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Health and Human Services Committee and Judiciary Committee
November 15, 2016

[LR523]

The Committee on Health and Human Services and the Judiciary Committee met at 2:00 p.m. on Tuesday, November 15, 2016, for the purpose of conducting a hearing on LR523. Health and Human Services Committee senators present: Kathy Campbell, Chairperson; Sara Howard, Vice Chairperson; Roy Baker; Nicole Fox; Mark Kolterman; and Merv Riepe. Senators absent: Sue Crawford. Judiciary Committee senators present: Laura Ebke; and Patty Pansing Brooks. Senators absent: Les Seiler, Chairperson; Colby Coash, Vice Chairperson; Ernie Chambers; Bob Krist; Adam Morfeld; and Matt Williams.

SENATOR CAMPBELL: So, Senator Howard, you ready? Well, we will open the hearing on LR523, and this is Senator Howard's interim study to examine Nebraska law regarding the protection of children who have reached 18 years of age, but have not yet reached the age of majority. So...all right.

SENATOR HOWARD: All right. Good afternoon, Senator Campbell and members of the Health and Human Services Committee, and also, welcome to the members of the Judiciary Committee, when and if they arrive. [LR523]

SENATOR CAMPBELL: Yes. Oh, we'll maybe stop for just a minute. Senator Ebke has joined us. Is there anybody else out in the hall, Senator Ebke? [LR523]

SENATOR EBKE: I didn't see anybody, but... [LR523]

SENATOR CAMPBELL: Okay...because we thought we might be having two or three others. Why don't you wait just a minute and we'll check out in the hall. [LR523]

SENATOR HOWARD: Right. Sure. [LR523]

SENATOR CAMPBELL: Since we're...nobody else out in the hall? All right, then. Senator Ebke, you're it, I think, representing Judiciary today. [LR523]

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SENATOR EBKE: All right. [LR523]

SENATOR CAMPBELL: Senator Howard, go ahead and start us off for the interim study hearing. [LR523]

SENATOR HOWARD: (Exhibit 1) Okay. My name is Senator Sara Howard, H-o-w-a-r-d, and I represent District 9 in midtown Omaha. Today I'm here to talk about LR523. It's an interim study resolution that examines Nebraska law regarding the protection who have reached 18 years of age, but have not yet reached our age of majority. Because the age of majority in Nebraska is 19 years of age, this presents a gap year in which minors are still not eligible for child protective services, but also experience a lack of services, such as Adult Protective Services, legal protections, or access to public benefits, such as the Bridge to Independence program. I've invited the Judiciary Committee, represented so ably by Senator Ebke, today because another issue that ties in with this study is Nebraska's laws on emancipation. Our current statutes on the subject aren't clear and have been the subject of proposed legislation before, most notably in 2007 when then Senator Phil Erdman sought to create a specific process for judicial emancipation for minors who are least 16 years of age. There may be many reasons and situations why a child would seek emancipation. The basis for this legislative study came about when my office was contacted by a young woman who found herself in one of these situations. Her name is Faith and she'll follow me to testify. She's also a fellow Duchesne grad, which is always nice to see in the Capitol. While Faith will speak to the abuse and neglect aspect of this subject, other minors who might be affected are those with disabilities who are unable to live independently and could face a critical lapse in services. Along with Faith, retired Judge Ronald Reagan is here to tell his experiences from the other side of the bench in situations such as Faith's that have arisen. Juliet Summers, from Voices for Children, is also here to give testimony that will cover more of the division of issues that we are facing, the division between Health and Human Services versus what would presumably go to the Judiciary Committee. The questions that I'm hoping to begin to answer today are: First, should the Juvenile Code be updated to change the definition of a minor to a child who has not yet reached 19 years of age? Or, should state services be required to cover those who have reached 18 years of age until they reach the age of majority? And, finally, should Nebraska statutes contain a clear path for a minor to become emancipated? I appreciate all of you taking the time to listen to this issue today. I'm

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happy to try to answer any questions. I believe you've all received a copy of the letter that we sent to Director Weinberg that just...we wanted to get a feel for the numbers that we were looking at in terms of 18-year-olds who were trying to access child protective services or maybe weren't being filed on; and his response is stapled to the back of that letter, so you have an idea of the numbers of what we're working with. Are there any questions for me at the outset?

[LR523]

SENATOR CAMPBELL: Any questions, Senators, that you have? Thank you, Senator Howard. I'm sure you're going to stay. [LR523]

SENATOR HOWARD: Thank you. [LR523]

SENATOR CAMPBELL: I'm going to ask, so I don't forget, what letters, in addition to what Senator Howard has addressed, might we have today? [LR523]

ELICE HUBBERT: (Exhibit 5) We have a letter from Dr. Anne Hobbs at UNO. [LR523]

SENATOR CAMPBELL: Okay. Thanks, Elice. Our first invited testimony today is from Faith Walker. Good afternoon. [LR523]

FAITH WALKER: Good afternoon. Here's a copy of my testimony. Okay. [LR523]

SENATOR CAMPBELL: Before you start, Ms. Walker, I was asking the clerk--you do need to state your name for the record. [LR523]

FAITH WALKER: Um-hum. [LR523]

SENATOR CAMPBELL: And spell it, please. [LR523]

FAITH WALKER: (Exhibit 2) Okay. Good afternoon, Senator Campbell, and the members of the Health and Human Services Committee. My name is Faith Walker, F-a-i-t-h W-a-l-k-e-r. Thank you for inviting me to speak today. I grew up in an abusive home; mental, physical, and

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emotional abuse were behaviors that I thought of as completely normal. I can easily detail what I've gone through and the strange path that my life took, but it's a long story and the part that matters today is what happened when I turned 18. When I turned 18, I was entering my first year of college. I hadn't lived with my parents in more than a year, I hadn't spoken to them in just under a year, and I was well on my way to a stable lifestyle. I had my own house, a job that could support my living expenses and was flexible enough to allow for a college student, and the support of the Daveys, a family in Omaha that would help me out in a tight spot. Everything was going right until my parents didn't want it anymore. They pulled a series of scare tactics on me. They no longer knew where I lived, so they stalked my job--a job I'd had for a year and a half--and tracked when I would be alone. One day when I was closing, they arrived and blocked the exits at the bakery that I worked at. I called on my friends, who had been on standby in case of a parent-related emergency, and they showed up. When my parents realized that I wouldn't be alone and would be harder to take, they called the police. When the police arrived, they got a grasp of the situation: that I was independent; that I was going to school in just a week; that I was terrified of them; that I was a minor: and that my parents wanted me to go with them now. The police listened to my parents above my pleas for help and forced me to get in my parents' car to be taken wherever my parents chose. My parents threatened my physical well-being, my education, and my freedom. They said I would never go back to school, that I would never get away from them again. I was able to escape them in just under two days, but I will never forget telling a police officer that my mother threw knives at me and have him say, "you should have known that was wrong," before forcing me to get in their car. I was a minor; I had no rights and no ability to protect myself. For the next few months, I laid very low. I stayed home as much as possible, I got a new job on UNO's campus, I avoided places where they might be looking for me and tried to keep myself safe and out of their power. My efforts were in vain; on New Year's night, my parents called the police again and reported that I had run away and they feared for my safety. I got a call from an administrator at Omaha's Police Department, saying that an in-person safety check was required or I would be fully reported a runaway, and a warrant would be put out for my arrest. This was a shameless attempt by my parents to get my address or find out my new place of work. I reported my location to be the Davey's address and drove over there. My parents already had the Davey's address and it would lessen the potential danger that I was in. I arrived at the Davey's while they were still at a New Year's celebration. I had called to tell them of the situation and that I used their address, and they said they were coming immediately. The police

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arrived and left before they arrived at their home. It was a fast interaction. I explained the situation to the police, detailing my independent finances, the danger my parents posed to me, and that I did not want them to know my address. This police officer was kind, caring, and concerned for my safety. He called the department to ask if my location would be reported to my parents and said that if it would be, he would say he couldn't find me. He explained that, if he did that, I would have to lay low until I turned 19, avoid traffic stops and other interactions with the police. He learned that my parents already had the address that I reported, so he called and said that he found me and that I was fine and safe. Later that night, they arrived at the Davey's address--my parents did. In their fashion, they called the police again and stood in the Davey's yard, screaming. They accused Mr. Davey of keeping me as his mistress and paying my living expenses in exchange. They threatened to press statutory rape charges against him or force through a restraining order on my behalf, seeing as I was still a minor. Mr. Davey called me, asking me to talk to my parents and, please, tell them that we were not engaged in a sexual relationship. He was still under the impression that my parents were acting on my behalf, rather than in the name of a sadistic and toxic pursuit of power over me. They wanted me to call and beg them not to hurt Mr. Davey or press charges or anything else, and then give in to their demands. I didn't call them; I had escaped them twice, but I was terrified for my safety. I got the name and number of Aimee Melton, who agreed to help me. She had a specialty in family and divorce law, as well as past of advocacy for women on the city council; she is a city councilwoman. She initially planned to file for a protection order, which is a pretty simple process, but soon found that I was ineligible due to my age. Her second option was emancipation, which she hesitated to trigger in case we lost. If we lost, then I would lose the independence that I'd had, my lease could be, like, taken away from me, and my education would be in severe danger. Her second option was to file for emancipation. Soon after attempting to file for emancipation, she found that there was no statute or precedent for a minor's self-emancipation. The only precedent for emancipation was set in divorce cases, where a child was already self-supporting and one party didn't feel that paying child support was necessary. I was without any solid ground, completely unable to protect myself. But Aimee didn't give up; she got creative and filed a civil suit, essentially suing my parents for my emancipation. She was able to slide a no-contact order into the case itself and it narrowly survived the preliminary trial; I was safe. She delayed the hearing until after my 19th birthday and then it was dismissed. My situation is only unique in that it got attention. I had resources and I had help, people that cared

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about my current and future well-being. This gap will affect any 18-year-old that needs help; they have nowhere to go and not everyone is as lucky as I am. They won't have the help and they won't have the resources. In the course of researching this gap and learning of its effects, we learned about the random and scary places that it hits. Disabled people are put even more at risk by this gap. CPS leaves off at 18, and Adult Protective Services doesn't take place until it's 19. In another situation, say, a case is filed with CPS and one of the children in the case is 18, none of the data from that 18-year-old can be put into the case; it can't be used. If I had been able to pursue emancipation, I do believe that I would have won. I was entirely independent. I had my own lease, a job that could support my living costs, independent status at my university, and I hadn't spoken to my parents in more than a year; for all intents and purposes, I was emancipated. I just didn't have the right to protect myself, and that put everything I had built for myself in jeopardy. [LR523]

SENATOR CAMPBELL: Thank you, Ms. Walker. I always appreciate people who come forward to have to tell their personal story. That's not easy. Questions from the senators that you'd like to ask Ms. Walker? Ms. Walker, a question that I have is, should the process for emancipation be available to someone younger, say 16-17? [LR523]

FAITH WALKER: I think that's a tricky question but I, personally, with my experiences, would be in favor of it. Around the time that I was 17, I would have been equally as able to support myself and would have been in a place that I would have easily been emancipated, and I know that my older sister was in that position when she was 15. So it's very, very unique and, if there was an opportunity for a minor to be emancipated at 15, 16, 17, then I think that should be done on a case-by-case basis. [LR523]

SENATOR CAMPBELL: Were there reports of the abuse and neglect in the official record on your parents? [LR523]

FAITH WALKER: No. There were attempts to get reports, but when you grew up like I did, with a, sort of, generational consistency of instability and drug use and neglect, and when that, kind of, encompasses your entire family and everything that you know, the foster system and Child Welfare is this very big, scary concept that takes you away from your family and takes you away

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from your brothers and sisters. So, while there were attempts to talk to us and there were things that were noticed--there was a period in my junior year of high school where CPS was repeatedly trying to talk to me and my siblings during school and to pull us away from our parents but, when your siblings are the most important people in the world to you, the concept of being taken away from them is enough to deter you from anything. [LR523]

SENATOR CAMPBELL: I understand that. Any other questions? Thank you, Ms. Walker, very much for your willingness to share your story. It sheds a light on the problem that we're facing and the need to do something. So thank you. [LR523]

FAITH WALKER: Thank you. [LR523]

SENATOR CAMPBELL: Our next testifier this afternoon is Judge Ronald Reagan. Good afternoon, Judge. [LR523]

RONALD REAGAN: Good afternoon, Senator, other Senators. [LR523]

SENATOR CAMPBELL: You do have to state your name and spell it for... [LR523]

RONALD REAGAN: I will. Ronald Reagan, spelled R-e-a-g-a-n. To get the important matters out of the way first, yes, I am distant, shirttail relation to Ronald Reagan, the President, but I wasn't named after him because, at the time I was born, I think he was disc jockey in Iowa and unknown to my parents. So Aimee Melton, who is a partner of mine, actually represented Faith. I've never met Faith; I just listened to, somewhat, her testimony today. And asked if I would come down and, sort of, explain to the best I could for the committee, the emancipation and how it's addressed in the Nebraska statute and procedures and so forth. For those of you that may not know, and Senator Campbell introduced me as a judge, I am a retired district judge. I served in Sarpy County principally for a little over 32 years, 32 and a half years, but retired 11 years ago in January. Emancipation is a legal concept that a child, less than the age of majority, is separate and apart from his or her parents and, although it's a factual determination to be made in each particular case, we're faced with some problems, such as Faith. And that is, is that there's a statute in our civil procedure that says all actions by infants or against infants must be

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maintained by their guardian or next friend. Now I spoke yesterday, I think, with Juliet, maybe your counsel, Senator Howard, and I told her that the concept of next friend, at least years ago, was much looser than it is now. And sometimes lawyers, I think, would file cases, not necessarily for emancipation, but for an infant and they'd simply name the secretary as an offices of best friend, or a paralegal. Unfortunately, or maybe fortunately, a case came down from the Court of Appeals today that said, no, a next friend has got to have closer ties than that. So it does pose a problem, whether it be Faith or anyone else, that truly feels that they're emancipated from their parents for whatever reason...can't maintain an action in and of themselves to do it. Now I know that, or at least I think, by looking at your legislative resolution, that you're addressing, principally, the Child Protective Services, and maybe that's an appropriate place to start. I think, maybe, what I would suggest is that the real place to start is Chapter 25--it's 25-307. And I can read it for the committee: "Except as provided by the (Nebraska) Probate Code"--and don't worry about that; that has to do with disinheritance--"the action of an infant shall be commenced, maintained, and prosecuted by his or her guardian or next friend." It's as simple as that. Now there's some other language, but that simply means, and both the Court of Appeals and the Supreme Court has, sort of, interpreted to mean that if somebody that is an infant brings a lawsuit, it's dismissed for lack of prosecution...or not lack of prosecution, for lack of jurisdiction. And there are a couple of cases that you can...that can be cited to support that. The odd thing about this, really, and I got to thinking about it...actually I woke up last night, thinking about what I wanted to tell you. And one of the things that's sort of odd about this is that you go to--and I don't want to deal with the pros and cons of this issue--but you go to the statutes pertaining to abortion and, in actuality, although 307 says the probate code, there is actually an express provision in Chapter 76, whatever the abortion, that specifically allows any minor--there's no age requirement at all, other than minor has to be a female and has to be pregnant, can maintain an action in district court. And that's for to avoid parental consent. And I probably had, over the time that last few years that I was a judge, probably had, maybe, 15 or 20 of those parental consent petitions. Never even thought about Chapter 25-307, because there was an express statute that allowed a pregnant minor to avoid having to give parental consent...or having to have parental consent to obtain an abortion. So there is that exception and I guess, maybe, what I'm suggesting is that, again, maybe the approach to take is 25-307, is to simply provide that, if there is a minor that feels that he or she is emancipated, that there's authority for them to maintain that action without a guardian or next friend. If, in fact, they live with their parents, it's impossible to

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have a guardian, you know, because their parents are their natural guardians. And there's one other thing that is of some interest, although it may not--well, I'm sure has no effect, really, on the Child Protective Services--but I looked up in the Administrative Code in the Department of Education, and I presume that this is for purposes of school attendance and so forth, but there is, in fact, a provision in their code that emancipated minor means a person under the age of 19 who is married or in the military. And, obviously, those are two situations where emancipation ends...or where emancipation occurs, and it shall also mean a person under 19 years of age who resides apart from his or her parents; is not under the care, custody, and control or supervision of his or her parents; and who receives no financial support or services from his or her parents and is responsible for securing his or her own support. Now I think, probably, that Faith qualified under that, but there is still the problem that our Supreme Court has indicated that intent, intent of the parents, is another factor. And it's if the intent of the parents is not to have emancipation, then that's a big hurdle to overcome. But I think that, probably, what you're interested in first is saying that at least there is some recourse that a minor in Faith's position can look to, to get some relief. That's it in a nutshell. I won't take any more, but I'll be glad to answer questions, if I can. [LR523]

SENATOR CAMPBELL: Thank you. Questions...Senators, any questions? Senator Kolterman. [LR523]

SENATOR KOLTERMAN: Thank you. Judge Reagan, thank you for your service. [LR523]

RONALD REAGAN: Sure. [LR523]

SENATOR KOLTERMAN: And thank you for coming today. And I know we're looking...right now the age of majority is 19. Can we eliminate some of the problem by lowering it to age 18? [LR523]

RONALD REAGAN: Sure, sure. [LR523]

SENATOR KOLTERMAN: I mean, that's one way of getting around that. That could help us with a lot of other things as well. [LR523]

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RONALD REAGAN: Senator Kolterman, I had to laugh. When we were talking about that yesterday, one of the associates in the office asked the same question. And I said sure, you can do that...or the Legislature could do that. And I said, you know, years and years ago, I want to say in maybe the early 1970s, the Legislature lowered the age for alcohol consumption. And they lowered it to either 18 or 19, I don't recall which it was. [LR523]

SENATOR KOLTERMAN: It was 19. [LR523]

RONALD REAGAN: Was it 19? [LR523]

SENATOR KOLTERMAN: I qualified. [LR523]

RONALD REAGAN: There was a very, very big uproar, you know, and so the issue was revisited a year or so later, and a good friend of mine from Bellevue, Frank Lewis, who was a member of the Legislature at the time, and of course, the bill was put forth to the floor...got to the floor to restore the age to 21. And Frank was so incensed about the--we were upping back to 21--and he offered an amendment to put it at age 37, because he happened to be 38 at the time. So the Legislature can adopt anything, you know, as far as an age of majority goes. [LR523]

SENATOR KOLTERMAN: Thank you. [LR523]

RONALD REAGAN: I hope that answers your question. [LR523]

SENATOR KOLTERMAN: That does; it does. [LR523]

RONALD REAGAN: Yeah. [LR523]

SENATOR CAMPBELL: Judge, in...I think you covered some of this but, would it be helpful to put in the conditions that would mirror what is in the education section? [LR523]

RONALD REAGAN: Well, it probably would be, it probably would be helpful maybe, to the extent that one of the appellate courts gets the issue. Oh, it might be, it might be helpful even to

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the trial judges that would be facing with the issue. I think now, I think now most trial judges probably recognize, you know, all these things that the Department of Education says. So in essence, Senator Campbell, what I'm saying is, it's the common law of the state now that judges are supposed to follow, you know, that they look at all these factors. [LR523]

SENATOR CAMPBELL: Okay. [LR523]

RONALD REAGAN: For instance, our court, our Supreme Court, has already said that, if a female under the age of 19 is pregnant or has a child, that that's a factor to look at to determine whether or not there's emancipation. One thing that I probably neglected to say is emancipation generally arises in the context of child support obligation in domestic cases, and/or paternity. There's a case that came out of Sarpy County, and Judge Wester had it, and it was two 15-year-old parents, where the mother had decided to place the child for adoption, and the 15-year-old father filed a lawsuit to block it in some fashion, I don't recall. And Judge Wester, besides other things, ruled that 25-307 prevented him from being party to that lawsuit. And that issue was upheld. [LR523]

SENATOR CAMPBELL: So that the conditions that the court would consider may be far more important than a specific age? [LR523]

RONALD REAGAN: Well, as I indicated, I think to start off, although emancipation is a legal matter, determining whether somebody's emancipated is a factual determination on a case-by-case basis. So all those things, various things, can be looked at. [LR523]

SENATOR CAMPBELL: So in the case of Ms. Walker's sister, if we had a different process in place, she could have at least appealed to the court at 16 or 17, if she had those conditions in place? [LR523]

RONALD REAGAN: I got to confess I wasn't able to hear that, you know, so... [LR523]

SENATOR CAMPBELL: Oh, okay. She talked about the fact that her sister faced much the same situation. I think I'm saying that correct. [LR523]

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RONALD REAGAN: She did? [LR523]

SENATOR CAMPBELL: Faith, am I? [LR523]

FAITH WALKER: Yes. [LR523]

SENATOR CAMPBELL: Okay. And so it would be, again...fall to the court to take a case-by-case look at whether she would have the wherewithal to be on her own. [LR523]

RONALD REAGAN: That's right. But again, it's still the parents' intent factors in there, too. So, you know...so let me put it this way: The Legislature can enact laws in derogation of common law. So when I say that the parents' intent is a factor in determining whether or not a child or children are emancipated, the Legislature, of course, would have the right, as a matter of public policy, to make it a nonfactor. Is that clear? I'm... [LR523]

SENATOR CAMPBELL: Yes. [LR523]

RONALD REAGAN: I don't mean to be negative, in a sense, but if the Legislature wrote that in and said: these are factors for courts to consider, but the intent of the parents is immaterial or irrelevant, whichever way you want to say. [LR523]

SENATOR CAMPBELL: Okay. [LR523]

RONALD REAGAN: You know, then the courts are bound to follow that. [LR523]

SENATOR CAMPBELL: Sounds to me, Judge, like Senator Howard can be talking to you about how to put this together. At least you have some ideas of how that... [LR523]

RONALD REAGAN: I haven't met Senator Howard before. I think I've met her mother, maybe years and years ago but, you know, her legislative assistant called, or I called her, just, I guess just maybe yesterday or...yeah, I think it was just yesterday. Yeah. [LR523]

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SENATOR CAMPBELL: Well, thank you very much for your testimony today. [LR523]

RONALD REAGAN: Sure, you bet. [LR523]

SENATOR CAMPBELL: ...and for your service on the bench. [LR523]

RONALD REAGAN: Thank you. [LR523]

SENATOR CAMPBELL: Our next invited testifier is Juliet Summers from Voices for Children. Before we hear from Ms. Summers, I want to welcome Senator Pansing Brooks. We had introduced Senator Ebke earlier. So I want to thank you both for coming today. Ms. Summers,... [LR523]

JULIET SUMMERS: (Exhibits 3-4) Good afternoon, Chairwoman Campbell and members of the Health and Human Services and Judiciary Committees. My name is Juliet Summers, J-u-l-i-e-t S-u-m-m-e-r-s, and I'm the policy coordinator at Voices for Children in Nebraska. I'm happy to be here today with you, because our office has certainly seen this 18- to 19-year-old gap in a number of areas in our policy work. And when Faith approached us in the spring of this year to talk about how this had personally affected her, it really struck home how, you know, it took that issue that has been, sort of, a big picture policy issue for us, that we've, you know, talked around and made it very personal, that these are children, young people who are struggling; and our systems aren't quite getting it right for them. So all children, even older ones, deserve care and consideration in our state protective codes. And, as you've heard today, we do have this gap where Nebraska's age of majority is 19, but we have a piecemeal response when it comes to 18-year-olds and how they should be treated. You heard from Faith, and I think her story is very compelling and it outlines, really, how the lack of protective response that's available when an 18-year-old is seeking to escape from an abusive home life, and that abuse or neglect hasn't been identified sooner. You should also have before you a letter from Dr. Anne Hobbs, speaking in her personal capacity as a foster parent. And she witnessed this gap firsthand last year and the discrepancy in how our system responds, solely based on age of the minor, between two brothers that came into her home through foster care, actually on the juvenile justice delinquency side. And, you know, just flag her letter, because it's a really important, kind of, piece of the puzzle

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here. Judge Reagan outlined the complexity of the case law regarding emancipation and how we have case law around emancipation, but it's all post facto; there's no way for a minor to bring, really, to bring direct suit requesting that a court pre facto determine that they are emancipated. And so my role today is to describe for you two possible avenues of solution for this gap that our laws and regulations have created. And I have submitted, with a copy of my testimony, a handout for you that tries to lay it out in a, sort of, organized fashion. So one possibility is to raise the age of our juvenile court jurisdiction and our Child Protective Service response to match our age of majority. In answer to Senator Kolterman's question to Judge Reagan, I would say that Nebraska was actually ahead of the curve in setting our age of majority slightly older than, you know, as we, in recent years, have seen more and more brain science coming out from studies of adolescents and how the brain evolves. We know that young people don't really grow, for the most part, into true emotional and psychological maturity until they're much older. Some states are looking at sending the age of majority even higher than where we have, or many states that currently have it set at 18 are looking at 19 or 20 or 21. So I would say we're ahead of the game in that regard but, by raising the age of legal majority without simultaneously extending juvenile court jurisdiction for initiating cases or a CPS response to match, we have this gap for 18-year-olds who are nearing legal adulthood, but they're not quite there yet. And maybe they, nonetheless, require protection and assistance like in Faith's case. So the Juvenile Code 43-245(11) defines "juvenile" for the purposes of initiating jurisdiction as a person under 18 years of age, and DHHS regulation Chapter 1-006.01 states that "for intake purposes, child welfare accepts referrals on children from birth through age 17." So the cutoff is that 18th birthday. And what makes this cap particularly perplexing is that current statute permits ongoing cases to continue through the age of majority, so our child welfare system is already serving 18-year-olds, but if an 18-year-old is not identified until they're 18, there's no process to do an intake with them. So if permanency hasn't been achieved by the age of 18 for, say, a case that opened when a child was 14, that child can remain a state ward through the age of 18 and then transition ideally into the Bridge to Independence extended foster care program that allows them to have further supports until they're age 21. However, if an 18-year-old who has been in an abusive or a neglectful home comes to the attention of the system after their 18th birthday, they get none of that benefit or support or protective response. So the Nebraska Legislature could--one option would be to act to close this gap by permitting juvenile court jurisdiction to be initiated through the age of 19 and requiring DHHS to update intake regulations accordingly and, in doing so, the

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state would then be granting authority to CPS and the courts to intervene, you know, even if it's a time-limited fashion between the age of 18 and 19, when there's an 18-year-old who's at risk in an abusive or neglectful home life. And, as I mentioned, this--such a filing would also provide the youth with an opportunity to get former ward supports, like through the PALS program, after the age of 19 or even to enter extended foster care through Bridge to Independence. And I think you'll note, in Dr. Hobbs's letter, one, sort of, discrepancy where...in outcomes between the two boys that she fostered who came from an identical home life, but one was just a little bit older, was that the younger one did eventually receive an abuse/neglect (3)(a) filing and then, is now eligible to get the benefit of Bridge to Independence; but his older brother was not able to. So the second option that Judge Reagan describes a little bit further would be to create a statutory avenue for minors of a certain age to initiate proceedings for emancipation. So this would be a complementary approach and, you know, as Judge Reagan testified, there may be some common-law route for a creative lawyer to seek emancipation and make a case that they're a next friend of a child; however, I think, as a lawyer, I would say lawyers could be chilled from doing so out of fear of filing a frivolous lawsuit or having it dismissed on the basis of not being the correct next friend. And furthermore, judges might refuse to hear such a proceeding without having some clear guidance in statute from the Legislature. And, of course, if lawyers and judges are deterred from doing this with their legal expertise, then vulnerable youth would, even more so, be less likely to know what avenue they might have to request that formal finding. So I will say that, in some of our research working with Senator Howard on this interim study and great assistance from the Legislative Research Office, we discovered that 21 states do offer minors some relief in the ability to initiate proceedings for a formal finding of emancipation, and they usually set a minimum age to do so, though not all do. Some permit the court to appoint a guardian ad litem when such a request comes in, or an investigator to make, you know, to investigate, find evidence of whether the young person is financially independent from their parents, and then present that information to the court. Nearly all of the states that permit emancipation by court filing have certain statutory requirements--so this is in answer to your question, Chairwoman Campbell--regarding financial and personal independence. Some are more comprehensive than others, laid out in statute. But they tend to mirror the list that the judge read that both our Department of Education considers, but also our courts have said, sort of post facto is what will be considered to determine if a minor is emancipated. And then in states that have these statutory requirements, the court would have to make those findings prior to having

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an order that there is legal emancipation. And finally, I would just note that neither of these solutions, I think, stands perfectly on their own. They each respond to a slightly different piece of the puzzle or piece of the problem, so providing a suit for emancipation would help a very savvy young person like Faith who has resources and can prove she's financially independent and prove that to a court, but it would not, for instance, protect the 18-year-old with a developmental disability who's been kicked out of their home but doesn't yet meet the requirements of Adult Protective Services or, say, whose guardian suddenly passed away. Currently you couldn't do a CPS intake for that child, you couldn't do an Adult Protective Services intake for that child. And that child probably wouldn't be able to file suit and prove financial and legal independence to a court. But I would also say that, conversely, closing the gap between our CPS and court intervention and our age of majority, that would allow for intakes to be made and placement secured for young people between ages of 18 and 19 in cases of abuse or neglect. But, of course, some minors might be missed, and you certainly heard, in Faith's case, that investigations were done and her family didn't come in to our child protective system, even when she was young enough to do so. And indeed, for a resourceful young person like Faith who, by the time she had turned 18, was independent, supporting herself, and had moved herself successfully forward in life and was attending college, you know, she...a case like hers might be better served by the option and the simplicity of legal independence rather than the complexity of a juvenile court case and child protective response. So I think, just to sum up, I think each of these possible columns of solution provide a piece of, potentially, the answer. So with that, I will wrap up and thank both committees for your time this afternoon and particularly thank Senator Howard for her dedication to bringing this issue forward and finding some solutions. And I'd be happy to answer any questions I can. [LR523]

SENATOR CAMPBELL: Any questions, Senators, for Ms. Summers? Senator Pansing Brooks?
[LR523]

SENATOR PANSING BROOKS: Thank you. Thank you for coming, Ms. Summers; I appreciate it. I know there's a whole area of law emerging across the nation on emerging adults, or emerging youth. So how does this all interrelate with that, because I think, from what I've seen at various summits that that area of law deals with kids who are in the range of 18 to 21 and, basically, the feeling nationally, best practices, is that they are not clearly not thinking as adults,

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barely understand the legal process. And so I'm just...I know we're talking about emancipation, which is different than how we treat them in the juvenile justice or criminal system as adults. Does this all interrelate at all? [LR523]

JULIET SUMMERS: I think it does, Senator, and I really appreciate you asking that question, because I, sort of, alluded generally to it at the beginning of my testimony, that we've seen this 18 to 19 gap pop up in some other areas of our work. The Health and Human Services Committee may remember, a few weeks ago, we had a hearing on the Bridge to Independence program, which is Nebraska's extended foster care program. And that program came out of federal legislation that was precisely acknowledging this, that as we understand more about young people's development, the young brain, we know that closing cases at age 18, or in Nebraska at age 19, isn't necessarily setting up our young people for success and that you...to grow into successful adulthood, really sometimes that process takes longer than what, historically, has been the basis for our public systems of service for kids. So at the hearing a few weeks ago regarding Bridge to Independence, which we were actually talking about what it would look like to extend Bridge to Independence eligibility to young people aging out of our juvenile justice system, I think it came up in a young woman's testimony before the committee as well, that she was right on that cusp...and you just...hanging on the edge of becoming a successful adult and you can, sort of, go either way. And I think she turned out well, and I think Faith has turned out well, but I know a lot of our young people are really struggling, and so this question of how our state is going to support or continue to support young adults, you know, young legal adults, is going to either set them up for success for the rest of their life or is going to leave them a little bit stranded. So that's why I think my argument, or my case, would be not to roll back our age of majority, but to be forward-looking towards that and provide extended supports to more youth who are aging out of our systems. And then the emancipation piece, to me, is a smaller piece that's more about process and allowing a young person who has been missed by our public systems and maybe doesn't even need them, in that very unique case, to be able to approach a court and say: hey, this is me, can I get a legal finding that I'm a special unique case and I'm standing on my own two feet already. Yep. [LR523]

SENATOR PANSING BROOKS: Thank you. [LR523]

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JULIET SUMMERS: I don't know; did that answer? [LR523]

SENATOR PANSING BROOKS: It helps, yes. Thank you. Appreciate it. [LR523]

JULIET SUMMERS: Okay. [LR523]

SENATOR CAMPBELL: Any other questions? Thank you, Ms. Summers. [LR523]

JULIET SUMMERS: Thank you. [LR523]

SENATOR CAMPBELL: Senator Howard, did you want to make some closing comments?
[LR523]

SENATOR HOWARD: Yes, thank you. [LR523]

SENATOR CAMPBELL: While Senator Howard is making her way, it's nice to have Senator McGill, former Senator McGill, here, who was the originator to Bridge to Independence, recently-elected school board member, so congratulations. Senator Howard. [LR523]

SENATOR HOWARD: Well, I just wanted to take a moment and thank both members of the committees here today for paying attention to this issue. I think it's something where I thought, oh, it's very simple: I'm going to have coffee with a young woman and we're going to talk about something that's very easy but, unfortunately, like so many of the issues that are brought to us, this was very tangled. And so I appreciate Senator Campbell's willingness to combine the two committees because, obviously, this issue touches both of the statutory work that we do. In particular, I'd like to commend Faith for bringing her story to us. I think it's something that's very scary and difficult, and she handled it beautifully and gracefully. And so, with that, I'm happy to try to answer any questions for you. But I'm also really looking forward to working with all of you on this issue, because it is something that is very important. So thank you. Any questions?
[LR523]

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SENATOR CAMPBELL: Any questions or comments? So at this point, Senator Howard, do you think most of the legislation would go to the Judiciary Committee? [LR523]

SENATOR HOWARD: Yeah, I think most of it would probably go to Judiciary, but then that piece about extending services to 19... [LR523]

SENATOR CAMPBELL: Hmm. [LR523]

SENATOR HOWARD: ...because, if you look at Director Weinberg's letter, he specifically says we don't do intakes at 18, even though they clearly had over 500 calls for individuals who were 18. [LR523]

SENATOR CAMPBELL: Wow. [LR523]

SENATOR HOWARD: So it's, I think it's a very...it's obviously something that's not unique to Faith, at this point. [LR523]

SENATOR CAMPBELL: Okay. Anything else? Thank you. [LR523]

SENATOR HOWARD: Thank you. [LR523]

SENATOR CAMPBELL: And that concludes our hearings today, so thank you all for coming. And I want to wish the best to Senator Fox. [LR523]

SENATOR FOX: Um-hum, and you, too. [LR523]

SENATOR CAMPBELL: It's been great having you with us. [LR523]