be forthcoming. We thank Senator Coash for his efforts on the State-Tribal Relations Committee. Nebraska has been a pacesetter with its relationship development with tribes. Many of the tribes are now...take a look at and states take a look at how Nebraska has approached their relationship with the tribes

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in the states. So we thank Nebraska for that. One of the things I did want to address because I've heard it several times now and that is, you know, should it be considered that you're doing something for, you know, a minority or a special race of people? Well, accordingly, you know, each of the tribes in the state of Nebraska have a treaty with the United States government as nations, so you're not treating anybody with special legislation or anything of that nature. You're treating another nation to the rights that that nation should be treated with. We, ourselves, and the Omaha have put it, you know, very clear, you know, that they have been here forever. Our tribe has only been here for a couple hundred years where our reservation was established in 1863, if I recall right, or 1865, before Nebraska became a state. So we have had status in the state of Nebraska before Nebraska became a state. And I do know we have a lot of people to address. I don't really have anything more to add other than, you know, please, consider these children. There's a group of children that nationally, under any federal policy, would be Indian children that are lost in the cracks because they don't meet the enrollment requirements of any particular tribe. But some cases are more than half tribal people. You know, unfortunately, they get lost in the system because, you know, their heritage comes from two or three different tribes and our particular tribe only addresses Sioux blood. And we are the Dakota people of the Sioux, the eastern Sioux. We come from Minnesota originally. So I don't know how that will ever be addressed. I know it's a national problem; it's just not a Nebraska problem. It's a problem across the country. Thank you. [LB566]

SENATOR KRIST: Thank you, Mr. Chairman. Your presence means a lot. [LB566]

ROGER TRUDELL: Thank you. [LB566]

SENATOR KRIST: Questions? [LB566]

SENATOR WILLIAMS: Thank you. I just have kind of a practical question here, thinking about... [LB566]

ROGER TRUDELL: Sure. [LB566]

SENATOR WILLIAMS: And you've been around this for awhile, like some of us have. And not asking a question about treating Indian children differently, but are there adequate availability for Indian children in the tribe to find these services for them? [LB566]

ROGER TRUDELL: Well, you know, and that to me is probably one of the fairest questions I've ever heard, (laugh) Senator. And I did hear the lady talk about, you know, sometimes the children removed more than once. That is a problem. And the extended families, you know,



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technically speaking, are probably not as strong as they used to be, but it's just because it hasn't been practiced for so many years. And I think as more and more people...and because the language has kind of been lost, and there's a lot of things in the language that held families together, and I think as more and more of our language is restored you'll see the strengthening of the family where what we're talking about, the multiple removals and stuff, will be reduced. But the extended families, you know, the concept of the extended family...and I, myself, raised with my grandparents, so, you know, I know it existed at that time. We raise grandchildren. We have adopted grandchildren that we raise, you know, so the concept is not totally lost. It's not practiced as well in some...even the recognition of who's your relatives has somewhat been lost and I think when those things are restored you'll see a lot of the removal of children disappearing from...you know, and being taken out of the hands of welfare, social welfare. [LB566]

SENATOR WILLIAMS: Are those things being restored? [LB566]

ROGER TRUDELL: Yes, they are,... [LB566]

SENATOR WILLIAMS: And how? [LB566]

ROGER TRUDELL: ...as we speak. And I can't speak for Omaha or Winnebagos or the Ponca people, but we have a very active language program and we have, you know, we have several initiatives with some of our younger men and women to strengthen, you know, who they are in the community and why they're, you know...how they're...how they should react in the community and how they should strengthen the community. You know, hopefully...you know, it didn't get this way overnight. You know, it's going to take a few years, so. [LB566]

SENATOR WILLIAMS: Thank you. [LB566]

ROGER TRUDELL: I hope not a couple hundred, but (laughter)... [LB566]

SENATOR KRIST: Thank you, Chairman. [LB566]

ROGER TRUDELL: Thank you. [LB566]

SENATOR KRIST: Next proponent. Welcome. [LB566]

ALICIA HARRIS: (Exhibit 9) Thank you. Good afternoon. My name is Alicia Harris, A-l-i-c-i-a H-a-r-r-i-s. I am an enrolled member of the Fort Peck Assiniboine Tribe in Fort Peck, Montana.

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I'm also on the staff of the Nebraska Commission on Indian Affairs. I'm here to read...I've been asked to read a letter from the chairperson, Andrea Miller, so I'll just read that to you today. To the members of the Judiciary Committee: Good afternoon, Senators. I want to first apologize for not being able to make it today to the hearing set for today. I reside in Bayard, Nebraska, and my schedule and the distance did not allow me to attend the hearing. I do want to voice my support for the legislation on behalf of the Nebraska Commission on Indian Affairs and felt that offering this written testimony was the best method to convey my thoughts. First, a little about me: I am an enrolled member of the Oglala Lakota Tribe. I am the newly elected chairperson of the Nebraska Commission on Indian Affairs. I have been on the commission for approximately seven years as a commissioner serving in the Southern Panhandle region. I have a law degree from UNL and practice family law in the Panhandle of Nebraska. I have a husband and five young children who keep me busy and make life entertaining. Through my professional and personal life I have seen the Indian Child Welfare Act in practice. I will say there have been some good instances of ICWA being applied and some not-so-good instances of its application. I think it is important that we continue to examine and reexamine the legislation to make sure we are able to continue the focus of ICWA. I believe this bill is a continued effort to reexamine the legislation in Nebraska which has been long overdue. I would like to point out a few things in the legislation that were important to me. First, in this legislation there is a continued effort to have Indian children identified early in the DHHS or court involvement. This has been a source of frustration and litigation in the courts. Second, the bill also requires that in voluntary cases tribes are notified. This is again another a source of early involvement for tribes in ICWA cases and allows them to work with the DHHS and the families in an informal setting outside of court. Within the current DHHS structure there is an ICWA specialist on staff and I believe a second position has been opened to assist this person as well. I believe these positions are now vacant and will need to be filled soon. It will be important with this new bill to keep these positions on staff and filled to assist in working on...working through ICWA issues. Again I would like to voice my support of this legislation on behalf of the Nebraska Commission on Indian Affairs. I would urge you to consider supporting this important bill today. Sincerely, Andrea D. Miller. Thank you. [LB566]

SENATOR KRIST: Any questions? Did you say you were from Fort Peck? [LB566]

ALICIA HARRIS: I'm an enrolled member of the Fort Peck Tribe. I grew up in San Diego, so. [LB566]

SENATOR KRIST: Oh, did you? Okay. [LB566]

ALICIA HARRIS: Yep. [LB566]

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SENATOR KRIST: Thank you. [LB566]

ALICIA HARRIS: Thank you. [LB566]

SENATOR KRIST: Next proponent. Welcome. [LB566]

THOMAS WRIGHT: (Exhibit 10) Good afternoon. My name is Tom Wright. I'm a member of the Ponca Tribe of Nebraska and the executive director of tribal affairs for the Ponca Tribe as well. [LB566]

SENATOR KRIST: Could you just spell your name for us, please. [LB566]

THOMAS WRIGHT: Oh, yeah. Sorry. Thomas, T-h-o-m-a-s, Wright, W-r-i-g-h-t. [LB566]

SENATOR KRIST: Thank you. [LB566]

THOMAS WRIGHT: I'm testifying on behalf of my tribe today in support of LB566. The Ponca Tribe fully supports the efforts of the Nebraska ICWA Coalition in working toward improved ICWA compliance throughout the state. Our tribe has office locations in 4 counties within a service area spanning 12 counties in Nebraska. Our ICWA specialists and case managers are afforded the ability to be actively involved in our ICWA cases here, attending court case...court hearings, family team meetings, Foster Care Review Office meetings, LB1184 treatment team meetings, and participating with various community coalitions and initiatives regarding child welfare. Because the Ponca Tribe does not yet have child welfare contracts with the state of Nebraska, as other Nebraska tribes do, our ability to actively participate in cases is how we are able to maintain connections with our children involved in the child welfare system and to monitor compliance with the Indian Child Welfare Act. While work has been done to improve compliance with ICWA, our tribe is often faced with the difficult decision of whether to appeal ICWA violations. Our children are sacred and our goal is to keep our children safe and advocate for their best interest. In some cases we have witnessed violations of ICWA and elected not to appeal because doing so could have placed a child in harm's way. The tribe wants the same thing the state of Nebraska wants for children: to keep them safe and make sure they are in a loving home. We recognize many things have changed within the child welfare system since 1978. We recognize some of the challenges our families face today are vastly different than before the ICWA was passed. We ask you to recognize the data that proves that Native American children are removed from their homes at a significantly disproportionate rate than white children. We ask you to work with us on a solution to correct the injustice and we believe LB566 will lead us in the right direction. According to a 2014 report by David Simmons with the National Indian

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Child Welfare Association, the most critical issues of noncompliance involve: lack of regular oversight of ICWA implementation; American Indian/Alaska Native children not being identified early in child welfare proceedings; tribes not receiving early and proper notification of child welfare proceedings involving their member children and families; lack of placement homes that reflect the preferences defined within ICWA; limited training and support for state and private agency staff to develop knowledge and skills in implementing ICWA; and inadequate resources for child welfare agencies to participate and support the state and private agencies. Identifying and contacting the tribe to assist children and families at the earliest possible point of intervention by the state child welfare system is the best practice to ensure compliance and successful outcomes for Native American children and their families. During the course of the recent U.S. Supreme Court ICWA case, adoptive family...Adoptive Couple v. Baby Girl, 18 national child welfare agencies touted the ICWA as the gold standard for child welfare practice for the children. On behalf of the Ponca Tribe of Nebraska, I'd like to thank Senator Coash and the State-Tribal Relations Committee for introducing the legislation we believe will be instrumental in reducing the highly disproportionate number of Native American children involved in the child welfare system in Nebraska. Thank you for your time and attention today. [LB566]

SENATOR KRIST: Thank you, Mr. Wright. And once the red light comes on, you start to talk faster, don't you? [LB566]

THOMAS WRIGHT: Yeah. I seen that. I was trying to be mindful. I was like... [LB566]

SENATOR KRIST: (Laugh) All right. Thank you very much. Thanks for coming. Next proponent. Okay, any opponents? I'm sorry. Proponent? [LB566]

ROBERT McEWEN: Proponent. [LB566]

SENATOR KRIST: Okay. Any other proponents out there? Okay. They saved the best for last, is that what they did? [LB566]

ROBERT McEWEN: (Exhibits 11-13) No, the worst for last (laughter). [LB566]

SENATOR KRIST: Oh, the worst for last. Welcome. [LB566]

ROBERT McEWEN: Thanks, Senator Krist. My name is Robert McEwen, R-o-b-e-r-t M-c-E-w-e-n, and I'm a staff attorney at the child welfare program for Nebraska Appleseed. We're a nonprofit organization that fights for justice and opportunity for all Nebraskans and we're here

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today in support of LB566. We've worked with the Nebraska ICWA Coalition for a number of years now and it's a group that meets monthly to improve compliance with the ICWA in Nebraska through identifying issues and concerns within Nebraska's county, juvenile, and tribal courts. And recently, over the last year, we did bring some additional stakeholders in with Senator Coash's assistance and leadership. We did, to Senator Morfeld's earlier question, work with the county attorneys who raised concerns last year through an extensive nine-month-long negotiation. We went line by line through every piece of the bill. And even though we may have disagreed on the need to fix some of the things in LB928, we value the county attorneys' time and efforts. And they do have...they bring a lot of practical knowledge to the table. So as we move forward in implementing this system, and Senator Coash mentioned it, it is...it's important to have their buy-in because they are essentially in charge of operating the system. I will just say, I think Senator Coash was being a little modest. This bill that he's had such great leadership on over the last couple of years, when the new BIA guidelines came out yesterday, significant portions could have been copied and pasted from Senator Coash's bill over the last couple of years. It is striking, the similarities, and it is very impressive that Senator Coash has showed leadership over this continued time and the coalition greatly appreciates that. I want to talk just a little bit about the need to put this into statute. With the new BIA guidelines there are a couple things that I wanted to mention. First of all, there are original guidelines that were in place in 1978 and essentially, over the last 30 years, our appellate courts have gone, one by one, through the guidelines and have implemented them in a sort of piecemeal fashion, as opposed to doing them all at the same time as a legislative fashion. LB566 operates as a playbook of sorts. It goes step by step for attorneys, judges, and caseworkers, and shows them the rules of the process, clearly lays out what they need to do in specific cases so there's not confusion. As you can see in my written testimony, ICWA cases are frequently overturned on appeal, more so than other types of cases. Over the last...since 1994, there have been 20 ICWA reversals out of, I believe, 30-some odd cases. It's a pretty high percentage of the juvenile court getting it wrong at the trial court level and the appellate courts having to correct them later. So that was with the old guidelines in place and we strongly support putting those guidelines into statute so it's...everybody here knows the rules that we're playing by. [LB566]

SENATOR KRIST: Thank you. Any questions? Thank you very much. Thanks for watching the red light. [LB566]

ROBERT McEWEN: No problem. [LB566]

SENATOR KRIST: Next proponent. Any other proponents? You truly were the last. Good. Any opponents? Welcome. [LB566]

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SUSAN SAPP: Thank you. Senator, committee members, my name is Susan Sapp, S-u-s-a-n S-a-p-p. I'm a senior litigation partner at Cline Williams law firm in Lincoln and Omaha and I've been an adoption attorney for 25 years. About 30 percent of my practice is represented by working with and on behalf of birth mother clients or agencies who are working with birth mother clients who do direct-placement adoptions of infants. And so I come from a different place than some of the child welfare representatives that you've heard from today and I have concerns that relate to the private adoption and agency adoption of newborns and ICWA's application and the broadening of ICWA as it relates to those clients of mine and the children that they are seeking to place for adoption. I'm a member of the American Academy of Adoption Attorneys and I believe that the academy has sent correspondence to the committee members opposing LB566 and I would endorse and adopt the reasoning set forth by the academy as well. But I'm here today on behalf of my birth mother clients. ICWA is very broad and often extremely burdensome to my clients as it is, and I'm very concerned about the widening of the application. Any time they use the word "voluntary," it brings up private placement or agency placement of newborns. That's a voluntary placement. So all the widening that we're talking about on the word "voluntary" affects my clients. As it is, without it even being expanded, I have clients on a regular basis who have to go to court and get permission from a judge to do a direct-placement adoption of their child and have to be scrutinized and cross-examined over their selection of family. And this applies with no regard to any established quantum of blood that is the threshold for determining Native American status of the definition of Indian child. My clients have no say whatsoever in the application of ICWA even as it is, much less in the broadening under LB566. I have had clients who are 1/128 Native American have to go to court, get permission to do a private-placement adoption, and be scrutinized over their selection of family. They are the only category of individuals who have to do that. They are the only category of birth mothers who have their decisions scrutinized based on their ethnicity, their ancestry, their skin color, their race, their physical attributes, and their history. Even if they've never been an enrolled member in a tribe, never...even if they've never been on a reservation, even if they don't know anybody who is an enrolled tribe member, even if they don't know anybody of Native American ancestry, ICWA applies to them. I believe that additional study is warranted on this broadening of ICWA as it relates to these direct-placement agency and private-placement adoptions and whether or not it's constitutional, as to my birth mother clients, that they have to go through this process and now an expanded process. The definition of active efforts scares the "beejeepers" out of me, as well, because there's no Indian family to preserve with active efforts in a newborn placement. So what does that look like? Can my clients who are of Native American descent not do an adoption? They can't choose that for their child under this? I fear so under LB566, so I'd ask for additional study and that this bill be held up, as well, to study its implication under the BIA guidelines that came out yesterday. [LB566]

SENATOR KRIST: Thank you. And that's...what I would...any other questions? Any questions? Senator Morfeld. [LB566]

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SUSAN SAPP: Yes, sir. [LB566]

SENATOR MORFELD: Thank you, Senator. So have you had a chance to look at the new BIA regulations? [LB566]

SUSAN SAPP: I saw them this morning and looked at them for about 45 minutes. [LB566]

SENATOR MORFELD: Doesn't some of the BIA regulations actually address some of those issues and require some of this already, we're just putting it into statute? [LB566]

SUSAN SAPP: I saw some language that I thought was better in the BIA guidelines as it would not have such broad application as LB566 to touch and concern these direct-placement newborn adoptions that I'm so concerned about. So I think the guidelines may solve the problem that this bill is intended to solve. But as happens sometimes, when we write legislation we ended up...we end up killing a gnat with a sledgehammer. And I think the application is too broad here, not so much in the guidelines, from what I saw. [LB566]

SENATOR MORFELD: And so in regard to the bill...and I'm sorry. I know you only had three minutes so you were going kind of quickly. So I was trying to follow. I mean, so what specific part of the bill would affect adoptions negatively? Is there a certain... [LB566]

SUSAN SAPP: Any time it talks about termination of rights, any time it talks about a voluntary placement, those words are not defined to exclude a direct placement of a newborn. So there are language concerns that are of great concern to me. I could probably be part of a solution to address that, but to my knowledge no adoption attorneys in the state were part of this coalition or were part of the study that went on the last couple of years. [LB566]

SENATOR MORFELD: Well, if you could send us your concerns and then--or at least me--your concerns and kind of address the specific portions of the bill, that would be helpful. [LB566]

SUSAN SAPP: Okay, I can do that, Senator Morfeld. [LB566]

SENATOR MORFELD: Yep. Thank you. [LB566]

SENATOR KRIST: Just one follow-up that...did you have a chance to talk to Senator Coash or his office about this? [LB566]

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SUSAN SAPP: No, sir. [LB566]

SENATOR KRIST: Okay. My suggestion, as it always is, is that, and an introducer who has been working on something as long as he has in this particular case and it kind of conflicts or intersects with your profession as a lawyer, that, you know, our phone numbers are published, our e-mails are published, by all means, let us know. And I'm sure Senator Coash would love to have a conversation with you after or in the next few days. [LB566]

SUSAN SAPP: I'll pursue that. Thank you. [LB566]

SENATOR KRIST: Thank you. Your concerns are our concerns and they're valid to us. So thank you very much. [LB566]

SUSAN SAPP: Thank you, sir. [LB566]

SENATOR KRIST: Any other opponents to the bill? Any neutral testimony to the bill? We have anything for the record? There are some...we'll enter anything in opposition or as support of the bill into the record. Senator Coash, would you like to close? [LB566]

SENATOR COASH: Thank you, Senator Krist. Thank you, Committee. I appreciate all of the tribal members who traveled far to come and talk to us about this. This has been laborious to get to this point. The best thing that's come out of this is it has been some better communication, specifically with the county attorneys. Their absence here today should not be construed as support for the bill. It should be construed as they remain...well, I don't want to speak for them, but there are concerns that remain and there are things that I'll continue to work with. This new BIA guidelines that were just dumped on our lap this week, timely as they are, certainly give us another thing to look at. And how we negotiate that has yet to be seen and that's my intent. One of the things this bill does not address, and I'm just going to put it out there for the record, is resources for the tribes. There's no money in this bill to help the tribes take care of their children. There is money allocated but it's underresourced for what the state of Nebraska does and I think the results bear that out in the disproportionate removal from their homes. So there remains work. I remain committed and thank you, thank the committee for listening to testimony today. [LB566]

SENATOR KRIST: Thanks for all your hard work over the last few years. That will end the hearing on LB566 and I'll turn over the Chair to Senator Coash. [LB566]



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SENATOR COASH: Okay, we are going to open the hearing on LB13 which is Senator Krist. Senator Krist, you're welcome to open. [LB13]

SENATOR KRIST: (Exhibit 1) Thank you, Vice Chair, and good afternoon, fellow members of Judiciary Committee. For the record, my name is Bob Krist, B-o-b K-r-i-s-t, and I represent the 10th Legislative District in Omaha along with the north-central portion of Douglas County which includes the city of Bennington. I appear before you today in introduction and support of LB13, 1-3. This bill would develop a common data set within the Crime Commission and evaluate the effectiveness of the Community-based Juvenile Services Aid Program. The intent of creating the common data set is to allow for the evaluation of the use of the funds and the effectiveness of the programs or outcomes in the Community-based Juvenile Services Aid Program. The evaluation is to be done by the Juvenile Justice Institute at the University of Nebraska at Omaha. The green copy of the bill contains several errors due to the misunderstandings in communications, so AM466 is intended to replace the green copy. Thanks. I'll start on it and you can follow me along if you'd like. LB13 is a bill that will allow us to evaluate whether the state of Nebraska is using effective interventions for youth in the juvenile justice system. That means we are keeping youth off the track that lands them in the adult system. The bill funds neutral evaluation and programs across the state to determine whether community-based aid dollars are having an impact on juvenile justice involved youth and their criminal justice trajectory. To do this we need...first of all, how many of you have been around this place for any length of time and has not heard we need data, we need data, we need data? We need common data that we can use, that's "queryable," data that tracks youth over time--is a youth repeatedly removed from their home? does the youth end up in a probation situation? does the youth go to court multiple times after completing prevention classes--youth contact with law enforcement; neutral evaluators who will report on programs. Often programs believe that they are having good results but no one is examining the outcomes for evidence-based performance. Currently, we don't know what the outcomes are, whether they are good, harmful of the youth, or a collection of both. Collecting data to evaluate the community aid programs will require a look at juveniles from across the juvenile justice and related areas. Historical data on juveniles would be necessary to be able to appropriately take into account such things as placements, probation, detention, and adjudications. Data can be tough to share for that reason, ranging from not being automated to designations of appropriate use. By designating UNO to evaluate this program as an extension of a program we put in place over the last few years in the JJI, which currently exists at UNO, many entities provide services to juveniles and their data systems cannot independently provide a comprehensive view of services and programs that juvenile is involved with. I was told last year that we had no common data system across the state. I sat with this data system, which currently exists in Crime Commission, and looked at the possibility of tracking Sally or Sam through the education process, the juvenile justice process, "queryable" in terms of the system of where he or she was at any given time and being able to use the data. The problem is not all the data is being collected. We have a data system and base, but we don't have all the data coming in. What we

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would do with this is both correct and connect the protocols with being able to get data out and also getting data in to the system. This effort must include looking at and perhaps leveraging operational data both to be able to do real-time monitoring of activity for evaluations as well as facilitate the proper decision. So I want to speak to just a couple items in here so that people behind me, both proponents and opponents, can rest assured, because they have not seen this amendment. First of all, let me talk about page 1, line 12. The reference here is: "Ten percent of the annual General Fund appropriation to the Community-based Juvenile Services Aid Program, excluding administrative budget funds, shall be set aside for the development of a common data set and evaluation of the effectiveness of the Community-based Juvenile Services Aid." We put \$5 million in this process, and it's been given out by the Crime Commission through a grant process. In some cases, we have some evidence that says it's evidence based or it's not. But in total, in general, we don't know whether that money is being spent the way it needs to be spent. We're going to put \$10 million into this over the next couple of years, and I think it's time to really take a look at how those dollars are being spent. And this will help them do this. There's been suggestion that now we're removing 10 percent of the money that we put forward. Well, folks, we had legislative intent a couple years ago that said we're going to put this money in the community-based services, and now we're changing, to some degree, the intent. And that's what 49 of us will decide to do is change the intent of how the money is being spent by setting aside 10 percent. It doesn't mean they have to spend 10 percent. It means they set it aside to be used for this purpose. It would be my intention after this is passed to watch it in the Appropriations process, and I have talked to Senator Mello to that extent and he agrees. They'll have to look at it within the budget and see how much of that is being spent and if it's being spent. I will be here for the next four years and I will watch this dollar figure and I will watch what's happening. And if it needs to be adjusted below the 10 percent level, that's fine. But realize that's not a line-item appropriation. That's a set aside of amount of money that it might take to do what we need to do up to that amount of money. The other thing I would...well, I'll tell you what. I'm going to stop there because I think that's enough of an introduction and I think we need to hear the testimony. Thank you. [LB13]

SENATOR COASH: All right. Thank you, Senator Krist. Let me ask the first question here. [LB13]

SENATOR KRIST: Sure. [LB13]

SENATOR COASH: You talked about that 10 percent. Give me a dollar figure that goes with 10 percent. [LB13]

SENATOR KRIST: Could be \$1 million. [LB13]

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SENATOR COASH: A million dollars, okay. So I agree with everything you said about getting the data. I mean what has your research told you with regard to the cost of putting this data together? I just want to make sure what we're asking to pull out of what can be for services to build a data set is as equal as we want it to be. So we know how much you're purporting to pull out. How much do you think this data set is going to cost, because I think the fiscal note is kind of out the window with this amendment, right? [LB13]

SENATOR KRIST: Yeah. So I think, to answer your question specifically, when we sat and talked about the items that would need to be...the things that would need to be done to the current data system to make it a statewide data system and to be able to measure where we're at, things like JUSTICE, other databases would have to be put into it. It's a matter of a language in order to get the data together. I think it's arranged in terms of estimates from \$450,000 to \$750,000. I don't believe they're going to go to the million-dollar figure. And I don't believe it's going to be...it's going to take us longer than two years to get to where we need to get to. And then we're obviously going to have to maintain the database. It's been an incredible amount of work and an incredible amount of investment put into this data system over the last ten years. And it's been the Legislature that's been funding the data system as it's grown. [LB13]

SENATOR COASH: Well, with all deference to the Crime Commission, who does great work, I've never seen a government entity that didn't spend every penny that was given to them. [LB13]

SENATOR KRIST: Well, that will be their challenge, I guess. [LB13]

SENATOR COASH: I just would like to see us get close to the match and not wish that...I don't want it to be under what we need because that doesn't do us any good. [LB13]

SENATOR KRIST: Right. [LB13]

SENATOR COASH: And I don't want it to be so far over that...I would just like to see us get a better connection on that. [LB13]

SENATOR KRIST: We may not be able to do everything that needs to be done in year one. But in terms of 10 percent of the budget over a couple years I think we can get there. And the reason we did the set aside was for just that reason. We don't want to be appropriating \$2 million to do something. I mean we've heard figures since we've been here. It's going to take \$40 million to build this kind of data system. I contend that it's not going to take that amount of money. [LB13]

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SENATOR COASH: All right. Very good. Any other questions for Senator Krist? Seeing none, thank you. We'll take the next testimony...the first testimony in support of LB13. Welcome. [LB13]

ANNE HOBBS: (Exhibits 2 and 3) Hello, my name is Dr. Anne Hobbs; it's A-n-n-e H-o-b-b-s. I'm the director of the Juvenile Justice Institute at the University of Nebraska-Omaha. Thank you for this opportunity to speak on LB13 and the proposed amendment. These provisions allow the state to determine whether or not the investment in community-based aid is a good investment. It creates a mechanism to measure which programs are effective and which programs are cost effective. The state wants programs that work. That is, we want to know whether programs employed by juvenile justice agencies and professionals succeed in preventing youth from breaking the law again or moving deeper into the system. To conduct program evaluation and to determine whether a program is effective, we really need comprehensive and accurate data. Currently, we have no such data system that allows us to answer this question for community-based aid programs. Many programs do not collect data on the youth they serve. When a program hires the university to do an evaluation, they'll call in the researcher and frequently we'll help them collect data and sometimes the outcome variables. This is time consuming and costly when it's done on this individual basis. In addition, particular outcomes can be defined differently by different jurisdictions. So if I do an evaluation, say for Douglas County and Lancaster County, even on the same type of programs, those results are not comparable...frequently not comparable. Ultimately, this leaves us with very little knowledge about which programs are effective in reducing juvenile justice involvement, which, you know, programs impact school attendance, which programs are evidence based, and maybe even which programs are harmful and shouldn't be used. AM466 proposes a common system built off a structure already in place at the Crime Commission. Over the past few weeks, we've met to discuss this common data set with other agencies that work with youth or collect data on youth. We've also met other groups working on common data proposals to see if we could combine our efforts. Instead of creating separate systems as a state, we must come together and uniformly measure outcomes for youth or we'll really never know which programs have promising outcomes. The state of Nebraska really needs programs that are effective at keeping kids from going deeper into the system and moving into our adult system. We also need to know whether they're cost effective. And the only way to do this is to have a common data set. Be happy to take any questions you have. [LB13]

SENATOR COASH: Thank you, Dr. Hobbs. Any questions? I don't see any. Appreciate your testimony. We'll take the next testimony in support of LB13. [LB13]

JULIET SUMMERS: (Exhibit 4) Good afternoon again. I'm Juliet Summers, J-u-l-i-e-t S-u-m-m-e-r-s. I represent Voices for Children in supporting this bill. Nebraska children deserve the most effective services that we can afford with our tax dollars. I think that goes without saying.

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And data collection, evaluation, and analysis of programming options is crucial to ensure that we're getting the results we want with the money that we're spending. We support this bill because by creating an independent evaluation center for programs funded by the Community-based Juvenile Services Aid Program, it's going to guarantee accurate evaluation of whether those dollars are actually creating the outcomes we want for our youth. Moreover, by tying funding for this evaluation to a percentage of the annual appropriation that's already there, the bill ensures that this monitoring would remain consistent from year to year going forward, even as potentially policymakers change. I haven't yet had the opportunity to review AM466, so I don't know to what extent all of my testimony will continue to be relevant. But I will say one of the Council of State Governments' core principles for reducing recidivism and improving outcomes for youth in the juvenile justice system is to collect data on and evaluate service outcomes at the statewide level rather than jurisdiction by jurisdiction. Creating a statewide system for assessment which can measure outcomes neutrally and consistently across jurisdictions allows a true picture to emerge of which programs are working and which are not. If outcomes are assessed county by county or program by program by program, policymakers run the risk of being unable to attribute results to the specific programs that youth are receiving. Additionally, they may be asked to make future grant determinations based on data that looks like apples and oranges. Housing a statewide center at the University of Nebraska at Omaha makes sense. The JJI has a demonstrated capacity to provide neutral, clear, and easily desegregated data and analysis and to collaborate with state agencies and other researchers in putting that information together. I will say that allocating 10 percent of the total funding does seem like a large bite. And if this data center can be funded with less, we would of course heartily support putting more of the money toward direct programming for youth. With that said, without neutral evaluation, we can't know if we're throwing our money away on ineffective services. And having the statewide center may also save counties from having to create their own assessment tools and evaluations using some of the grant-allocated dollars. Finally, by establishing an ongoing percentage of that appropriation rather than a one-time assessment, it ensures that accurate data will continue to be collected year after year. Policymakers can watch trend lines for program success or failure over the long run. And service providers can analyze and shift their models to improve outcomes for youth. By deploying funds to ascertain whether our tax dollars are actually going to programs that work, LB13 is a smart investment on behalf of our youth. We thank Senator Krist for bringing this bill and urge the committee to advance it. [LB13]

SENATOR COASH: All right. Thanks for your testimony. Any questions? I don't see any. Appreciate it. [LB13]

JULIET SUMMERS: Thank you. [LB13]

SENATOR COASH: We'll take the next testifier in support. Welcome. [LB13]

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RYAN SPOHN: (Exhibit 6) Thank you. Good afternoon, members of the Judiciary Committee. My name is Dr. Ryan Spohn, spelled R-y-a-n S-p-o-h-n. I am director of the Nebraska Center for Justice Research at the University of Nebraska-Omaha. I am testifying as an individual, not a representative of UNO. With the goal of increasing the capacity of our justice system to use data and evidence to reduce recidivism and promote public safety, I support LB13 and the goal to develop a common data system to assess the use and effectiveness of community-based juvenile services aid. Nebraska needs a uniform set of data for assessing the extent of youth served, the number and percentage of youth successfully completing programs and interventions, and subsequent rates of recidivism. Not only will such a data system increase our knowledge of juvenile delinquency and delinquency prevention in the state, but it will also provide information that will be useful for estimating the future needs of an overcrowded adult correctional system. During the recently completed justice reinvestment work completed by...conducted by the Council of State Governments, local researchers were unable to provide consistent, comprehensive data on juvenile delinquency and juvenile justice services to complement CSG's research on the adult criminal justice system. Additional knowledge of rates of delinquency, service utilization, and recidivism will assist local researchers in guiding the justice reinvestment work as it moves forward. I'm excited by the possibility of strengthening state capacity for research and evaluation in the areas of juvenile justice and juvenile delinquency. Thank you for this opportunity to speak to you today, and I would be happy to attempt to answer any questions you might have. [LB13]

SENATOR COASH: Thank you, Dr. Spohn. I don't see any questions from the committee. Appreciate your testimony. We'll take the next testifier in support. [LB13]

DICK SHEA: Hello. I'm Dick Shea. I'm with Sarpy County, and I am the director of the Juvenile Justice Center. [LB13]

SENATOR COASH: Mr. Shea, would spell your last name for us? [LB13]

DICK SHEA: Oh, I'm sorry. S-h-e-a. [LB13]

SENATOR COASH: Okay. Thank you. [LB13]

DICK SHEA: LB561 has been one of the most important things that has happened in the state of Nebraska with the funding to provide the help that we need to get to our kids. One of the things I learned very quickly is that data is paramount to determine and validate whether these are the programs you need in the county. I have gotten more gray hair and lost hair over this data issue. We had to input four years of data in the different program that was provided by JDAI so that we can now get some valid information. We also worked with Douglas County. And I want to

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highlight a person from Douglas County that really has what it takes, and that's Kristi Lesley from the Probation Office. So we have worked together. So data is most critical, especially if you're going to provide needs within the entire state. Senator Krist did answer my question because I was hoping that this data collection would go more statewide and not just for the evaluation itself. I'm in complete support of UNO with Anne Hobbs doing that. We have contracted with her this year to give us the assistance so that we can see what the results are and what our leads are and to validate the information we have. So I am in full support of this bill. I know that the intent, and it's been stated by the senator, that the base amount of \$5 million hopefully will be increased. I understand the money is going to come from that source. But I think in the long run, we're going to spend the money in the right way. And if the goal is to increase the base fund, we're going to be able to serve our kids in the way that they need to be served based on valid information. If you have any questions, I would be glad to answer them. [LB13]

SENATOR COASH: Any questions for Mr. Shea? Seeing none, thanks for your testimony. Is there anyone else here in support of LB13? Seeing none, we'll go to opposition testimony. Seeing none, is there anyone here to testify in a neutral capacity? Welcome, Mr. Fisher. [LB13]

DARRELL FISHER: Thank you, sir. Senator Coash, members of the Judiciary Committee, good afternoon. My name is Darrell Fisher; it's D-a-r-r-e-l-l F-i-s-h-e-r, and I serve as the executive director of the Nebraska Commission on Law Enforcement and Criminal Justice. The commission welcomes the opportunity to participate in this effort as described in the proposed amendment, and I appreciate the opportunity to address you this afternoon. The Crime Commission administers the Community-based Juvenile Services Aid Program providing resources to local communities for programs and services that will divert youth from the juvenile justice system. That is especially critical for at-risk juveniles and others, particularly given the circumstances many troubled youth face. While this funding program has been in place since the early 2000s, we have the same challenge that most others face. We do not have a good grasp on the effectiveness of the programs which are funded. This aspect is crucial in determining a cost-benefit analysis of services through state aid appropriations. Programs will have the option to enhance services, receive guidance in using evidence-based practices if proper evaluation occurs. We feel that LB13 provides a valuable step towards allowing Nebraska to get a better handle on which programs and services are effective and what should be funded, restructured, or replicated. The Juvenile Justice Institute at UNO can provide the research and evaluation needed to establish ongoing insights into the funded programs and guidance to enhance already existing programs and services. The commission has long been involved with data sharing both for research and statistics as well as to make information available for day-to-day decisions. A key aspect of the amendment is the creation of a data set that will be housed and maintained at the Crime Commission and utilized by UNO to use in its evaluations. While we are not tasked with analyzing the data, we, nonetheless, see a close relationship and a close partnership with UNO

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and others as essential to collect the data necessary to meet the bill's objectives. This amendment also points us toward the possibility of creating a data resource that can contribute to Nebraska's overall understanding of the juvenile system. A common data set will provide an opportunity for data to be tracked in a consistent manner, and collectively the partners and data providers can hopefully use this bill as a stepping stone for us to provide a better look at systemic issues. We do have one technical concern which I believe the senator has already addressed. With the appropriating language contained in Section 1(2)(d) of the amendment, beginning on page 2, lines 17-29, placing specific obligations on the appropriation to the Community-based Juvenile Services Aid Program in statute could create potential disparity between the statute referenced in this bill and the actual application of the appropriation enacted in that program by the Legislature in the mainline budget bill, LB657, for this upcoming biennium. Any intended funding outlined in LB13 and AM466 may need to be further examined and harmonized as part of the larger appropriations process for the Appropriations Committee in drafting the budget bill, which will be set by the appropriations for Juvenile Services Aid, Program 155 under the Crime Commission. Thank you for the opportunity to testify, and I would be happy to answer any questions you may have. [LB13]

SENATOR COASH: Thank you, Mr. Fisher. Good timing. I don't see any questions from the committee. [LB13]

DARRELL FISHER: Thank you very much. [LB13]

SENATOR COASH: Thanks for your testimony. Is there any other neutral testimony? [LB13]

SARA HOYLE: Good afternoon, Senators and members of the Judiciary Committee. My name is Sara Hoyle, S-a-r-a H-o-y-l-e, and I'm here to testify on behalf of Lancaster County in a neutral position. Also, we will have copies of the testimony delivered to you later. It changed when AM466 was discussed. As a preliminary matter, Lancaster County appreciates your support of youth programming through community-based aid funding. The county strongly believes that community-based programs are more effective and much less expensive than detention. We are currently receiving \$680,000 from community-based aid which provides funding for our diversion programs, our reporting centers, our detention alternatives, mentoring, employment programs, assessment services, truancy programs, Sudanese program, and our Golden Warriors Latino Program. Funding directed for these programs range from as little as \$11,000 to \$200,000 with the average program receiving approximately \$30,000. All of this funding is used to provide direct services to our youth with no funding going to county administrative costs. LB13 proposes the development of a common data system to collect information pertaining to the effectiveness of programs funded through community-based aid. Senator Krist should be commended for recognizing the importance of evaluating the services



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we provide to our youth. The county believes evaluations are important and they should be a requirement of all programs receiving taxpayer funding designated to provide services for our children. While Lancaster County recognizes the importance of collecting data to accurately evaluate the effectiveness of our programs, we would ask you to consider two different things. First, funding for developing a common data system should not compete with funding for direct services for our youth. In its present form, LB13 provides for an annual 10 percent reallocation of funds available for services. Assuming that \$5 million is originally available through community-based funding, then Lancaster County's share of the reallocation would equal approximately \$65,000 resulting in the possible elimination of two programs. Rather than reducing the initial funding available to all counties, perhaps one option is to pay for the development of a common data system with community-based funding remaining as a result of some counties not applying for their funding. As we understand, the efforts by the Appropriations Committee and Senator Krist are to include an increase in the appropriation. We are comfortable with the coexistence of LB13 and that preliminary recommendation because it would not eliminate any of our programs. And then the second piece that we wanted to point out was that Lancaster County was more comfortable with the database being included in an existing database within the Crime Commission. But that was in the amendment that you alluded to earlier. In conclusion, we appreciate the efforts of Senator Krist and this committee to provide the best community-based programming that can be provided for our youth in Lancaster County. Again, thank you for your dedication to our youth and services. [LB13]

SENATOR COASH: Thank you, Ms. Hoyle. Seeing no questions, appreciate your testimony. [LB13]

SARA HOYLE: Okay, thanks. [LB13]

SENATOR COASH: Oh, not yet, Senator Krist. There's more neutral testimony. [LB13]

ELAINE MENZEL: It's just me. [LB13]

SENATOR COASH: It's just Elaine. [LB13]

ELAINE MENZEL: (Exhibit 6) Vice Chairman Coash and members of the...well, and Chairman Seiler and members of the Judiciary Committee, for the record, my name is Elaine Menzel; it's E-l-a-i-n-e M-e-n-z-e-l, and I'm here today appearing on behalf of the Nebraska Association of County Officials. I have not personally talked to Senator Krist about this, but it's my understanding that my executive director has. And so I have a little bit of familiarity with some of the issues you've discussed in the proposed amendment but have not had an opportunity to fully review it. The position on the bill that we took when it was introduced was in neutral

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because of our viewpoint that the collection of data and evaluating that adds definitely an important component. But our concerns were that there would be reduction in services for counties and communities to provide. I have provided you correspondence that gives kind of an overview of the community-based aid program, and as well as some additional information that had been provided in the Governor's report from the Crime Commission on this program as well as a chart that was included in a request for proposal for the aid applications to the counties. Therefore, you can see that amount that those counties have received...are eligible for receiving during the 2015 year. Like others, I do want to express our great appreciation to Senator Krist, members of the Judiciary Committee and other senators, the Governor, and the predecessor for their commitment to the investment of money into the juvenile justice system for communities. I think it's a very important goal. I've been dealing with juvenile justice issues since 1999 and I've found it to be a great deal more exciting the last couple years because of that recognition. I will make myself available to questions if you happen to have any. [LB13]

SENATOR COASH: Seeing none, thanks, Elaine. [LB13]

ELAINE MENZEL: Thank you. [LB13]

SENATOR COASH: Any other neutral testimony? Okay. [LB13]

SENATOR KRIST: Didn't want to jump up too fast. [LB13]

SENATOR COASH: Senator Krist to close on LB13. [LB13]

SENATOR KRIST: First, I want to thank everybody who came in support, in opposition or in support of the bill. It's going to make it better. The reason the amendment was not put on so that people could see it is that we were working with NACO and others until right at the very end. But just for the record, because of the discussion that's gone on, I want to read on page 2, if you want to follow me along, starting on line 17: "Ten percent of the annual General Fund appropriation to the Community-based Juvenile Services Aid Program," which by the way is a grant program. There is no guarantee that each county, 93 counties is going to get a certain amount of money. It's based upon grants that are given out for...in the program itself. In year 2016, 10 percent starts in this year; in year 2016, 7 percent; in 2017, 6 percent; in 2018, 5 percent. It is a set aside budget item within the budget. And I'll point out that it is...it's not just a line item in the appropriation. It's a commitment on the part of the Chair of Appropriations that the amount of money in that fund is doubling. It's going to \$10 million. So if we continue to add money to the programs, I don't believe, and I would be here long enough to make sure that there aren't any reductions in programs or limitations, but that the same criteria for applying for the funds would be put in place. I'd also like to personally thank Mr. Fisher for coming and showing

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his support. And if there is a problem with the appropriations line, again, I will readdress it with Senator Mello on the line item. And I just want to recognize Dick Shea from Sarpy County who is a leader in juvenile justice. He and Larry Gendler--Judge Gendler in Sarpy County--have made vast strides in the JDAI process. And I thank him for all of his diligent work and years of service to our youth. With that, I will take any questions. [LB13]

SENATOR COASH: Senator Williams. [LB13]

SENATOR WILLIAMS: Thank you, Senator Coash. Senator Krist, thank you very much for bringing this important piece of legislation. You know, I come from an industry where we have all the data in the world, but the analyzation of the data is where we sometimes fall down. And I appreciate the fact that in the amendment you're allocating amounts that will go to evaluation of that data... [LB13]

SENATOR KRIST: Right. [LB13]

SENATOR WILLIAMS: ...because I think that's clearly important. Any comments on that? [LB13]

SENATOR KRIST: Well, we, in the last few years, have established, we referred to it...I referred to it as "JJI." Dr. Spohn came up here and talked about his evaluation process at the University of Nebraska at Omaha. We kind of put the cart before the horse, Senator, to tell you the truth. We had people evaluating whether we were doing things right, and then we found out that there was a group of wonderful individuals. But they really had problems finding the data in order to complete the analysis. And I think this circles the wagon. This now makes it 100 percent. [LB13]

SENATOR WILLIAMS: Thank you. [LB13]

SENATOR COASH: You're the boss. [LB13]

SENATOR SEILER: It's closed? [LB13]

SENATOR COASH: It's closed. [LB13]

SENATOR SEILER: Good job. Senator, you're now empowered to open under LB15. [LB15]

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SENATOR KRIST: (Exhibit 1) Well, my introduction for LB15 is going to be real short. I can't guarantee what's behind me. Good afternoon, Senator Seiler and fellow members of Judiciary Committee. For the record, my name is Bob Krist, B-o-b K-r-i-s-t. I represent the 10th Legislative District in northwest Omaha along with the north-central portion of Douglas County which includes the city of Bennington. I appear before you today in introduction and support of LB15. So let's take a tour of the amendment, which is AM514. And I think we need to hand this out to everybody. They have it? [LB15]

SENATOR COASH: We've got it. [LB15]

SENATOR KRIST: Okay. All right, good. Let's start with page 2, line 20. Initially, the subject matter here is guardians ad litem. Initially, this bill would have purported to put the guardian ad litem guidelines in statute. In the last few months--well, actually the last few weeks--in concert with and in communication with the Chief Justice, it was decided that rather than actually put it in statute, and I'll just read you the line: "By July 1, 2015, the Supreme Court shall formally promulgate the Guidelines for Guardians ad Litem for Juveniles in Juvenile Court Proceedings adopted by the Supreme Court on July 18, 2007, into the rules of the Supreme Court," which I believe has been a goal and objective in the community since 2007 but will be in place based upon this statute by July 1, 2015. And I'll leave that comment for my closing. Second, reports, on page 4, line 9, this is actually an amendment that comes out of LB265 which is Senator Campbell's bill that we will hear tomorrow. We took all the guardian ad litem stuff and put it in this bill. And we took most of the IG stuff and put it in her bill. So you'll see that amended out of LB265. It's basically written reports to allow us to apply the oversight that's required and for data to be collected. And then finally, and this one is just a change, a very recent change, got a huge problem in Douglas County. And most of it came from a bad contractor. Most of it came from not holding people accountable for the money that was actually spent: my opinion. But in the opinion of the Auditor, when now Lieutenant Governor Foley asked for an accountability of those third-party contracts and the funds that were spent, those people who were involved refused to give him the data to support the hours and the funds that were spent in support of our children. That's criminal in my mind. I'm not the prosecuting attorney nor will I ever be. But to say that a lawyer performs a cost on a third-party contract and does not support how that money is being spent or how it's been spent in my mind is wrong. So we do have people who were doing it right across the state, and I did not want to hurt those efforts. But starting on page 5, line 6: "The guardian ad litem may be compensated on a per-case appointment system or pursuant to a system of multi-case contracts. Regardless of the method of compensation, billing hours and expenses for court-appointed guardian ad litem services shall be submitted to the court for approval and shall be recorded on a written, itemized billing statement signed by the attorney responsible for the case. Billing hours and expenses for guardian ad litem services rendered under a contract for such services shall be submitted to the entity with whom the guardian ad litem contracts in the form and manner prescribed by such entity for approval." That's it for my

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opening. I would say that it's been a wild ride here the last couple of months and I want to thank...well, I'll save my thanks until the end as well. I stand for any questions. [LB15]

SENATOR COASH: Senator Krist, if I could. [LB15]

SENATOR KRIST: Senator Coash. [LB15]

SENATOR COASH: Yeah, I'm glad you brought this bill. I was looking at this myself but I thought, given that it was a Douglas County challenge, I'm glad that you took it on. I was struggling with this because I always try to reconcile in my own mind if we...we had a bad actor. There was a state...Douglas County, the kids in Douglas County got shortchanged by the services being provided by a couple of...at least one contractor. I'm just going to speak of one that I'm aware of. And that contractor, now Douglas County has ended that contract. Or I don't know if it's over yet... [LB15]

SENATOR KRIST: It's terminated. [LB15]

SENATOR COASH: ...but it's going to be. When this contract is over, we're going to go to private...you know, we're going to get our guardian ad litem services outside of this. But I am struggling because I want to give counties latitude to do what they think they need to do. Does this prohibit contracts as amended? Or does it just say if you're going to contract, you better have these things in place so we know what's going on? [LB15]

SENATOR KRIST: The latter. [LB15]

SENATOR COASH: Okay. [LB15]

SENATOR KRIST: I believe the latter. And I think you're going to hear some testimony to that effect. I think that particularly in your county, in Lancaster County, they were going to Legal Aid and there was a contract there. And the original language of the bill would have put them in violation because they were doing it a level payment-type process. That's not important. What's important to me is that the Supreme Court has ruled on third-party contracts, and not particularly with guardians ad litem, but other issues. Where there's taxpayer money involved, there has to be accountability and there has to be a line of accountability. So I believe the latter in terms of your question. [LB15]

SENATOR COASH: Okay. Thank you, Senator. [LB15]

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SENATOR SEILER: And I think you can find that on page 5, line 6, talking about multi contracts. They still have to come through with their billing. [LB15]

SENATOR KRIST: Correct. [LB15]

SENATOR COASH: Well, that was the problem, right, Senator Krist? I mean they kind of gave the middle finger to the Auditor who said, hey, we want to make sure that the taxpayers are getting their money's worth, but more importantly to me, that the kids who they were supposed to be representing were getting their money's worth. And it didn't happen. And so Douglas County, I had a lot of conversations with representatives from Douglas County about this. And I'm just glad they came to see it the way I did, which is this was a shortchange of the kids in the system. And so I'm glad that you brought this. I think you found a good balance here by letting counties do what they need to do but giving the accountability to the kids and the taxpayers in the same process. Thank you very much. [LB15]

SENATOR KRIST: I believe in the interim study...just to wrap up that one comment. You said it very well. It was the kids who were being shortchanged. And I tried to find a remedy to help the kids to put it in law. And I believe that the accountability, the dollars and cents, because we're going back to those people who should be not just looking out for taxpayers' dollars but their citizens and how they're cared for and those kids, so that control and that authority goes back to the person who's put that contract in place. [LB15]

SENATOR COASH: And I'll just say this, people are going to say what they're going to say in the testimony here. This bill is a solution. I don't know if we need to hear about...much more about the way...the reason we got here. I don't want to see this hearing turn into a bashing session on what has happened. It needs to be about, does this bill get us to prevent this from happening again? [LB15]

SENATOR KRIST: Good work. [LB15]

SENATOR COASH: Thank you. [LB15]

SENATOR SEILER: Thank you. Any further questions? Proponent, first proponent. [LB15]

COREY STEEL: (Exhibit 2) Good afternoon, Chairman Seiler, members of the Judiciary Committee. My name is Corey Steel, C-o-r-e-y S-t-e-e-l, and I'm the State Court Administrator for the Nebraska judicial branch. If you could, it says I'm here to testify in a neutral capacity, but strike that and put "in support" for LB15 offered by Senator Krist. We weren't sure that the

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amendment was going to be ready for today. So I wanted to make sure I was going to outline that in the testimony. But now that the amendment is there we're in full support. First off, I want to thank Senator Krist for introducing this bill and for his leadership around child welfare and juvenile justice issues for Nebraska. Guardians ad litem, or GALs, play a key role in our juvenile courts across Nebraska. The role of the GAL is to stand in lieu of a parent which is outlined in statute. LB15 will assure that GALs are held to that standard no matter what court across the state that they appointed from. It will assure all children that have an appointed GAL are receiving the adequate representation they deserve and that is expected. The Administrative Office of the Courts has asked Senator Krist for that amendment...for part of the amendment that you have seen today that would change the current guidelines for guardians ad litem for juveniles in juvenile court proceedings. And it would change that to a court rule which will allow the Supreme Court to provide consistent compliance to attorneys who are appointed as GALs in court cases. The Supreme Court has already set this change from guidelines to court rule in motion. We support the bill and the amendment as the amendment comes forth. And I'm here to answer any questions that you may have. [LB15]

SENATOR COASH: Thank you, Mr. Steel. Any questions? Seeing none, thanks for your testimony. [LB15]

COREY STEEL: Thank you. [LB15]

SENATOR COASH: Take the next testifier in support. [LB15]

BEVERLY EBY: (Exhibit 15) Good afternoon. My name is Beverly Eby, B-e-v-e-r-l-y E-b-y. Get ready for a little bashing, I guess. The testimony I'm about to give today is regarding the involvement we had with a guardian ad litem who was appointed to represent two boys from our family. Do I think what I'm about to say will have any effect? Probably not. As I was getting my ideas together last week on what I might say, I knew there were two incidents in our case directly involving the guardian ad litem, Hazell, that I felt was important to let this committee to know about as they hear testimony regarding providing additional powers and duties for guardians ad litem. I will get to those two incidents shortly. To get to a starting point, I thought it would be a good idea to ask what are the duties of the guardians ad litem that they are expected to fulfill. Well, I called three offices before I finally got to the Nebraska Supreme Court. And someone there directed me to the page on their Web site that showed me the guidelines for guardians ad litem. And after reading through these guidelines, I realized there were several more items that our guardian ad litem never did do or complete in regards to our case. If guidelines...if these guidelines that the guardians ad litem are to be following with no exceptions or are they just allowed to pick and choose which items they want to complete or not complete in regards to the client? It states: When feasible, the duties of the guardian ad litem should be personal to the

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appointed lawyer and should not normally be delegated to another person or lawyer. This kind of ties in with the consultation with the juvenile. The phrase "consultation with the juvenile" as used in the Nebraska Juvenile Code generally means meeting in person with the juvenile unless prohibited or made impractical by exceptional circumstance. To me, and I'm not a lawyer or a legal expert in any means of the imagination, I interpret this to mean that Hazell, who was appointed to our case by Lancaster County Juvenile Court Judge Linda Porter, should have met in person with her clients. I am here telling you today that she did not once throughout our entire case personally meet with her clients. Currently, the Nebraska Juvenile Code requires a guardian ad litem to consult with the juvenile within two weeks after his or her appointment and once every six months. Now our case lasted 14 months and in doing my calculations that means at least three visits should have taken place with Hazell. These visits never happened. There was some girl from her office that came to our house in Beatrice, but it was not Hazell. And there was another guy who also showed up at their house in Lincoln one time. So if Hazell signed that guardian ad litem report that she personally conducted these visits, I'm sitting here today that she...and saying that she flat-out lied. But there are a lot of lies that are told by those with control: the police officer in his signed affidavit, the case worker supervisor who lied under oath in court, just to mention a couple. The only time Hazell laid eyes on her clients was in February when we thought the case was going to be closed. So I took the boys to Lincoln and we went to the hearing that day in February. That was the one and only time she saw them. I want to tell you about a phone call I got from Hazell's office in August. [LB15]

SENATOR COASH: Ms. Eby. [LB15]

BEVERLY EBY: Yes. [LB15]

SENATOR COASH: I apologize. Your red light went on. You got a lot out there. Let's see if we have any questions from the committee. [LB15]

BEVERLY EBY: Well, the call wasn't from Hazell. It was from somebody else in that office. And I told them, I says, I can't believe what the hell you're saying, you don't even know where your clients are at. This was February when the boys went home to Lincoln...their home in Lincoln. And we were now into August. [LB15]

SENATOR COASH: Okay. Thank you for your testimony. We'll see if we have any questions from the committee. [LB15]

BEVERLY EBY: Okay. [LB15]



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SENATOR COASH: Ms. Eby, I don't see any, but I think we get the point. We understand what you're trying to tell us. We appreciate it. If you want to submit any of that in writing, we'll make that part of the record as well. [LB15]

BEVERLY EBY: I will. I'll give you the whole thing. And I didn't know until just last week that there was even any guidelines out there that a person could look at. But I checked with a place called the Counsel for Discipline. And there is no statute of limitations if I want to file a complaint about that guardian ad litem because she failed her clients and she failed the taxpayers. [LB15]

SENATOR COASH: I think you're giving us good support for Senator Krist's bill. Appreciate your testimony. [LB15]

BEVERLY EBY: Okay. [LB15]

SENATOR COASH: We'll take the next testifier in support. [LB15]

MELANIE WILLIAMS-SMOTHERMAN: (Exhibit 3) Good afternoon, Senators. My name is Melanie Williams-Smotherman, M-e-l-a-n-i-e Williams-S-m-o-t-h-e-r-m-a-n. I believe that the testifier who just testified is coming from western Nebraska. I don't remember how far she had to drive. But this is very personal. And the families who bring information to this committee are bringing information that has happened to them. I don't want any parent to feel stifled by the words that they often hear whenever they go into a team meeting or any other sort of situation where they are vulnerable and really silenced by feeling as though they cannot raise the issues that are the only issues they can raise, which is what they have experienced in the system. So I hope every single one of these families feels strong to come up here and testify. I'm testifying in favor of this bill with the caveat that the amendment would suggest that the Supreme Court can solve the problems that they've known about for a very long time and haven't done yet. I believe we need statute to protect the families with regard to the responsibilities of the GAL. I always ask three questions. What are we paying for? What...exactly how are the children's best interests being determined and served? And what processes of accountability are in place to assure the first two questions? And up until this point we have an extensive report that this body, that the Legislature commissioned in 2008 with I think over 200 pages of explanation about how the GAL system is failing across the state. It is not just in Douglas County. In Douglas County, we just happen to have a fervent citizen who dug and found a problem and then brought it to the attention. I think that that is a serious explanation for what we might find if this happened in every single county. The report that we commissioned, that this state commissioned, that we taxpayers paid for indicates that this is a problem throughout the entire state of Nebraska, not necessarily specifically contract, but the problems that I think that Senator Krist is helping to

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address in his bill which I believe we strongly need. The bill added essential language to require certain responsibilities of GALs that are currently not clarified in statute. However, I believe that we still need when a child disagrees with a guardian ad litem, even if the GAL's responsibility is to speak for what they believe is in the best interests of a child, they should still have to report to the judge, to the court what the conflicting opinion of that child is no matter what age that child is. And it's the responsibility of the judge to make that determination of whether it's valid. I don't believe, just like with the shackling of children, that it should be left up to one individual, who has other interests, to determine something that important. Only when the judge has full information is the judge able to make a consideration. And then the second thing is that there needs to be a complaint and feedback system for families and for advocates. And we don't have that and we need it. And we'll continue to see these problems until that is a part of our laws. [LB15]

SENATOR COASH: That's a good point. Thank you, Melanie. Any questions for Melanie? I don't see any. Appreciate your testimony. [LB15]

LAURA McCORMICK: (Exhibit 4) I would respectfully ask that when you look at the pink folder, you remember a little girl named H.T. who's from Sarpy County, Nebraska. That's for the state senators. [LB15]

SENATOR COASH: Could we start with your name? [LB15]

LAURA McCORMICK: Oh, sure. I'm so sorry. My name is Laura McCormick, and I'm here to offer qualified support for Senator Krist's bill. Let me begin by saying I implore the Legislature to pass legislation which will abolish the use of flat-fee contracts with for-profit firms, permit laypersons to serve as GAL in partnership with attorneys, and create a statewide oversight system with a viable complaint mechanism. The next paragraph is the most important thing I have to say to you. Just before Christmas last year, a two-month-old infant named Jasmine died in Bellevue, Nebraska, which is in Sarpy County. At the time of her death, she was under the protective custody of DHHS. Jasmine's mother went to the federal courthouse on December 16, 2014, for a court hearing. Mother was ordered to take a urine test because of her drug issues. On December 17, 2014, mom was sent to jail and remanded to the U.S. Marshal where she's been held in the Cass County Jail. This is the most important thing I'm going to say. If Jasmine's court-appointed guardian ad litem had done her job, she could have taken immediate action, immediate, and filed motions, sought ex-parte communication with the judge to remove Jasmine from her living situation. At that point, Jasmine had four days left, four days. Instead, Ms. Bergren, her court-appointed attorney, did nothing. Four days later, Jasmine would go to the hospital. The only guardian ad litem...and I want to say something positive about a guardian ad litem involved in this family's case who actually appears to have done anything to help the

children involved is named Angela Minahan--I hope I don't mispronounce. She's from Plattsmouth, Nebraska. Ms. Minahan attended family team meetings and obtained information necessary to assist the Cass County judge until jurisdiction was transferred to Sarpy. Most importantly, Ms. Minahan stopped unsupervised visits between the mother and her child client when the mother gave birth to his drug-addicted sister. I think it's important to point out that Jasmine had another sibling, H.T., the little girl that I would like you to remember. She's not included in any of the juvenile court filings in Nebraska despite the fact that she lived with her mother and father. H.T. was born with medical and developmental disabilities. She was only three years old when her mother was arrested by Bellevue police for using and selling meth. When H.T. turned four, her mother gave birth to Jasmine and both mother and H.T.'s newborn sister Jasmine tested positive for meth. Despite the mother's chronic drug usage and relapses, mom had unrestricted access to H.T. It is simply amazing to me that no one involved in the various juvenile dockets did anything to legally protect H.T. And there were an army of system employees involved in this case. This is in Sarpy County. The guardian ad litem is a contract guardian ad litem in Sarpy County. Could I please finish? I will stop speaking if you would like me to. [LB15]

SENATOR COASH: Well, let's see if we have any questions. Senator Krist. [LB15]

SENATOR KRIST: Yeah, a minute or so because I have a question for you about this other, too, though. Go ahead, go ahead. [LB15]

LAURA McCORMICK: Ms. Bergren's billing documents, and they are included in your packet, do not indicate that she ever visited the Thompson home. The children were never present in court, which happens with regularity in Nebraska. And the judge likely had no independent reports from the guardian ad litem. Even if the reports were prepared by the guardian ad litem, they were likely little more than regurgitation of reports prepared by other system stakeholders. Even more horrific than these system failures is the fact that the state of Nebraska and the Sarpy County Attorney looked the other way and permitted a special needs, developmentally disabled child to spend unlimited amounts of time with a mother who has a raging addiction to meth. H.T. is invisible in court documents. It's almost as though she doesn't matter. Do her disabilities disqualify her from the protections the state should be giving her? H.T. is alive today despite the abuses she endured at the hands of her parents and the abuses of the state. And I have a photograph here of her that I got from Facebook. This child means a lot to me because I have a sister who has the very same developmental disability. Look at how we betrayed this child. [LB15]

SENATOR KRIST: So, Laura, let me just... [LB15]

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LAURA McCORMICK: Yes, I'm sorry. [LB15]

SENATOR KRIST: In terms of the question, these documents that you've given us, is this how they redact the information when you ask for them? [LB15]

LAURA McCORMICK: Yes. And you know that I'm very well acquainted with how things work in Douglas County. [LB15]

SENATOR KRIST: Sure. [LB15]

LAURA McCORMICK: If you request an invoice from Douglas County or Lancaster County, you will receive material that has...really any case that they worked on, and it has a record of the time spent. What's unique about Sarpy County is that, for some reason, they are choosing to redact information. And I would also tell you that while Ms. Bergren...when I was here over the summer, I presented the members of this committee with a statement that is an abomination. It's lump-sum numbers of hours. The more recent billing material that you have pertains to the Thompson/Tillman case. This is directly related to the death of a child under the care of DHHS. And if you look through the material, you will see that really the only record that she has of any contact is court contact. And I believe that there are people who will follow me who have experience with this very same guardian ad litem. And the other thing that I think is important to talk about is this person was also the guardian ad litem for Robert Hawkins. Ms. Christine Costantakos, who I respect very much, wrote a lengthy narrative for the Omaha World-Herald in which, on page 33, she highlights the fact that this woman did not have any contact with Robert Hawkins. She did not prepare any reports. There are none in the file. That happened. When did the people at the mall die? Quite some years ago. This is an ongoing, systemic problem and we need a complete process that works along with a framework of standards. [LB15]

SENATOR KRIST: This is telling by itself. [LB15]

LAURA McCORMICK: Yes, it is. [LB15]

SENATOR KRIST: And the reason that I wanted to get to this point is that I'm not going to tell the counties from this seat or that seat in the Legislature how to protect its children. But this is an abomination. If you can't hold people's feet to the fire in terms of being paid to service our kids and have a better accountability for what's happening, then I thank you for bringing it. And I do appreciate your time. [LB15]

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LAURA McCORMICK: But I'm looking at the photograph of this child and I'm telling you that as I asked system stakeholders--and you know that I have worked long and hard on this issue and certainly many people in the system are acquainted with me--I would say to them, but excuse me, mom got pulled over in November 2013 with the kid strapped in a car seat using and distributing meth, how can it be that this child had no legal voice? And everyone points fingers at all the other people. This is not serving this Nebraska child. [LB15]

SENATOR KRIST: No. Thank you very much. [LB15]

LAURA McCORMICK: Thank you. [LB15]

SENATOR COASH: Thank you, Ms. McCormick. We'll take the next testifier in support. Welcome. [LB15]

KATHLEEN "MINDA" SILLS: Hello, my name is Kathleen "Minda" Sills, K-a-t-h-l-e-e-n M-i-n-d-a S-i-l-l-s. My address is 3217 North 24th Avenue Circle. I was put into the system because of a dirty house. From the time I was put in the system until my third foster home, I was (inaudible) to believing that my mom was a bad person, was just going to hurt me, was trying to kidnap me, and was trying poison me. Deb Raasch of Capstone, Mike Webster... [LB15]

SENATOR SEILER: Ma'am. [LB15]

KATHLEEN "MINDA" SILLS: Yes. [LB15]

SENATOR SEILER: Would you slide a little closer. [LB15]

KATHLEEN "MINDA" SILLS: I'm sorry. [LB15]

SENATOR SEILER: We're trying to get a good transcript on it. [LB15]

KATHLEEN "MINDA" SILLS: I'm really sorry. [LB15]

SENATOR SEILER: And if your head is down we can't hear you. [LB15]

KATHLEEN "MINDA" SILLS: ...Mike Webster of NFC and Ellen Stohl (phonetic) of CASA. I was cruel to my little sister because she didn't believe any of the things I did. I was also mean to my mom's boyfriend, Mr. Will (phonetic), for no reason. They made me believe that anyone who

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was associated with my mom was automatically a bad person. My mom keeps telling me that it's not my fault. She told me I was a good kid. Maybe one day I'll believe her. What the system did to my family was wrong. If the children are the future, then why is the system destroying the families? (Inaudible). [LB15]

ANGELITABEVERLY SILLS-CAMPOS: That's all right. [LB15]

SENATOR KRIST: Thank you. [LB15]

SENATOR SEILER: Thank you very much. Next proponent. Slide her up. There you go. Thank you. [LB15]

WILLIAM MONOCHIE: My name is William Monochie, W-i-l-l-i-a-m M-o-n-o-c-h-i-e, and I'm just here to help MacKenzie. She'll tell you her name and spell it for you. [LB15]

MACKENZIE MARIE SILLS: My name is MacKenzie; it's spelled M-a-c-K-e-n-z-i-e S-i-l-l-s. And there was some bad things that happened to me while I was in foster care for two years. Joey (phonetic) tried to choke me to death. I was only five years old at that time. Amber (phonetic) gave my sister drugs. "Minda," she was just up there. Our rooms, they had...was like a closet. There was barely any room in there. We had lice for about a year. She was a horrible woman. Okay, I was in two foster cares, and this is the second one that we went to. Ms. Loretta (phonetic) left me and Michael (phonetic) at Family Dollar. We had to walk all the way to her house all by ourselves. Ms. Loretta squeezed my forehead and it affected my brain. Thank you. [LB15]

SENATOR SEILER: Thank you. Any questions? Nope, she's fine. [LB15]

WILLIAM MONOCHIE: Okay. She just wanted you guys to know that despite the fact that there are guardians ad litem currently, their voices are not being heard and that the guardians ad litem under the current system is not representing the children. [LB15]

SENATOR SEILER: And what county is the case filed in? [LB15]

WILLIAM MONOCHIE: In Omaha. [LB15]

SENATOR SEILER: Douglas County? [LB15]

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WILLIAM MONOCHIE: Douglas County. [LB15]

SENATOR SEILER: Thank you. [LB15]

WILLIAM MONOCHIE: Thank you. [LB15]

ANGELITABEVERLY SILLS-CAMPOS: My name is Angelitabeverly Sills-Campos, A-n-g-e-l-i-t-a-b-e-v-e-r-l-y S-i-l-l-s-C-a-m-p-o-s. Both of those children you saw before you were my children. They were put into the system because of a dirty house. They were kept in the system for over two years. The first foster home they were severely abused: well-documented lice for over a year; feces, cat feces in their room and throughout the house. The smell was horrendous. If any one of the people that was supposed to be protecting my children did their job, my children would not have been left in that situation for over a year. I begged and begged for the safety of my children and nobody listened to me. It took a court order to have my children removed. It took testimony from supervision specialists and from a new caseworker from NFC. I was told that I would never get my children back within two months of them being taken from me. The system took way too long and it was way too malicious and it injured my children more than anything. I had to watch my children abused and I could not stop them. When I did say something, I was dismissed or, even worse, retaliated against. When I brought pictures that my child drew of male genitalia to the police and said, something is happening to my six-year-old daughter, please help, I was dismissed and I was told that it was up to the case manager. And my children remained in that house for another six months. When the case manager was replaced, we still had no idea that any person...the guardian ad litem tried to keep my children in that first foster home where they were being abused, and still nothing was done. These people are not held responsible. And I'm sure that when I leave today, that I'll face more retaliation. I have had the police show up stating that from some...one of the services called and was concerned. My house is spotless. My family is happy. We just want to be left alone in peace. Are there any questions? [LB15]

SENATOR SEILER: Yes, Senator Morfeld. [LB15]

SENATOR MORFELD: What was the name of the guardian ad litem? [LB15]

ANGELITABEVERLY SILLS-CAMPOS: Contryman I believe was the last name. She came under the Monahan Group. [LB15]

SENATOR MORFELD: Thank you. [LB15]

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SENATOR SEILER: Excuse me. Were you given a court-appointed attorney to represent you? [LB15]

ANGELITABEVERLY SILLS-CAMPOS: Yes. [LB15]

SENATOR SEILER: Okay. Any other questions? Thank you very much. Next proponent. [LB15]

MOLLY FLYNN: I'm Molly Flynn, M-o-l-l-y F-l-y-n-n. When I was in foster care, this woman named Darlene (phonetic), she basically verbally abused me and called me horrible names. And she told me that if my mom doesn't shut up, that she needs to get the facts straight because if she was supposed to be doing what she was doing then I wouldn't be in her house. Then she started like making the other children like cuss me out and stuff. And she made us...like we were locked down in her daughter's basement for like over a day and a half with no food or water and no bathroom. And we were like really hungry. And the other little girl, she like tried to come after me with knives and stuff because the other little girl told her to. And I told my foster mom and she said that I was just supposed to deal with it. And they're still in that house, so I don't know like how they're doing. But it's like, they kind of got messed up living in that house. And then these are like notes that I wrote my mom. And like the lady who was there, Melissa Fry (phonetic), she told me that if I didn't like it there that she was going...if I kept complaining about it because I didn't like that the foster mom was calling me horrible names like a B-word and like a fat A-hole. She was like, if you don't like it here then I'm going to put you someplace else if you keep complaining. And then I wrote my mom that I was scared because I didn't like it there because all the other kids kept like threatening me. And I asked my guardian ad litem Jeff Wagner if I could go home. And I asked him this constantly. And he said no. And I asked him for an attorney and he said that he was my attorney. And he was me and my brother's guardian ad litem. And my brother didn't want to go home because my foster parents let him do whatever he wanted, but I had rules there and I just kind of followed them. But I wanted to go home because I wanted to see my mom. And everybody kept bad talking her and like saying she was going to kill me and stuff. And I had to write her like...everybody was trying to read our messages so I used like a code thing. I would just draw pictures and stuff like this. And then on the back I would write in like a code saying that I wanted to go home and stuff. And they didn't understand it so they just let me do it. But they kept saying that if I kept complaining that they were going to make my life worse. [LB15]

SENATOR SEILER: How old were you at the time you were placed in care? [LB15]

MOLLY FLYNN: I was 15. [LB15]



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SENATOR SEILER: Pardon? [LB15]

MOLLY FLYNN: 15. [LB15]

SENATOR SEILER: Fifteen, how old are you right now? [LB15]

MOLLY FLYNN: 16. [LB15]

SENATOR SEILER: Okay. And are you still in that home or under that guardianship? [LB15]

MOLLY FLYNN: No. I came back home in October. [LB15]

SENATOR SEILER: Okay. How about your brother? [LB15]

MOLLY FLYNN: My brother came home in October too. [LB15]

SENATOR SEILER: Okay. Does anybody else have any questions? One last question, was this Omaha, Douglas County? [LB15]

MOLLY FLYNN: Um-hum. [LB15]

SENATOR SEILER: Thank you. Next proponent. [LB15]

LAURIE FLYNN: Hi, my name is Laurie Flynn, L-a-u-r-i-e, Flynn, F-l-y-n-n. I am her mother, Molly, that just spoke. I am for any bill that will grant...everything is secrecy in the juvenile justice system in Nebraska. It's all secret. Nobody will talk about what happens. I'm sorry. I get upset whenever I hear her, so she just kind of threw me. My children had a guardian ad litem, Jeff Wagner, who lied to them. I have the text messages. I have the things that she wrote, flat-out lies, things I don't even know where he got. We also had the same therapist, Deb Raasch from Capstone, that told my daughter the same exact thing: that I was going to kill her or poison her. She never called CPS. The guardian ad litem did. And supposedly this was three, four months after I was supposed to have said it, which I didn't say it. The reason that they took my daughter, it said Molly is disciplined by using time-out, sometimes she is sent to her room without a real dinner, this means she has to eat bread and butter only, although in my recollections, I did give her a peanut and jelly sandwich because she didn't like what I made and I said, well, you can have a sandwich and go to your room. Anyway, Judge Crnkovich thought that was an okay reason to remove children from the home, because they got time-outs. They weren't beaten. The

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house wasn't dirty, nothing. She got a time-out. Again, secrecy, you know, I don't know if any of you were aware of the case in Douglas County last summer where Judge Crnkovich issued a gag order. That was me. I went on the radio twice. I went very public. I had advocates that went public for me. Had I not had the advocates and had I been just maybe a little bit less stubborn to say this is wrong and you can't do this to me, who knows where we would be now? The gag order, Judge Crnkovich, she didn't...ended up letting it go because, you know, she found out it wasn't constitutional. And then once that was gone, Nebraska Families Collaborative then made me sign a HIPAA agreement. I'm not a healthcare provider. I'm a parent. I shouldn't have to sign a HIPAA agreement about anything about my children. That's ridiculous. Jeff Wagner, their guardian ad litem, then he threatened to...here's his subpoena. He was going to subpoena my private e-mails from people like Commissioner Borgeson, Commissioner Boyle, my own advocates. What gives him the right? Because he's the guardian ad litem. I have his receipt here. I actually have some billing here. It says what he billed on. He billed for reviewing case law to close the courtroom. And my light is on so if anybody...I'm sorry. I have so much... [LB15]

SENATOR SEILER: Yes, Senator. [LB15]

SENATOR MORFELD: If you just have one or two more minutes, I'd like to hear just a little bit more about, but please keep it a little bit...thank you. [LB15]

LAURIE FLYNN: About what part? Because this case, I would have been a parent who said there is no way that this craziness happens in Omaha, Nebraska. This is nuts. I mean to have a guardian ad litem...he billed. And they paid to research closing the hearing to the public. That's not Nebraska statutes. Our courtrooms are open for a reason. What are they doing that they're afraid of that they want to close it? You know, if they're putting all my...supposedly my business out there and I'm saying, oh, keep them open, what's their problem? I mean it is absolutely ridiculous some of the things that they... [LB15]

SENATOR MORFELD: And I guess I do have a question. I would like to see some of your documentation after. [LB15]

LAURIE FLYNN: And I will...I can get you copies. [LB15]

SENATOR MORFELD: I'll give you my information. But one of my questions is it appears as though...I'm an attorney but I'm not a family law attorney, so I don't know the process very well of the juvenile system yet. But my understanding is that there's no opportunity for a complaint process or anything like that with the guardian ad litem currently. How did you resolve some of this? Because it sounds like your daughter is back in your custody, how did you get to that point? I know you could probably talk about it for a long time. [LB15]

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LAURIE FLYNN: No, I mean my case from start to finish lasted about six months. They went from a case where supposedly this parent said she was going to kill her child, which didn't happen... [LB15]

SENATOR MORFELD: So somebody made a complaint. A caseworker came in... [LB15]

LAURIE FLYNN: It was a therapist that I fired, a Capstone therapist I fired. [LB15]

SENATOR MORFELD: Okay. [LB15]

LAURIE FLYNN: And I mean it was crazy. It just...I don't even know how it got to this. But you know, Judge Crnkovich recused herself after about three months when I kept saying, I'm not going to sign your safety plan, try me, take me to court. And the funny thing is, is within a six-month period, this therapist never once got brought in and put on the stand because my attorney would have tore her up. And once the...which I actually had a very good court-appointed attorney, very good. [LB15]

SENATOR MORFELD: Good. [LB15]

LAURIE FLYNN: And you know, I was lucky though. I do know that I was lucky. I was...Judge Crnkovich recused herself and then lied about it. She wrote in an order that I said I wanted a new judge. That is not what happened. She asked me in the middle of a hearing, would you feel better with a different tribunal? Didn't even ask my attorney can I talk to your client. Judge Crnkovich just, boom, you know. And I think it was because I kept saying I want my transcripts of my case. I have one order in June that says I can have the transcripts. But then in July she says I can't have them because I might do something...they might be used for an improper purpose. Yeah, they might be used to expose her. To me, that's not improper and it's my right. But I still can't get my transcripts even though my case is closed. So she recused herself, sent me to Lancaster County. I live in Douglas County. I wouldn't know that judge if he walked in front of me because after a few months he, I guess, declined the case. Then they assigned me to a retired judge, Patricia Lamberty. I went before her once. They took an hour for me to even get to my hearing. I mean we just waited because they wanted me to agree to something and I kept saying, no, take me to trial because if you find me guilty of anything I'll appeal it and I'll get it out of Nebraska and I'll expose what's going on in Douglas County. She sent my kids home that day. Judge Lamberty, that day, two hours, my kids were home. After all of this they were home. [LB15]

SENATOR MORFELD: Thank you. I definitely would like to look at your documentation too. So I'll give you my information. Thank you. [LB15]

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LAURIE FLYNN: Okay. Anybody else? Okay. Thank you. [LB15]

SENATOR SEILER: Thank you. Next proponent. [LB15]

WAYNE WESTON: My name is Wayne Weston and I thank you all for being here. W-e-s-t-o-n is my last name. I'm a practicing physician. Currently, I practice in North Platte, Nebraska. I had a family practice for 30 years. I was board certified. I went to the ER in North Platte, Nebraska, was there for 14 years. And now I work in an urgent care and I've been there for eight years. I'm here because my grandson lives with me now. He and his father had a tussle. This thing ended up in court. His guardian ad litem was the same lady who represented Robbie Hawkins, Colleen...last name... [LB15]

\_\_\_\_\_: Bergren. [LB15]

WAYNE WESTON: Bergren, yeah. This lady came up to us while everybody was out in the hall. Now we had hearings every three months for two years because of my son's tussle with his son. Anyway...and nobody was hurt. Anyway, the point is this lady was his guardian ad litem. She wasn't there for the first hearing or two. She came and she said she'd had a sick family member and that's why she had not made it to the opening ones. She introduced herself to us. She did not tell us what her duties were. I'm a well-educated man and I didn't know. She did not say what she would do to represent my grandson. She never met with us before any of the court hearings despite the fact that she was there and had plenty of time to do it or after the court hearings or meet with him or us for any sessions to talk about anything that had happened in these months. She sat five feet from me. She could have spoken to me anytime because I was at every hearing. And my grandson was right beside me. So she could have done this had she wanted to. But at no time did she ever tell us what she was there for except to represent him, what her duties were. Again, never met before any hearings or after any hearings. And when the thing was over she never met with us. She never visited our home. We have him in our home in Lexington. Now a social worker came out there once a month, but apparently that was too far for her. And please believe me, she never made any attempt to make sure we knew what she was thinking or doing for my grandson. It's the same Colleen Bergren that was for Robbie Hawkins, the boy who shot up Von Maur and killed himself. If there is no way to make these people accountable for what they're supposed to do, for what they're supposed to tell the person they represent or what they've done on their behalf or what they plan on doing on their behalf or anything else and what to expect in the future and what to say if you're asked to speak, none of this was done. Now I've been, as a physician, been reported a number of times. [LB15]

SENATOR SEILER: Sir, your red light is on. [LB15]

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WAYNE WESTON: Oh. I don't like red lights. (Laughter) [LB15]

SENATOR SEILER: Senator Williams. [LB15]

SENATOR WILLIAMS: Thank you, Dr. Weston, for being here. [LB15]

WAYNE WESTON: Yes. [LB15]

SENATOR WILLIAMS: I'd like to hear the rest of your testimony if you'd like to go forward. [LB15]

WAYNE WESTON: Well, I think I just about met the red light. She did not let us know anything about her duties to us. My wife called her once and then she finally called me back. And then she once talked to Shilo my grandson about the fact that she was his representative. But she didn't talk to him about saying anything in court. She didn't support him in court. I sat five feet from her and she never said a word to us this whole time. [LB15]

SENATOR WILLIAMS: So the process was failing your grandson. [LB15]

WAYNE WESTON: Oh, absolutely. I think the process needs to align what a guardian ad litem has to tell the person they represent because they know nothing. They have to do it and there has to be some way to prove they did it. But again, there was no communication. She didn't communicate hardly at all other than introducing herself. And again, this was after the second hearing. [LB15]

SENATOR WILLIAMS: Thank you. [LB15]

WAYNE WESTON: Yeah. [LB15]

SENATOR SEILER: Let me ask you a question. I want to clarify the record. One, the case you're talking about was in Douglas County? [LB15]

WAYNE WESTON: No, Sarpy County. [LB15]

SENATOR SEILER: Sarpy County. [LB15]

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WAYNE WESTON: Yes. [LB15]

SENATOR SEILER: Okay. And who was the judge that was presiding? [LB15]

\_\_\_\_\_ : Gendler. [LB15]

WAYNE WESTON: Gendler, yes, Judge Gendler. [LB15]

SENATOR SEILER: Okay. And what was your status besides being grandfather? Were you appointed by the court or...? [LB15]

WAYNE WESTON: No. No, no. I merely went because this is my grandson and my son. [LB15]

SENATOR SEILER: Okay. Was your child there in the courtroom with you? [LB15]

WAYNE WESTON: Yes, he was, every time. [LB15]

SENATOR SEILER: Did the guardian talk to your child? [LB15]

WAYNE WESTON: The guardian talked to my grandson. [LB15]

SENATOR SEILER: No, to your child. [LB15]

WAYNE WESTON: Oh, you'd have...I'm sorry, I don't think she did at all. But he's here in the court. By the way, my grandson and my son are here. If you wish to question them, they can answer those questions. I don't think she ever spoke to them. [LB15]

SENATOR SEILER: No, I'm trying to figure out if the court had a duty...or the guardian had a duty to talk to you and, if they didn't, did they talk to your child. [LB15]

WAYNE WESTON: Okay. I may clarify that a little better. The court at the very first hearing put the grandchild in my custody. [LB15]

SENATOR SEILER: Okay. That's fine. That's what I was looking for. [LB15]

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WAYNE WESTON: And he has lived with us ever since. And he's been in our home in Lexington, Nebraska, ever since. [LB15]

SENATOR SEILER: Okay. [LB15]

WAYNE WESTON: But again, she never came. She never, ever came there despite the fact that the social worker did. [LB15]

SENATOR SEILER: No, you just clarified the whole question I was trying to get to. Thank you. [LB15]

WAYNE WESTON: Oh, okay. Thank you very much. [LB15]

SENATOR SEILER: Any other questions? Thank you very much for your testimony and your travel down here. [LB15]

WAYNE WESTON: Yes. Thank you. [LB15]

SENATOR SEILER: Next proponent. [LB15]

TONYA WARD: (Exhibits 5 and 16) Hello. Good morning, Chairman and madam. My name is Tonya Ward and I live at 4826 South 19th Street, Omaha, Nebraska, 68107. I also sit on the Learning Community District 5, but I am not here today to speak to you in that capacity at all. Today, I am here only to speak to you as the mother of a son, a special education son, who was assigned a horrible attorney, Monahan, as his GAL. Then she subcontracted to the attorney Senator Pete Pirsch as his new GAL. This alone was the violation of the contract. These two attorneys failed my son as GAL. My heritage is French, Dutch, Portuguese, African-American, and Arawak Indian. Pirsch never met with my son but he was paid. Why was he paid? What did he do? The stress Pirsch caused our family was unprofessional, unnecessary, irresponsible, and I would like to know why attorneys are given such power to hurt our children instead of help them, especially in cases like ours when no one has ever been found guilty of any abuse or neglect and our case is fully dismissed. We believe that the voices of the children suffering at the hands of the horrible foster parents, lying DHHS agents, lying CASA workers, Project Harmony, NFC, uncaring judges who are so swift to remove our children from our homes based on even anonymous phone calls that are also lies about parents neglecting and abusing their children. The disproportionately high volume of children of color and poor people that are removed from their loving homes and ultimately there are still no finding of real neglect or abuse is obnoxiously astounding. We believe that, starting today, every one of you should hear all of the silent cries of

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the children that are harmed in foster care and in state custody every day, cries of abuse and neglect from their GALs, social workers, and everyone in this broken system that are getting paychecks for holding on to our children, trying to build false cases that make them money off that child for as long as they can get away with it because there is no accountability. We believe our children and families' complaints should be heard and not dismissed anymore. These people are responsible for hurting our children they stole from us. Those people should be put in jail and never allowed to work with any child ever again. We believe you should start with the two attorneys that had their contracts revoked by the board of commissioners and use their horrible examples as GALs to fix this broken system. Let them be accountable for their crimes. We believe it's time for Nebraska to stop ignoring the children and families telling the truth in all of these cases that are dismissed. We believe it is up to you to stop this horrible abuse and neglect of our children. Our children are only for sale in Nebraska because they've been set up to be exploited and profited off of. You want to save money? Stop making it so easy and profitable to steal children in the state of Nebraska and put an end to all the thousands of false cases of abuse and neglect and let justice work in favor of the people and the children who are innocent and not responsible for the horrible behaviors and horrible practices from GALs, social workers, NFC, DHHS, and bad judges still sitting on the bench with horrible records of abuse of power. We believe working together with our government will make the correct changes swiftly... [LB15]

SENATOR SEILER: Ma'am. [LB15]

TONYA WARD: ...give us back our children... [LB15]

SENATOR SEILER: Ma'am. [LB15]

TONYA WARD: ...that have been taken illegally. [LB15]

SENATOR SEILER: Ma'am. [LB15]

TONYA WARD: Please...can I...I have three sentences. [LB15]

SENATOR SEILER: Just hold up, just hold up. [LB15]

TONYA WARD: Okay. [LB15]

SENATOR SEILER: Senator Morfeld. [LB15]



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SENATOR MORFELD: If you could please finish your statement, that would be okay. Thank you. [LB15]

TONYA WARD: I appreciate that, just two sentences. Thank you. [LB15]

SENATOR MORFELD: Thank you. [LB15]

TONYA WARD: Please free our children that these horrible GALs and people in power have stolen from us and hear the cries of their hearts, the children's hearts. They just want to come home. They just want to be loved. And we love our children. And there is no stronger love than a mother's love. Please help us get back our children. Thank you. [LB15]

SENATOR SEILER: Questions? I have a couple. [LB15]

TONYA WARD: Yes. [LB15]

SENATOR SEILER: What court were you in? [LB15]

TONYA WARD: Douglas County. Douglas County. [LB15]

SENATOR SEILER: Douglas County. [LB15]

TONYA WARD: Yes. [LB15]

SENATOR SEILER: And which judge did you have? [LB15]

TONYA WARD: Crnkovich. [LB15]

SENATOR SEILER: Okay. And you made a statement in your written appointment that you were not allowed to attend or be present to hear in the courtroom. [LB15]

TONYA WARD: Yes, sir. My GAL and my horrible court-appointed attorney blocked me from every hearing. And it even stated when the sheriff served me that paper to appear, I didn't bring my special education son and I was given permission by Jordan Boler (phonetic) not to let him appear because the emotional damage he was suffering already. And I don't think it would be appropriate for my child... [LB15]

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SENATOR SEILER: No, I'm interested in you as the mother. [LB15]

TONYA WARD: Me? [LB15]

SENATOR SEILER: No one had taken... [LB15]

TONYA WARD: I was not allowed...I was there in court... [LB15]

SENATOR SEILER: Just wait a second. Did you ever have your children taken away from you by a court order? [LB15]

TONYA WARD: No, they did not take my children away. [LB15]

SENATOR SEILER: Okay. So you as the natural mother were the person in charge of your children at the time of the hearings. [LB15]

TONYA WARD: Yes. [LB15]

SENATOR SEILER: And you were denied the access to the hearings? [LB15]

TONYA WARD: Yes. I was there in court for the hearings early, but they had a police officer come and tell me to sit down. And I said I want to go in the hearing. It's about me. If I was a free woman, I would be allowed to go. If I was an incarcerated woman, they would take me from my jail cell, bring me in chains to the hearings, because that's what it stated in the sheriff's report, that I was entitled to be at those hearings. [LB15]

SENATOR SEILER: Let's just take it one step at a time. [LB15]

TONYA WARD: Yes, sir. [LB15]

SENATOR SEILER: Did you ever be...removed from a courtroom on these hearings with your child? [LB15]

TONYA WARD: I wasn't removed, sir... [LB15]

SENATOR SEILER: Were you removed for outbursts of any kind? [LB15]

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TONYA WARD: No, not at all. I was never allowed in. [LB15]

SENATOR SEILER: Okay. So there was no reason to your knowledge why you were not allowed in there. [LB15]

TONYA WARD: I was only not allowed in because the GAL and the court-appointed attorney told me to sit down with the guard...officer with a gun told me to sit down, and I couldn't go in the hearings, none of them. [LB15]

SENATOR SEILER: Okay. Thank you very much. [LB15]

TONYA WARD: Thank you. [LB15]

SENATOR SEILER: Any further questions? Seeing none, thank you for your testimony. [LB15]

TONYA WARD: Thank you for letting me speak. [LB15]

SENATOR SEILER: Next proponent. [LB15]

JOE NIGRO: (Exhibit 6) Hi. I'm Joe Nigro, N-i-g-r-o. I'm the Lancaster County Public Defender. We don't represent individuals on abuse and neglect cases, but we contract with...we handle the contract for Legal Aid in Lancaster County to represent those individuals in juvenile court. I want to speak in support of the bill. I think that Senator Krist's efforts here to improve the quality of representation by guardians ad litem is admirable. When I first saw the bill and went over it with the managing attorney for Legal Aid, we had concerns about the way the bill was originally written, that it could result in a dramatic increase in the cost for Legal Aid's representation. I know they've submitted a letter. And I think they've contacted members of the committee about their concerns. And I brought a letter today from the juvenile judges from Lancaster County. I watched the hearing yesterday so I'm going to be very cautious about saying I'm speaking for anyone. (Laughter) But they...I think the letter...basically, they reiterate that they think Legal Aid does good work and they're concerned about Section 21. Senator Krist, I so appreciate that you're willing to work with amending the bill to take care of the concerns we have on the cost. If I could get a copy of the amendment, I would like to go over it with the managing attorney at Legal Aid. But I'm hopeful that that will address the concerns. The concerns they had were with Section 18 and Section 21, primarily with Section 21. And I know you're trying to address those. And if they have...if Legal Aid has further concerns about how that might impact their contract, I certainly will bring that to your attention. I think the concern...I mean obviously the bill is trying to address guardians who are cutting corners. And I think the difference with Legal Aid is that

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they're actually doing better quality work at a lower cost. And we don't want to disrupt that. But I'm happy to take any questions if anybody has any. [LB15]

SENATOR SEILER: Senator Krist. [LB15]

SENATOR KRIST: Just a point of clarification, what you're going to see in there is that specifically to their concern, we don't care...I mean I'm not legislating how the contracts are let. I'm legislating the oversight of the contract, whether you're doing it at an individual, doing it on a flat rate, doing it on an hourly basis, whatever the county decides to do or whatever you as a contractor decide to do...or the contract overseer would decide to do. My concern is that taxpayers' money and kids are involved. And that accountability needs to come back. And that is in direct response to the Auditor's report and how we went through the interim study. So if you do have any issues, bring them to us and we'll make sure that they're looked at. [LB15]

JOE NIGRO: Okay. Thank you very much. [LB15]

SENATOR SEILER: Any other questions? Yes, Senator Morfeld. [LB15]

SENATOR MORFELD: Well, first, thank you for your testimony, Mr. Nigro. And we haven't heard of any complaints from Lancaster County. So it leads me to believe that things are going a little bit better in Lancaster County at the very least with Legal Aid. [LB15]

SENATOR KRIST: We had one complaint in Lancaster. [LB15]

SENATOR MORFELD: We had one complaint. We had one complaint. Okay. I apologize. [LB15]

SENATOR KRIST: That's all right. [LB15]

SENATOR MORFELD: I was gone for a little bit of the hearing. Who in Douglas County, perhaps I can talk to Senator Krist after this, who in Douglas County runs their guardian ad litem program? Who do they contract out to, do you know? [LB15]

JOE NIGRO: I don't know. [LB15]

SENATOR MORFELD: Okay. [LB15]

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SENATOR KRIST: Commissioner Borgeson is here so you can ask her. [LB15]

SENATOR MORFELD: Okay. I'll ask somebody else. Thank you very much. [LB15]

JOE NIGRO: No, I think we're very fortunate here in Lancaster County, that the quality of representation is good, particularly by Legal Aid. And we just want to make sure that we can keep that as it is. Thank you. [LB15]

SENATOR KRIST: Thank you. [LB15]

SENATOR SEILER: Thank you. Next proponent. You may go. [LB15]

MARY ANN BORGESON: (Exhibits 7 and 8) Good afternoon, Mr. Chair and members of the Judiciary. My name is Mary Ann Borgeson, M-a-r-y A-n-n B-o-r-g-e-s-o-n, and I am the chair of the Douglas County Board of Commissioners. I am here today to speak in support of LB15 on behalf of the board. There has long been a need for greater oversight of the guardian ad litem, or the GAL, system in the Separate Juvenile Courts of Nebraska. While the majority of GALs make all reasonable efforts to properly execute their duties in representing the youth to whom they are appointed, far too many have fallen short in fulfilling their responsibilities. Many instances have been documented, particularly in the past few years, of GALs not showing up to court hearings, not meeting with the child in a timely manner after being appointed to the case or not meeting with the child until minutes before the hearing, and billing for excessive hours or for services not performed. A recent audit by the Nebraska Auditor of Public Accounts revealed serious deficiencies in the services performed by the guardians ad litem at the Separate Juvenile Court of Douglas County and serious deficiencies in how the guardian ad litem billings were audited. It was that report and the courage of one citizen, Laura McCormick, and then a handful of local parents and advocates who publicly shared their experiences with the guardian ad litem system that spurred the Douglas County Board to recently vote against renewing the two guardians' ad litem contracts that it had with local attorneys. While eliminating the current contracts addresses some of the issues and concerns, much more needs to be done. The language in LB15 provides necessary codification of guardian ad litem duties and responsibilities that will at least partially address the numerous defects with the current guardian ad litem system. It will provide an added level of accountability for those attorneys who are appointed as guardians ad litem, a level of accountability that has been sorely lacking. LB15 also ensure that the guardians ad litem will be provided with the necessary files, documents, and information on each child's case so that they can adequately represent each child's interests, both in and out of court. We understand there might be some desire to place guidelines in LB15 in Supreme Court rule. If that does in fact happen, we believe it's a step in the right direction. While the Douglas County Board of Commissioners recognizes, and we know, that it is severely...we are severely limited in our

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authority to effectuate change in the guardian ad litem system, we are committed to being responsive to our constituents and to pursuing whatever avenues we have available to address these serious deficiencies that currently exist with the current guardian ad litem system. The county board is extremely grateful to Senator Krist for bringing this bill forward and to this committee for considering. Further, the Douglas County Board would encourage the committee to bifurcate the GAL duties in some capacity. In many instances, attorneys simply are not the best trained individuals to handle duties outside of the courtroom. We recognize the necessity for children to have legal counsel but hope there is a way for child advocates to have a larger role in the GAL process and assist our children. We are committed to working with the committee and seeking these changes. On behalf of the Douglas County Board, I respectfully request that this committee vote to advance LB15 for further consideration, and I'd be happy to answer any questions the committee members may have. I've also included our fiscal note. I've included what we currently have, what we pay out with the contracts that we have just recently sent notice of not renewing. I'd answer any questions. [LB15]

SENATOR SEILER: Questions? Senator Krist. [LB15]

SENATOR KRIST: I want to acknowledge the fact that your lobby has been active and a couple commissioners have been active in trying to talk about the bifurcation of responsibility. And we're working with you and for you on that behalf. It's a difficult process to bifurcate. But we have some wonderful, because of our child advocacy act, we have some wonderful organizations, like CASA to name just one, around the state that can carry on those duties. But I'm committed to make sure that we try to incorporate those kinds of things. And I think the floor debate will be about that as well. And I also want to thank you for coming this summer to the interim study and for your communication. It takes guts to do what you did. And I appreciate that on behalf of the kids. [LB15]

MARY ANN BORGESON: Thank you, Senator. [LB15]

SENATOR SEILER: I have a question. Do you folks have an internal auditor that...I know you had an audit, but did you have an internal auditor look at these reported figures of time spent and then analyzed it with an attorney, outside attorney? [LB15]

MARY ANN BORGESON: No, sir, Senator. Basically, what we got was a court order with a dollar amount of which we were supposed to pay. [LB15]

SENATOR SEILER: Okay. You didn't see the billings then. That went to the court and the court sent you a claim for them? [LB15]

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MARY ANN BORGESON: Well, no, not always. The two contracts that we had were basically, if you will, flat-fee contracts... [LB15]

SENATOR SEILER: Okay. [LB15]

MARY ANN BORGESON: ...where they were given a certain amount per month. And so they would report to the court the amount of expenditures and then the court would send our clerk a court order to pay that amount. [LB15]

SENATOR SEILER: But your flat-fee amount,... [LB15]

MARY ANN BORGESON: Um-hum. [LB15]

SENATOR SEILER: ...not based on hours or anything like that. [LB15]

MARY ANN BORGESON: No. No. [LB15]

SENATOR SEILER: So you really don't have a cross-check then? [LB15]

MARY ANN BORGESON: The only cross-check there was, was on those that were appointed outside of the contracts where they submitted to the court their detailed billing. [LB15]

SENATOR SEILER: And you got a copy of that? [LB15]

MARY ANN BORGESON: No. [LB15]

SENATOR SEILER: You didn't get that? [LB15]

MARY ANN BORGESON: We just got the court order that we were suppose to pay that amount. [LB15]

SENATOR SEILER: Okay. [LB15]

MARY ANN BORGESON: It wasn't until...actually, I asked the State Auditor to come in and work with us to do the audit of it because I felt we needed someone from the outside coming in to look at those. [LB15]

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SENATOR SEILER: Yes, and we're... [LB15]

MARY ANN BORGESON: And that was when we found out all of that. [LB15]

SENATOR SEILER: I'm aware of that audit. I have no further questions. Anybody else? Welcome back. Thank you very much. [LB15]

MARY ANN BORGESON: Thank you. [LB15]

SENATOR SEILER: Next proponent. [LB15]

JULIE ROGERS: (Exhibit 9) Good afternoon. My name is Julie Rogers, J-u-l-i-e R-o-g-e-r-s. I'm the Inspector General of Nebraska Child Welfare. I am here to offer support of LB15. In our office, completing the inquiries, reviews, and investigations, there is often frustration by individual parties that the attorney or guardian ad litem involved in the case is not doing their job. Additional inquiry usually leads to the situation where such attorney or guardian ad litem is at least not engaged in their client's case. These guardians ad litem might not necessarily be doing anything that is improper, but the clients, the parents, foster parents, and/or caseworker in the case many times feel that they are not completely engaged in trying to help and competently voice the best interests of the children. In our most recent annual report, we addressed the topic of attorneys in juvenile court. We noted that families are often given only cursory explanations for the decisions arrived at in meetings or the essential summary court proceedings that follow. This can leave children, families, and other stakeholders feeling as though they are not being properly represented and confused about the process and the court's decision. This perception of lax representation leads to family disengagement from services as they feel disempowered at least by a system they do not well understand and that doesn't seem to forcefully represent their interest. Guardian ad litem clients are children who have been abused and neglected. Their situation is a very stressful one. Their voice in the juvenile courtroom is the guardian ad litem. With the possible exception of representing an accused in a death penalty case, I can think of no other role as an attorney that we should demand competency of than the role of the guardian ad litem. I'm happy to answer questions. [LB15]

SENATOR SEILER: Questions? I have one. [LB15]

JULIE ROGERS: Yes. [LB15]



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SENATOR SEILER: Again, I'm not defending the guardians ad litem, but I've heard an overtone of a dictatorial judge would make a world of difference in the appearance how effective a GAL can be. Would you agree with that? [LB15]

JULIE ROGERS: Meaning if... [LB15]

SENATOR SEILER: Meaning the judge is out of control and doing exactly what they want rather than following the procedure would make the GAL look very ineffective. [LB15]

JULIE ROGERS: That could be true in some cases. [LB15]

SENATOR SEILER: Thank you. [LB15]

JULIE ROGERS: Sure. [LB15]

JULIET SUMMERS: (Exhibit 10) Good afternoon, Chairman Seiler and members of the committee. My name is Juliet Summers, J-u-l-i-e-t S-u-m-m-e-r-s. I represent Voices for Children in Nebraska expressing support for this bill. A fundamental guarantee of our justice system is the effective representation of legal counsel. And you've already heard plenty of testimony to the effect that this is especially important for children at the heart of juvenile court cases. These children are already suffering the layered traumas of abuse or neglect, or not, but yet removal from their home and their placement in foster care. For the child, the court process is opaque and it's inaccessible. A responsive, independent, dedicated GAL bridges that gap. Voices for Children broadly supports the goal behind LB15 to ensure that these most vulnerable children in our state do not go voiceless in the very proceeding that will determine their lives and futures. With that said, we do have couple specific recommendations to be considered as amendment, specifically to strengthen visitation provisions by striking the words "when possible." You've already heard plenty of personal testimony, so I won't read off to you the focus group responses to explain why consultation is so important. But we know it's critical to effective representation. And when you put the words "when possible" in there, I think lawyers can see that as a potential loophole that would render the rest of the paragraph essentially meaningless. When possible might mean I have just too much on my court calendar right now, and especially when the client calls and asks to speak. Effective representation at the very least means that you make that happen by phone even if you can't meet in person. When it's a child who is reaching out to ask for help, that protection becomes even more important. Secondly, we would recommend adding a Section (p)(v), at least to the original bill as it was written, to require in that written report an oral report to court, a description of the child's expressed interests as well as best interests. It's not currently explicitly listed in there that expressed interests need to be before the court. And in a (3)(a) case, the GAL is usually the only lawyer in the room whose job it is to

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inform the court what the child wants or to advocate for the child. Again, I'll skip the focus group stuff since you've already heard some more personal accounts, but say that requiring the GAL to report on what the child has expressed even if it differs from what that attorney believes is in the best interests would ensure that the child's voice is heard in court. And then judges could determine if that dual role presents a conflict and warrants appointment of an attorney for the child. I think there was a question about bifurcated roles that was just brought up by Commissioner Borgeson. And to put it on the record for the purposes of further consideration, I would say that we...generally, other states have shown that there are good models with bifurcated roles. But it sort of depends on what the role is. I've got a red light. I could continue on that if anyone has a question. [LB15]

SENATOR SEILER: Any further questions? Thank you very much. [LB15]

KIM HAWEKOTTE: (Exhibit 11) Good afternoon, Senator Seiler and members of the Judiciary Committee. I'm Kim Hawekotte, K-i-m H-a-w-e-k-o-t-t-e, and I'm the executive director at the Foster Care Review Office. I have handed out to you a copy of our written testimony, and in it I do detail exactly what the role of the Foster Care Review Office is and also what a case file review process looks like within our office. We do an average of 4,400 individual child case file reviews in any given year. One of the data that we do collect in that individual case file review is whether or not the guardians ad litem, through documentation that we can see or found, have actually visited or seen the child. On the bottom of page 2, we did show for 2014 when we looked at that data, statewide only about 50 percent of the guardian ad litem...less than 50 percent were we able to find any type of documentation to show that they had either visited their child, talked to their child, or done anything. And again, I'm referring to documentation. I'm not necessarily saying that these guardians ad litem have not done their job, but we cannot find any verification. They are not responding to us when we ask for questions or concerns regarding their youth. Part of the reasons we are very strongly in support of LB15 and the amendments is it does include an clause in there that guardians ad litem would have to send to the Foster Care Review Office a copy of their reports that they give to the court so that we can start tracking the data to be able better to respond to each of you as senators as to whether or not they are doing their duty and job out there. I figure you can read the rest of my testimony, and I am more than willing to answer any questions. But we are strongly in support of LB15 and the amendments. [LB15]

SENATOR SEILER: I do have a question. [LB15]

KIM HAWEKOTTE: Sure. [LB15]

SENATOR SEILER: Would you explain the Central Service, Eastern Service, Northern Service, Southeast, and Western Service? What counties are you talking about? [LB15]

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KIM HAWEKOTTE: Sure. That would be based upon the Department of... [LB15]

SENATOR SEILER: Just roughly, like from... [LB15]

KIM HAWEKOTTE: Right, the Health and Human Services, so the Eastern Service Area is Douglas and Sarpy County. Southeast Service Area is pretty much Lancaster and everything down to the Kansas border. Central Service Area is pretty much from South Dakota straight down to Kansas right in the middle of the state. [LB15]

SENATOR SEILER: How far west, past Kearney? [LB15]

KIM HAWEKOTTE: A little bit past Kearney, not really. Pretty much at Kearney. And then once you get to Kearney, North Platte, and that area is more Western Service Area. [LB15]

SENATOR SEILER: Okay, that helps. Thank you. Any other questions? Thank you very much. [LB15]

KIM HAWEKOTTE: Thank you. [LB15]

SENATOR SEILER: Go ahead. [LB15]

ROBERT McEWEN: (Exhibit 12) Okay. Thank you, Chairman Seiler and members of the Judiciary Committee. My name is Robert McEwen, R-o-b-e-r-t M-c-E-w-e-n, and I'm a staff attorney in the child welfare program at Nebraska Appleseed. Nebraska Appleseed is a nonprofit organization that fights for justice and opportunity for all Nebraskans, and we support LB15 today. LB15...and we haven't seen the amended version. So if I misspeak about anything, Senator Krist, please stop me. But it sounds like everything in there may be okay too. The original bill implemented guardians ad litem guidelines that were adopted by the Supreme Court in 2007. Nebraska Appleseed is in support of everything that was in the guidelines. It represents best practices within this area of law. And we do believe...we do work with guardians ad litem, mostly on the appellate level, at Nebraska Appleseed. And I can say that there are many, many dedicated and qualified guardians ad litem that are doing this work. But also, as detailed in my written testimony, we have an intake line and we get calls from families, many of whom you may have talked to before that do not have a pleasant experience with their guardian ad litem. So we know that there are many attorneys who do follow these rules already. And there are definitely some that are not. And we think that every child in the state deserves the opportunity to be represented zealously. And therefore, we're in support of, in any way that it's done, the adoption of these guidelines and making them mandatory for everybody. Furthermore, we

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support LB15. And I know that the contract piece was amended. Personally, I'm not a fan of the flat-fee contract system. I don't think it is...in my opinion, it disincentivizes zealous representation. But again, I'm not a county commissioner so I don't get to make those sorts of calls. But I do think the amendment does add in the second piece, the accountability and the transparency that was lacked or lacking in the previous system. So we are also supportive of those goals as well. And I'll stop before the red light. And we just want to thank Senator Krist for all your work on this, and we hope that this committee votes to advance this bill out of committee. And if anybody has any questions, I'd be happy to try and answer them. [LB15]

SENATOR SEILER: Thank you very much. I don't see any questions. [LB15]

ROBERT McEWEN: Thank you. [LB15]

SENATOR SEILER: Next proponent. Seeing nobody scrambling from their chair, opponents, please come forward. [LB15]

SAMUEL WESTON: My name is Samuel, S-a-m-u-e-l, Weston, W-e-s-t-o-n. I work for Douglas County 911 Communications Department. My job was created back in 1998 putting recordings together for police investigations, fire investigations, and court cases. I put recordings together, and I go and I testify in court. My system...my belief is our whole system is falling and it's falling rapidly. I've seen changes in our court system and it's gone drastic since the past ten years, it's fallen. I've seen in my whole time...I put recordings together for everything. Senator Ernie Chambers' son was murdered (sic). I put the recordings together for that homicide. I put the recordings together for the Von Maur shooting. I do it on every type of crime. I've gone to these cases and I've had to testify at juvenile cases, and what this woman says is correct. The people are being...it's just like a game of money basically is what it boils down to. And it's not just the poor, and it's not just the ethnic. It's every level. These cases will drag out. There will be an upper-middle class family. They'll drag it out until the family is broke. But on these cases I've seen, and since starting in '98 I've seen two, two attorneys, that really tried to help the child. Two, that's it. I've seen...most of the other attorneys that I've seen, they sat there and they would side with whoever subpoenaed them. And they really wouldn't look into the case. They wouldn't listen to the evidence on their own. I've had two attorneys call to 911, request for recordings on their own so they could get it and understand the whole case on their own, so they could search for it on their own. Most of them just sat there. And I asked...I wondered about this years ago. And I made friends with all kinds of attorneys, private, public defenders, and prosecutors. And I would ask them what is the deal, why is it they're doing it this way? And they would tell me these are lazy attorneys. They get hired. The county will want to fire them but the county won't fire them because if they fire them, well, then they can collect unemployment. So they'll offer them a job that pays \$20,000 less. And they'll take it and they'll sit there and they'll do nothing.

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And that's what most of what I've seen happen. And I'm almost out of time, so if there's any questions you want to ask, that's it. [LB15]

SENATOR SEILER: From your testimony, I think you may have gotten mixed up when you came up. I asked for opponents and it sounds like you're in favor of this bill. [LB15]

SAMUEL WESTON: No. Well, I don't know. I took it proponent was for it. And I took it opponent was against it. [LB15]

SENATOR SEILER: Against this bill. [LB15]

SAMUEL WESTON: So I don't know if I checked the right one, but everybody up here before me sounded like they were against it. And I'm against it, to my understanding, for what it's for. [LB15]

SENATOR SEILER: Okay. We'll take your testimony both ways. [LB15]

SAMUEL WESTON: Okay. [LB15]

SENATOR SEILER: Thank you. [LB15]

SAMUEL WESTON: Thank you. [LB15]

SENATOR SEILER: Slide right up and talk right into the microphone. [LB15]

ELIAD WESTON: My name is Eliad Weston, E-l-i-a-d W-e-s-t-o-n, and my dad was just up here. Well, basically, I've been put through the court system because the fight that my dad and brother go into. And I've never met my guardian ad litem. I've never...I don't even know who they are, what they look like, but I was told by both of my parents and by my grandparents and counselors that I had one. But I've never met them. I don't...no one addressed themselves as one to me. And nothing has been done really to help me. And I live mostly with my mother. She has custody over me and my little brother and little sister. And she doesn't really do anything for us either. That's really all I have to say. I've never met them, don't know them. [LB15]

SENATOR SEILER: Okay. Anybody...Senator Krist. [LB15]

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SENATOR KRIST: Both you and your dad are up here telling us that the system as it exists is broken and you don't like it. Is that...I don't want to put words in your mouth, but is that what you're saying to me? [LB15]

ELIAD WESTON: Yeah. [LB15]

SENATOR KRIST: And that changes are required in the system, is that true too? [LB15]

ELIAD WESTON: Yes. [LB15]

SENATOR KRIST: Okay. Well, I promise you we'll change it. [LB15]

SENATOR SEILER: Young man, have you ever been in a courtroom during any type of a...when your guardian was supposed to be there? [LB15]

ELIAD WESTON: No. [LB15]

SENATOR SEILER: Okay. Thank you. Thank you for your testimony and your courage. [LB15]

LORETTA WESTON: My name is Loretta Weston, L-o-r-e-t-t-a W-e-s-t-o-n. I am the wife of Dr. Wayne Weston, the mother of Samuel Weston, the grandmother of Eli Weston and Shilo Weston and Zachery Weston and Ozias Weston and Samara Weston. What brought us here into the juvenile system was deception from my ex-daughter-in-law to-be that got us into the juvenile system. She wanted to go be with her boyfriend and she wanted dad out of the home and she created a scenario for the teenager. And he felt very abused after he found out later what mom had done. Anyway, that's what brought us here. I am against this bill mainly because, what kind of teeth are you going to have in this? We have guidelines. I looked it up to see what a guardian ad litem was because I'd never heard the term. I looked all that up and our guardian ad litem from Sarpy County, Colleen Bergren, never talked to us. And it got maybe the second hearing she came up and told us she'd been not there because of illnesses. And she had a representative, a substitute. But no substitute ever talked to us. Had Colleen Bergren done her job, our 17-year-old grandson right now would not be having panic attacks. He would not be getting depression medicine. He would be sleeping at night. He would be doing better in school. These are...and he wouldn't have irritable bowel syndrome. These things are going to be ongoing for a long time. And all because we had a guardian ad litem, didn't represent him. When she called I tried to tell her on the phone what the mother had done. And she said, oh, you're just making that up, instead of going and checking it out. The Nebraska Families Collaborative wasn't any better, neither was Project Harmony because they did some stuff that was deceptive in their reports to the judge. So

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you can't count on anybody out there. You might be lucky if you get one or two competent people. Our grandson had to endure four psychological evaluations. You think that the one would have been good enough. But evidently they were looking for something bad in this child whose nickname that his dad gave him when he was a child was sweet pea. He wasn't violent. He wasn't...didn't do anything wrong. He's never been in trouble with the law, but yet we have been in this juvenile system from June...May 21 until October 1. Through that whole time... [LB15]

SENATOR SEILER: Of what year? [LB15]

LORETTA WESTON: May 21, 2013; October 2014. [LB15]

SENATOR SEILER: Thank you. [LB15]

LORETTA WESTON: During that whole time, the guardian ad litem would just sit there. She never did anything. She'd called that one time and talked to our grandson and never called again. The next time she called was when...and I called her, that's why she called. She was returning my call. The next time she called was when Nebraska Foster Review was doing a survey. And I answered the phone and gave her the survey and it was a bad report. An hour later, the guardian ad litem calls wanting to talk to my grandson. Well, he was getting out of school and wasn't home. She was going to call back; she never did. In July of 2014, the judge had ordered... [LB15]

SENATOR SEILER: Excuse me, just a second. [LB15]

LORETTA WESTON: I'm skipping here because I know I don't have much time. [LB15]

SENATOR SEILER: No, you've got a red light. Hold on. [LB15]

LORETTA WESTON: Oh. Can I just tell you one more thing? [LB15]

SENATOR KRIST: Absolutely, go ahead. [LB15]

SENATOR SEILER: Yes. [LB15]

LORETTA WESTON: July of 2014, and this is child abuse, outright child abuse. What they have done to my grandson is child abuse because the after effects of everything from Nebraska Families Collaborative, Project Harmony, Boys Town, what every one of them and the guardian

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ad litem has done to him is going to last him for a long, long time. He's 17 now, but he still has panic attacks just at the drop of a hat because he ended up at McDermott because he had checked himself into...he didn't want to go back with his mother. And the judge ruled he go back with her. None of these children--that's something else--none of these children would have been back with the mother for temporary custody had she done her job and exposed all the deception that was going on. To date, they have believed all her lies. And these children are at risk. I pray every night for my grandchildren. But I did want to tell you one more thing. The judge ruled...now I don't understand where the judge was coming from. Judge Gendler, the prosecuting attorney, Markley, and Colleen, the GAL, Colleen Bergren, I don't understand why the judge didn't see through it even when we started bringing our grandchild to court. And he tried to say how he felt about the boyfriend and all this. And he just shushed him up. But what I want to say is that the judge kept ruling over and over after four psychologists said that he should not ever be near his mother and didn't...four of them including the mother's counselor. But one thing I do want to say that was really outright abuse, it's abuse all the way, but the really bad one was in July. We tried to get ahold of the...July 2014, we tried to get ahold of the guardian ad litem. Our grandson tried by texting. He tried by phone. I tried. My son tried. My sister, who was involved in this, very involved, tried to call and tell them the Boys Town counselor, Sandra Mohn, that Nebraska Families Collaborative had selected...they were supposed to go for counseling one day at the dad's house with the child and the counselor and the dad, the other day at the mom's house for two solid hours, for two weeks. You know what the counseling consisted of? The counseling consisted of that he would accept the lover because he was going to be part of that family. That was what the counseling was about. And we were trying to get our counselor, and we tried to get our lawyer--couldn't reach him--to put a stop to this because of what they were subjecting our child to. They wanted him throw a temper tantrum, bust walls, do whatever so they could pull him back in and get him into Boys Town. Now one more thing I do want to tell you, I read the report on Robbie Hawkins. That child should have never been let fall through the cracks. Our grandson parallels...what they were trying to do to our grandson parallels what they did to that child, every bit of it. And I'm sorry. I don't mean to yell. I'm just upset because I felt so hopeless I ended up in the hospital myself from all of this. Our...we are a small family, but we are a very close family and we're a good family, a good, outstanding, community-oriented family. We didn't deserve to be treated like this. I can imagine families out there that are not educated. We are highly educated. I can imagine families out there that are not educated, that are poor. And they go through all of this and they have no one. And they go to desperation like that child, Robbie Hawkins. That child...children express their anger when they're highly depressed. They start busting walls and doing all kinds of things. That's how they express their depression. Had that child been followed through by that guardian ad litem, he would have not fallen through the cracks. And I really want to know how you intend on enforcing LB15 because I looked and the guidelines were there for this guardian ad litem to come to our home, to call and check. All of these guidelines were there and nobody followed them. And I want something else. The judicial system has something else that needs to be revamped. They don't let you in. They get



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behind...your lawyer gets behind the doors and make deals and I don't know what all like they did for my son. You know, Samuel is an outstanding father. Had she, had the guardian ad litem looked into it, she'd have said this is a good father. Here, this is where the fault is, here with the mother. We pray every day that the kids are okay. The Project Harmony lady went to a house. My son was already out of the home. He removed himself, you know. And she could see the house was in squalor. She could see everything. The report... [LB15]

SENATOR SEILER: Let me ask you a question. Did you get to testify at any of the hearings? [LB15]

LORETTA WESTON: You mean the court hearings? [LB15]

SENATOR SEILER: Yes. [LB15]

LORETTA WESTON: My husband did. But that was a circus. [LB15]

SENATOR SEILER: But you didn't. You haven't testified. [LB15]

LORETTA WESTON: No, I have not testified. [LB15]

SENATOR SEILER: Okay. [LB15]

LORETTA WESTON: I sat in there. I was kicked out of one of the courts not...I didn't do anything. All I...I was just shocked when the judge said, I'm ordering you, after hearing the report from the counselors, not to go back to the mother, I'm ordering you to have weekend visitations, overnight visitations with your mother. And I went, oh, my god. And I...this way and I didn't mean to. But that was being disrespectful, I guess, and I got kicked out of the courtroom. [LB15]

SENATOR SEILER: And what was the judge's name? [LB15]

LORETTA WESTON: Judge Lawrence Gendler. [LB15]

SENATOR SEILER: Okay. [LB15]

LORETTA WESTON: And he also knew who our family was because our grandson that got into the system was friends with his son in wrestling. He knew the mother because of the wrestling

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and when they'd see each other and they even talked to her. And yet he didn't dismiss himself from that either. I mean the stuff that has gone...and I'm sure this goes on all the time with the judges, lawyers, you name it. I've never seen such corruption, if you want to call it, in my whole life. And I've been an active political activist since I was about 18. But never did I realize what goes on with Health and Human Services Nebraska. Nebraska Families Collaborative is raking in the money. That woman, Sandra Mohn, that they used as a counselor abused my grandchild, royally abused him mentally by sitting him there and constantly drilling him at his mother's apartment when it was supposed to be counseling. There was never any counseling done on either end, not at my son's, not at my daughter-in-law's. And they're not divorced yet either. [LB15]

SENATOR SEILER: Any other questions? Senator Williams. [LB15]

SENATOR WILLIAMS: I've got a quick question because I'm just trying to connect the dots here. Your grandson is in Sarpy County. [LB15]

LORETTA WESTON: He's in Sarpy County, but we have guardianship of him now. [LB15]

SENATOR WILLIAMS: Right. You and Dr. Weston live in North Platte. [LB15]

LORETTA WESTON: We live in Lexington, Nebraska. [LB15]

SENATOR WILLIAMS: Lexington, that's the connection. [LB15]

LORETTA WESTON: He was a family physician for over 30 years in Lexington. Then he went on to work emergency room for 15, 17 years in North Platte. [LB15]

SENATOR WILLIAMS: I've got it. [LB15]

LORETTA WESTON: Now he's urgent care. [LB15]

SENATOR WILLIAMS: That was the connection I wanted to make. [LB15]

LORETTA WESTON: But what I want to know is how... [LB15]

SENATOR WILLIAMS: Thank you. [LB15]

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LORETTA WESTON: ...how you're going to make this law work because right now if you can't make the guidelines of what they already had work, how are you going to make this new law work? Is there going to be transparency? There is no transparency. It's horrible what's going on with our judicial system. Horrible. From the top down, juvenile, the district court on up, it's horrible. [LB15]

WAYNE WESTON: Lori, you might tell them all those four psychological tests said he was normal. [LB15]

LORETTA WESTON: Yes, I did. I told them that all his psychological tests were normal. So I couldn't understand, why are you digging here to try to find something on this child? So you can keep him in the system and line your pockets with more money, or what's the purpose of this? They are destroying families. We've got fractured families from what they are doing. And I cannot imagine what, if I was a poor person out there. I mean here we are persons that, you know, we're outstanding in the community and we couldn't even do anything. We're just sitting there helpless. I prayed every night, wake up every night crying thinking what's going to happen to my other three grandkids. We still got to go up for the divorce coming up in March. If that judge gives her full custody, I don't know what's going to happen because they should have never...she should have never gotten temporary custody of the children. But she did. [LB15]

SENATOR SEILER: Any further questions? Thank you very much for your testimony. Thank you for coming all the way down. [LB15]

LORETTA WESTON: Thank you. And thank you for allowing me to testify. [LB15]

SENATOR SEILER: Any other opponents? [LB15]

SHILO WESTON: I don't really know... [LB15]

SENATOR SEILER: Your name. [LB15]

SHILO WESTON: I'm Shilo Weston. [LB15]

SENATOR SEILER: Spell it. [LB15]

SHILO WESTON: S-h-i-l-o W-e-s-t-o-n. But I just wanted to come up here and tell about my personal experience with my guardian ad litem. I had that Colleen lady. And you know, I had no

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idea what that was. I didn't even know I had one of them guardians ad litem. No one told me, nobody told me. I had no clue. And I guess they're supposed to look out for my best interests. But how are they supposed to look out for my best interest if they don't know what it is? They don't contact me, they don't answer the phone when I call. They don't answer my texts. How are they supposed to help me out if they don't know what I want? You know, I never got to meet her except for once. And when I did, I would tell her stuff and she would tell me I was lying. Like I would tell her about I need to get out of here, I need to get out of this house, you know, something is going to happen, I need to get out of here, help me, tell the judge, say something. She wouldn't stand up. She wouldn't do crap for me, you know. But I don't know. [LB15]

SENATOR SEILER: Tell me this, how many times were you in a courtroom? [LB15]

SHILO WESTON: Quite a few, I don't remember. [LB15]

SENATOR SEILER: I believe your grandfather testified every three months you're having reviews. [LB15]

WAYNE WESTON: Every two years (inaudible). [LB15]

SENATOR SEILER: Tell me, how often are you in court for reviews? [LB15]

SHILO WESTON: Well, now, right now? [LB15]

SENATOR SEILER: Yeah. [LB15]

SHILO WESTON: Not much because supposedly I'm out of it even though they still can check on me and stuff. But I don't know. I would go every now and then, but sometimes I just couldn't handle going in there because, I don't know, you could just see all the crap that was going on. [LB15]

SENATOR SEILER: Okay. Are you in school in Lexington? [LB15]

SHILO WESTON: Yeah. I go to high school there. [LB15]

SENATOR SEILER: Doing good? [LB15]

SHILO WESTON: Yeah. [LB15]

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SENATOR SEILER: Are you wrestling for them? [LB15]

SHILO WESTON: No, not this year because when I was working this summer, I had to have knee surgery. And I've had knee surgery a couple times, so I didn't want to bust that again. (Laugh) [LB15]

SENATOR SEILER: Okay. Let me ask you this, outside of...every time that you were in court, was your lady, attorney with you? [LB15]

SHILO WESTON: Outside of court? [LB15]

SENATOR SEILER: In the courtroom. [LB15]

SHILO WESTON: Oh, in the courtroom. She...I would see her there, but she wouldn't say nothing to me. You know, I would say, hi, give a wave. [LB15]

SENATOR SEILER: So she was in the courtroom but didn't say anything. [LB15]

SHILO WESTON: Yeah, not even say hi back to me. You know, she talked to me one time. [LB15]

SENATOR SEILER: Okay. [LB15]

SHILO WESTON: And I would call her all the time trying to get out of my house. You know, I would say, help me, help me, tell this judge, help me. I would tell her all the time. I would text her. Never got a single answer, not once. [LB15]

SENATOR SEILER: Okay. Any other questions? Thank you very much for your appearance. [LB15]

SHILO WESTON: Okay. Thanks for letting me talk. [LB15]

SENATOR SEILER: Any further opponents? Anybody in the neutral? [LB15]

ELIZABETH NEELEY: Good afternoon, Senators. My name is Elizabeth Neeley, E-l-i-z-a-b-e-t-h N-e-e-l-e-y. I am the executive director at the Nebraska State Bar Association. There was a

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very recent audit of guardian ad litem services in the Separate Juvenile Court of Douglas County. It's received considerable attention from the media over the last year and has called to question whether there is appropriate oversight and accountability of the guardian ad litem system here in Nebraska. One of the intentions of LB15 was to put into state statute the current Nebraska Supreme Court guidelines for guardians ad litem for juveniles in juvenile court proceedings. The State Bar is in full support of improved oversight and accountability of GAL practice in Nebraska and supports formal adoption of those guidelines. We do, however, believe that the authority to regulate the practice of law rests with the Supreme Court and the formal adoption of the guidelines should be done by court rule rather than statute. I'm very happy to hear about the amendment, and we strongly support the formal adoption of the guidelines as court rules. In 2007, when those rules were posted for comment, it was our official position that they be court rule and, therefore, enforceable. The court chose to do those as guidelines. Our position today remains that those should be in court rule and should be enforceable. When they are in court rule, there is a complaint process through the Counsel for Discipline. Attorneys can be disciplined, suspended, disbarred for inappropriate action. And so it does lend itself for better accountability over the system. Concurrent to this legislative process, the bar intends to petition the Supreme Court to formally adopt the GAL practice guidelines via court rule so that this important work can begin promptly and can begin whether or not this bill advances. I have not seen the amendment, but my recollection from Senator Krist's opening is that it directs the court to adopt the 2007 guidelines specifically. And I would just suggest that moving forward there may be more ways to strengthen those guidelines since they were originally proposed in 2007. And so I'd suggest that the language that ultimately be adopted wouldn't prevent the court from strengthening those because it has that specific 2007 reference in it. I'd be happy to answer any other questions you may have. [LB15]

SENATOR SEILER: Senator? I have a couple questions. [LB15]

ELIZABETH NEELEY: Great. [LB15]

SENATOR SEILER: On the report, just because they have a disbarment proceeding, they would also have the county attorney that if an attorney or GAL was not doing his job but was putting down that he was making the conference calls, he was providing that, wouldn't that constitute fraud? [LB15]

ELIZABETH NEELEY: County attorneys currently have the authority to review and contest the bills submitted by court-appointed counsel in adult cases. I believe that they have the same authority to do that in juvenile cases as well. [LB15]

SENATOR SEILER: That's what I was looking for. [LB15]

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ELIZABETH NEELEY: Yes. [LB15]

SENATOR SEILER: They do have that authority. [LB15]

ELIZABETH NEELEY: I know they do in the adult court. I would assume that extends to the juvenile court, but I've never seen it done. [LB15]

SENATOR SEILER: I don't want to assume. [LB15]

ELIZABETH NEELEY: Right, you would... [LB15]

SENATOR SEILER: I'd like to know. [LB15]

ELIZABETH NEELEY: Maybe you should check. (Laugh) [LB15]

SENATOR SEILER: Okay. Thank you. [LB15]

ELIZABETH NEELEY: Yeah. [LB15]

SENATOR SEILER: Any other questions? Thank you very much. [LB15]

ELIZABETH NEELEY: Yeah, thank you. [LB15]

SENATOR SEILER: Anybody else in the neutral? [LB15]

CHRISTINE COSTANTAKOS: Good afternoon. My name is Chris Costantakos, C-o-s-t-a-n-t-a-k-o-s. I am an attorney. I am engaged in the practice of law primarily in Omaha, Nebraska, and I specialize in juvenile court law. I am the author of Juvenile Court Law and Practice, published by Thomson West, now in its ninth edition, which is dedicated exclusively to juvenile court law practice and procedure in Nebraska. I have served as a guardian ad litem in numerous juvenile court proceedings. I've also practiced in the juvenile courts in various counties throughout the state. I'm the current chair of the Guardian Ad Litem Subcommittee of the Nebraska Supreme Court Commission on Children in the Courts, however, I need to make it clear this afternoon that I am not testifying today in my capacity as chair of that subcommittee. And I'm not representing the Nebraska Supreme Court Commission on Children in the Courts with respect to this testimony. I've only mentioned it so that you, Senators, will know that I have a working familiarity with the guidelines and I have a working familiarity with the standardized guardian

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ad litem report form that was created by the commission. First, I'd like to thank Senator Krist for introducing LB15. After hearing Mr. Steel's testimony, I would also like to thank the Nebraska Supreme Court for its continuing interest and its support for examining issues concerning children in the courts and for continuing the Supreme Court Commission on Children in the Courts so that we can at least have some venue to talk about these problems. I'm testifying in the neutral position today on LB15 not because I have reservations one way or the other, but because I'm just here to say, regardless of whether these guidelines are a court rule or whether they wind up ultimately as statute, the key to reaching any kind of effectiveness with them is enforceability. I have a great deal of respect for the previous speakers, witnesses who testified in terms of looking up on-line and finding the guidelines. And if it helps clarify anything, the guidelines we had hoped would become court rules but they became guidelines, and guidelines are simply best practices. So why there could not be accountability as long as they were guidelines is if an attorney didn't follow the guidelines, then the attorney basically was guilty of not following the best practiced, although they may have followed some kind of practice. And I don't want to qualify what that would be. If they are court rules and if they are statutes, one way or the other, no matter how this works out, and I'm aware of the current amendment, I think it does give us better traction in terms of extracting accountability for guardian ad litem performance. Let me give you an example. Within the guidelines, the duty of consultation, the current statutes in the juvenile code just require the guardian ad litem to consult with the juvenile. But they don't define what... [LB15]

SENATOR SEILER: Excuse me, ma'am. Just hold up. You've got a red light. Senator. [LB15]

SENATOR KRIST: This is going to be part of my closing. So you need to explain, I guess, from a perspective whether it goes in statute, whether it goes in guideline, the course that you're moving down, what happens if those guidelines that become statute or become court rule are not performed the way they're supposed to be. [LB15]

CHRISTINE COSTANTAKOS: I think a previous speaker also addressed that as well. If they're not performed, you can appeal to the judge. You can ask the judge immediately through a motion to impose sanctions right then and there in the juvenile court proceeding because this guardian ad litem is not following the court rule if it's a court rule. If...you can also file, as everybody knows, a complaint with the Counsel for Discipline regarding the attorney's noncompliance with the court rule. If the judge won't enforce those, I think that there are steps that can be taken maybe even in the nature of some kind of a mandamus to try and impose the obligation. You can...all of the guidelines I think have a great facility if they are court rules because any party can file a motion to remove a guardian ad litem for failure to perform the duties or for bias or for anything that they're doing that would interfere with their ability to render effective representation of the child's legal interests and best interests. Is there anything else you wanted me to...? [LB15]



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SENATOR KRIST: If you want to wrap it up, that's fine. [LB15]

CHRISTINE COSTANTAKOS: The only point I was going to make was because the juvenile code, and just by way of example, the word "consult" is not defined. So a new practitioner who is becoming a guardian ad litem isn't clear what that means, the difference when the guidelines become court rules would very specifically require that guardian ad litem to visit the child whenever the child asks, would require the guardian ad litem to visit the child when there is an emergency or a change of placement or just before a hearing where there is going to be a decision that would impact that child's best interest. I know we had a previous speaker who said take out the word, when possible. There are situations, however, where it is not always possible to consult with a juvenile at those exact intervals and there...I think the current statute contemplates then that that lawyer would go to the judge and ask, how do I discharge my duty of consultation, and get guidance from the court. Are there any questions? [LB15]

SENATOR SEILER: Any further questions? [LB15]

SENATOR KRIST: Thank you, Chris. [LB15]

CHRISTINE COSTANTAKOS: Thank you. [LB15]

SENATOR SEILER: Thank you very much. Any further in the neutral? [LB15]

BETHANY CONNOR: (Exhibit 13) Good afternoon. My name is Bethany Connor, B-e-t-h-a-n-y C-o-n-n-o-r. I'm the policy analyst for the Nebraska Children's Commission, and I'm testifying today in a neutral capacity to present the recommendations of the Nebraska Children's Commission's legal parties task force. The task force has issued a report containing their recommendations regarding the guardian ad litem provisions in LB15 and LB265. This report has been provided to you, so I will just mention some of the important recommendations regarding the role and duties of GALs including the visitation reporting requirements. The task force does recommend that the visitation requirements of LB15 and LB265 be combined to require the GAL to consult with the juvenile within two weeks and every three months thereafter and when requested by the child, after notification of emergency or significant event and before any hearing affecting the child's best interests. And I believe that possibly the amendment did do this. [LB15]

SENATOR KRIST: Yes, ma'am. [LB15]

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BETHANY CONNOR: The Nebraska Children's Commission also suggested that the GALs be required to attend all family team meetings and to monitor the children when they're taking psychotropic drugs more closely. The task force also recommends that the reports should contain all information required in both LB15 and LB265 and the amendment may have taken care of that as well. [LB15]

SENATOR KRIST: Yes, ma'am. [LB15]

BETHANY CONNOR: With additional information including the GAL's opinion on the child's attendance in court and including the wishes of the child if the child is of sufficient age or maturity and the child's expressed wishes regarding any other matters in the case if the child is old enough to communicate, of course. And the task force felt very strongly that the child's expressed wishes should be provided to the court even when the GAL finds that the expressed wishes are not in harmony with the child's best interests. In addition to giving the child a voice in the legal process, this also allows all parties to assess whether there's a potential conflict. And I'm almost out of time, so I'll just open it up to any questions. [LB15]

SENATOR SEILER: (Exhibits 14 and 15) Any questions? Hearing none, thank you for your testimony. Appreciate it. Any further neutral testimony? Seeing none, Senator Krist, you may close. All the written materials that have been submitted will be made part of the record. [LB15]

SENATOR KRIST: First, I want to thank everyone who came in either capacity: pro or con and also those in neutral. I think it's been a dynamic process, particularly in the last couple months, and I want to thank legal counsel for his help and diligence in listening to all sides. I want to clarify, I, too, believe, as did Dr. Neeley when she testified, that these enforceable rules that a GAL would have to adhere to are best placed in court rule. I personally am disappointed that it's taken from 2007 until now really to get to a point where we're going to make these enforceable. But I can assure you that in private conversation with Chief Justice and as you heard Mr. Steel testify to earlier, they're very serious about getting it done by the 1st of July of this year. And I think without comment, if there is no comment, they probably can get it into the court rule and clear quicker than that. Next, although it's... [LB15]

SENATOR SEILER: Excuse me, if I could just ask a question at that point so I don't forget it. [LB15]

SENATOR KRIST: Sure. [LB15]

SENATOR SEILER: Are we going to have any input on that, on those court rules? [LB15]

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SENATOR KRIST: The piece of legislation says that the court rules will be the guidelines as they've been established in July of 2007. So it specifically names the guidelines. And in fact, Senator, the language of my original bill, to put it in statute, were the guidelines. [LB15]

SENATOR SEILER: Okay. [LB15]

SENATOR KRIST: So whether they go in statute or whether they go in court rule, it is that version of the guidelines that will be imposed. [LB15]

SENATOR SEILER: Thank you. [LB15]

SENATOR KRIST: Thank you. [LB15]

SENATOR SEILER: Sorry to interrupt you. [LB15]

SENATOR KRIST: That's all right. I think it's been alluded to many times, but I think I'm becoming very serious about making sure that in the statute there's one more amendment that needs to go in there. And that is that we need to find and guarantee there is a feedback loop, a complaint mechanism, and a guideline, if you will, for the public to say: if, then, then, then, then. So they can go down a checklist and take the necessary action and there's no ambiguity about what happens. I thank everybody for making their comments. I will...we will talk about the things as they come up, and I hope that we can get this out of committee as soon as possible. And that would conclude my statement. [LB15]

SENATOR SEILER: Any questions of this presenter? Looks like you get to start on LB347. [LB15]

SENATOR KRIST: (Exhibit 1) Good afternoon, Senator Seiler and fellow members...actually, yeah, it's still afternoon. No, good evening. Good evening, Senator Seiler and fellow members of the Judiciary Committee. For the record, my name is Bob Krist, B-o-b K-r-i-s-t, and I represent the 10th Legislative District in northwest Omaha, along with the north-central portion of Douglas County which includes the city of Bennington. I appear before you today in introduction and support of LB347 which adds juvenile justice to the accountability provided by and through the Office of Inspector General of the Nebraska Child Welfare. The Office of the Inspector General, or OIG, was created during the 2012 Legislative Session by LB821, pursuant to the Health and Human Services Committee's LR37 report which recommended creating the office to look into state and private agencies that serve children, thereby enhancing accountability and facilitating reform of the child welfare system. The Office of the Inspector

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General of the Nebraska (sic--Child) Welfare is to provide increased accountability and legislative oversight of the child welfare system; assist in improving operations of the system; offer an independent form of inquiry for concern, specifically regarding actions responsible for the care and protection of the children in the Nebraska welfare system; provide a process for investigation and review to determine whether individual complaints and issues inquiries reveal a system problem which then necessitates legislative action; and conduct investigations, audits, inspections, and other reviews. The OIG investigates complaints, child deaths, and other critical incidents involving Nebraska's system-involved youth and in every instance looks for statewide implication. Since 2012, the Nebraska...Nebraska has undergone significant juvenile justice reform. It has been of particular interest to me that...by cochairing the Juvenile Detention Alternative Initiative statewide, my knowledge of the Models for Change of the MacArthur Foundation in strengthening our juvenile justice system around the country. One article through Models for Change by Robert Schwartz, executive director of Juvenile Law Center, points out, and I quote: Strong mandates alone are insufficient to ensure that youth are treated fairly and that law is followed. Reforms must, of course, begin with the right mandates, but they must also be accompanied by accountability and transparency. LB347 helps to improve the accountability and transparency for all of Nebraska's system-involved youth and their families by defining the child welfare system as both the abuse and neglect system and the juvenile justice system. The bill adds juvenile probation, juvenile detention, juvenile justice-type programs, and involvement by...through the Crime Commission through juvenile diversion and community-based juvenile systems' aid programs. With the OIG and Senator Campbell, we have been working with the court on some amendments because of concerns regarding the juvenile probation operating under the Supreme Court and clarify that in no way the OIG is supervising any probation employees. The separation-of-powers issue came up and we've been working with the Supreme Court in that way. I have a letter that I've circulated in support by...from Marshall Lux, our Ombudsman, and I... [LB347]

SENATOR SEILER: We do have a copy of it. [LB347]

SENATOR KRIST: You have a copy? Okay. I won't read that, but I think it's very important. And I'll save my comment on separation of powers for my closing. Thank you. [LB347]

SENATOR SEILER: Okay. First proponent. [LB347]

JULIE ROGERS: (Exhibit 2) Good afternoon. My name is Julie Rogers, J-u-l-i-e R-o-g-e-r-s. I'm the Inspector General of Nebraska Child Welfare. As you know, the office is to strengthen legislative accountability when it comes to the Nebraska child welfare system. It is the only office with the name Inspector General in the country to be housed in the legislative branch of government. We take care to ensure our role is clear: not to take the place of other investigations

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done for other purposes, such as law enforcement, that we generally think of residing in the executive branch or human resource issue investigations and the like. We have no supervision of any public or private entity investigated by our office but, instead, we provide accountability by and through the Legislature. Over the past two and a half years, as we have completed inquiries, reviews, and investigations of the child welfare system, juvenile justice issues arise. They include issues relating to the Office of Juvenile Services under the Department of Health and Human Services, the Youth Rehabilitation and Treatment Centers in Geneva and Kearney, crossover youth, foster placements, and licensing issues through the Office of Public Health. Since the passage of LB561 in 2013, the office must investigate any death or serious injury of a juvenile probationer that occurs in an out-of-home placement. Because we do not currently have under our purview the entirety of the juvenile justice system, it is difficult to understand the system as a whole and make proper systemwide recommendations. Moreover, as concerns arise about youth in the juvenile justice system, we have no mechanism or current authority to look into such concerns. Such current concerns include topics such as the use of indefinite probation, high levels of youth commitment in out-of-home care in the juvenile justice system, little information on youth with mental health needs or developmental disabilities. We are charged with investigating problems in the child welfare system but we were not charged with doing so with all of Nebraska's system-involved youth, the juvenile justice populations. LB347 solves this by adding juvenile justice to the definition of child welfare in the act. This would allow our office to uncover wrongdoing or serious accountability, in every instance to look for systemwide implications. We strive to provide a systemic perspective which can guide lawmakers, advocates, administrators, and other stakeholders in efforts to improve Nebraska's child welfare system and hope to do so for the whole of Nebraska's child-serving systems with LB347. Thank you.  
[LB347]

SENATOR SEILER: Questions? Go ahead, Senator Krist. [LB347]

SENATOR KRIST: Very quickly. [LB347]

JULIE ROGERS: Yes. [LB347]

SENATOR KRIST: You...we've talked but I want to make it a part of the permanent record. You have been asked by areas outside of your jurisdiction to assist in investigation of systems, problematic parts of the system, have you not? [LB347]

JULIE ROGERS: Yes. [LB347]

SENATOR KRIST: You want to talk to that for a second? [LB347]

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JULIE ROGERS: Juvenile probation has let me know of certain situations that have happened with their...with probations under their supervision, but I've had no authority to look into those situations under the current system. [LB347]

SENATOR KRIST: And with LB347 that jurisdiction will be in place. [LB347]

JULIE ROGERS: That's right. [LB347]

SENATOR KRIST: Thank you very much. [LB347]

JULIE ROGERS: Yes. [LB347]

SENATOR SEILER: Any other questions? Thank you. [LB347]

JULIE ROGERS: Thank you. [LB347]

SENATOR SEILER: Next proponent. [LB347]

MELANIE WILLIAMS-SMOTHERMAN: Hello again. This is...my name is Melanie Williams-Smotherman, M-e-l-a-n-i-e W-i-l-l-i-a-m-s, hyphen, S-m-o-t-h-e-r-m-a-n. I'm the director of the Family Advocacy Movement and I am speaking today in favor of LB347. I'm appreciative of the expansion of the authority and ability of the Inspector General's Office. I would like to add that I think she needs a larger office and more staff. And I know that this bill doesn't address that, but I'm not here to...I haven't been given the authority to speak on her behalf. I'm just saying that, you know, with all of the testimony that you heard today, they should be getting her card. Every single one of those families needs to be able to talk to her. And if I were to refer even half of the number of families whom I talk to appropriately to her office, she would not have the resources to address them all. Back about two and a half years ago, three years ago, when LB957 was passed which created the Inspector General for Child Welfare position, I think that the only concern I had at that point was that I was hoping that her role would be expanded and this bill helps to do that. I still believe that her office...well, first of all, that the Inspector General's supporting documentation that she uses are...should be made public. I believe that there should be a rebuttable presumption that the full reports are made public and also that they include that her office authority includes complaints, looking into complaints alleging wrongful removal of children. And that still stands. That's still my concern is that she needs that authority as well. But again, the more that we put on her desk, the more she needs to have the resources to be able to follow through and we need her, so. [LB347]

SENATOR SEILER: Further questions? Thank you. [LB347]

MELANIE WILLIAMS-SMOTHERMAN: Thank you. [LB347]

SENATOR SEILER: Further proponent. [LB347]

JULIET SUMMERS: (Exhibit 3) I think we're at good evening, Chairman and members of the committee. My name is Juliet Summers, J-u-l-i-e-t S-u-m-m-e-r-s. If Senator Krist has a bill, I support it this year. All children deserve the best opportunities to become healthy and productive adults and when they become involved in the juvenile justice system we must ensure that that system is working to enhance, rather than undercut, those opportunities. To that end, Voices for Children in Nebraska supports LB347 which would expand the jurisdiction of the OIG to the juvenile justice system. With the passage of LB561 in 2013, the system underwent significant reform to better serve youth in their own communities. Under this bill, youth with status or delinquency offenses could no longer be made state wards to access services and would be served by the Office of Juvenile Probation. Such cases which previously might have been under the supervision of the Department of Health and Human Services, however, would not be subject to external oversight by the Office of the Inspector General. By all accounts, probation has done and is doing an admirable job stepping up to the plate to handle these youth. However, Nebraska children continue to be placed out of their homes in these cases and even at facilities in other states not subject to Nebraska licensing or direct day-to-day oversight. Reports and concerns have surfaced from time to time about incidents of injury or excessive force at some of these institutions. At the same time, if an individual probation officer fails to follow through on court orders with a detrimental result to a child, the child and family does not currently have a remedy other than probation's own internal review process. And while we believe that probation would investigate such incidence with integrity, we also know that external review is always beneficial. External review is a safeguard against real and perceived injustice, ensuring no incident slips through the cracks, and it increases public trust in the system. The OIG already serves this important and independent role in ensuring that all children who come into the care of the state in abuse/neglect cases are kept safe and given the proper supports and services that they need to succeed. This bill would maximize state resources utilizing a structure already in place to extend those same safeguards to children coming into care through the juvenile justice process. We thank Senator Krist for bringing this issue forward and we would respectfully urge the committee to advance it and thank you for your time. [LB347]

SENATOR SEILER: Questions? Seeing none, thank you very much. [LB347]

JULIET SUMMERS: Thank you. [LB347]

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SENATOR SEILER: (Exhibit 5) Next proponent. Opponent? In the neutral? You may close. I move that all the handouts and written materials we've received be made part of the record. [LB347]

SENATOR KRIST: (Exhibit 4) Again, thanks, everyone, for coming and for testifying. I'm handing out to you what I think is an important consideration when we talk about oversight and the clear constitutional division between three branches of government. Powers of the...I read from our own Nebraska Constitution just for the record: The powers of the government of this state are divided into three distinct departments, the legislative, executive, and judicial, and no person or collection of persons being one of these departments shall exercise any power properly belonging to the...to either of the others except as expressly directed or permitted in the constitution. Notwithstanding the provisions of subsection (1) of this section, supervision of individuals sentenced to probation, released on parole, or enrolled in programs or services established within a court may be undertaken by either the judicial or executive branch or jointly, as provided by the Legislature. I think it's pretty clear that it's our oversight responsibility and that there is no infraction as long as the IG complies with her own jurisdiction and processes in place. That's all I have. Thank you, Senator Seiler and fellow members. [LB347]

SENATOR SEILER: You've heard some discussion about how it would go one, two, three being recommended. I would assume that somewhere along there there's...we've got to include the appeal level of appealing up to the Supreme Court and we don't step in and shortcut that. [LB347]

SENATOR KRIST: Absolutely. Yes, sir. I agree. [LB502]

SENATOR SEILER: Okay. [LB347]

SENATOR KRIST: Yep. [LB347]

SENATOR SEILER: Just a second. He's looking up something that I'm... [LB347]

SENATOR KRIST: Okay. [LB347]

SENATOR SEILER: ...curious about. Yeah, I want to see if I'm thinking of the right one. [LB347]

SENATOR KRIST: Technology is wonderful. [LB347]



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SENATOR SEILER: I just want to put it into the record if it's what I'm thinking of. [LB347]

SENATOR KRIST: Sure. [LB347]

SENATOR SEILER: No, it's not, so. [LB347]

SENATOR KRIST: That concludes my comments. [LB347]

SENATOR SEILER: Senator Krist, you may open on LB502. [LB502]

SENATOR KRIST: Okay, and this is the sugar on top or the cherry on top, because I don't think this is going to take more than 15 minutes. For the record, good afternoon, Senator Seiler, or evening, Senator Seiler and fellow members of Judiciary Committee. For the record, my name is Bob Krist, B-o-b K-r-i-s-t, and I represent the 10th Legislative District in northwest Omaha, along with north-central portions of Douglas County, which includes the city of Bennington. I appear before you today in introduction and support of LB502. LB502 is probably one of the shortest bills you're ever going to see other than a cleanup bill. It says that we are very serious about establishing a family court in the state of Nebraska. This was the intention of asking the judicial branch to establish a family court as a pilot project in Douglas County. The reason for Douglas County, besides it being my own county, is we have a wonderful, out-of-the-box juvenile justice, juvenile Judge Doug Johnson, who runs a therapy dog, who runs out-of-the-box kind of things within his court system that have made wonderful applications to the juvenile court. He believes that a family court, if you can work with one good parent, just one good parent in a family, and treat the family as a family when there are problems--there may be divorce, there may be bankruptcy, there might be truancy, there might be any number of things--but if you can work as a family, work with the family in the family court, that we would have much better outcomes. And there's evidence-based programs out there that have proven that, like any kind of problem-solving court, the family court works. However, I've been asked by the Court Administrator, Mr. Corey Steel, and the Chief Justice, instead of doing anything with this bill this year, I would put in an LR and ask for an interim study for them to look at all those evidence-based programs that are out there and report back to this committee, the LR will say, by December 15, 2015, and tell us how they want to proceed. It is going to be up to them to execute. And as I've said many times, I don't want to solve anybody's problems, I just want to facilitate those issues being solved. And that should be our job: to legislate, appropriate, and apply oversight. So with that, I'm sure there might be someone here who wants to talk, but I'm done and I waive closing. [LB502]

SENATOR SEILER: Okay. I'm still not going to let you go home (laughter). [LB502]

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SENATOR WILLIAMS: No, you have to stay. [LB502]

SENATOR MORFELD: You've got to stay with us. [LB502]

SENATOR SEILER: Any proponents? Any proponents? Corey? Neutral? Okay. Any opponents? In the neutral? [LB502]

COREY STEEL: (Exhibit 1) I will, as well, try to make this short. Good afternoon, Chairman Seiler, members of the Judiciary Committee. I'm Corey Steel, C-o-r-e-y S-t-e-e-l, and I am the State Court Administrator for the Nebraska judicial branch. I'm here to testify neutral on LB502. I want to once again thank Senator Krist for all of his leadership around child welfare/juvenile justice. The Administrative Office of the Courts is in full support of the family court structure. This has shown to be a great concept across the United States and the one-family-one-judge philosophy. We have a similar philosophy currently within our separate juvenile courts in Douglas, Sarpy, and Lancaster County. If it is a child welfare or a juvenile justice case, including status offense cases, with similar...within the juvenile court, the same judge is assigned to all those cases belonging to that family. The full family court philosophy would include additional cases that are not currently in the juvenile court's purview, such as--these are some examples--divorce proceedings that would include children, child custody, parenting time, and other type of family cases. Those are just a few examples. These cases would be in addition to our current practice in juvenile courts in Nebraska. The Administrative Office of the Courts would request that we are given some time to study the family court philosophy and come up with recommendations and a plan on how Nebraska should proceed. We can partner with the National Center for State Courts and National Council on Juvenile and Family Court Judges Association to assist us in creating a family court structure that would work in Nebraska. The AOC would be willing to come back and present the findings of the study to the Judiciary Committee and make recommendations on the best way to implement. Once again, I thank you for the time and I'll answer any questions that you may have. [LB502]

SENATOR SEILER: Any questions? Yes, go ahead. [LB502]

SENATOR KRIST: Just a comment. I'll work with you with any language for that LR to assist you and we will, in the legislative branch, obviously, lend our support through our Legislative Research Office in any way we can. [LB502]

COREY STEEL: Great. I appreciate that. [LB502]

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SENATOR SEILER: Thank you very much. Anybody else in the neutral? I believe I heard the introducer say he's waiving. Waive closing? Any documents submitted will be made part of the record. This committee hearing is terminated. [LB502]