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Judiciary Committee  
February 09, 2017

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[LB60 LB104 LB122 LB198 LB307]

The Committee on Judiciary met at 1:30 p.m. on Thursday, February 9, 2017, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB60, LB307, LB198, LB122, and LB104. Senators present: Laura Ebke, Chairperson; Patty Pansing Brooks, Vice Chairperson; Roy Baker; Ernie Chambers; Steve Halloran; Matt Hansen; Bob Krist; and Adam Morfeld. Senators absent: None.

SENATOR EBKE: Good afternoon. We're going to go ahead and get started. And I bet that we'll have more people show up while I am going through the preliminaries here. Welcome to the Judiciary Committee. My name is Laura Ebke. I'm from Crete representing Legislative District 32. I'm the Chair of the Judiciary and I'd like to start off by introducing those who are here and those who will be here, so.

SENATOR BAKER: Senator Roy Baker, District 30.

SENATOR HALLORAN: Senator Steve Halloran, District 33, Adams County, western and southern Hall County.

SENATOR EBKE: And eventually Senator Morfeld from Lincoln, Senator Krist from Omaha, Senator Chambers from Omaha, Senator Hansen from Lincoln, and Senator Pansing Brooks from Lincoln will be attending eventually. They may have bills in other committees or be delayed. There's a number of things going on today. Assisting the committee today are Laurie Vollertsen, our committee clerk, and Tim Hruza, our committee counsel. Committee pages are Kaylee and Toni. I always have to look to see if the right ones are here. On the table over there by that column you will find some yellow testifier sheets. If you are planning on testifying today, please, before you come to the front, fill that out and then hand it to the page when you come up to testify. This helps us to keep an accurate record of our hearings. There is also a white sheet on the table if you do not wish to testify but would like to record your position on a bill. We'll begin bill testimony with the introducer's opening statement; following the opening we'll hear from proponents of the bill, those in favor, then opponents of the bill, followed by those speaking in a neutral capacity. We'll finish with closing statements by the introducer if he or she wishes. We would ask that you begin your testimony, if you're testifying, by giving us your first and last name and then spell those for the record, please. If you're going to testify, we ask that you try to keep the on-deck chair filled. So once we get started with LB60, which is our first bill up, if you're going to be speaking in favor of the bill, let's make sure that somebody is sitting in the chair because once the chair is empty, I'll make a call for additional testifiers and then we'll move on to the next category. It helps to facilitate things if we have people seated in that on-deck chair. If you have any handouts, please bring up at least 12 copies and give them to the page when you

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come up. If you do not have enough copies, the page can help you make more. We'll be using a five-minute light system. Can I see a show of hands of people who think they're going to testify on at least one of the bills today? Okay, so we will have a five-minute light system. When you begin your testimony, the light on the table will turn green; the yellow light is your one-minute warning; and when the red light comes on, I ask that you wrap up your final thought and stop. If you're in the middle of something really, really critical, perhaps one of the senators will ask you to continue as part of their questioning. As a matter of policy, I'd like to remind everybody, please don't talk on your cell phone, don't listen to music on...while you're in the committee hearing room. If you would, please make sure that your cell phones and everything are on silent or vibrate mode or turn them off. Also, we ask that there be no verbal outbursts or applause during the hearing. That just stops the process. We have five bills to hear today and we'd like to keep things moving. One more thing, as you notice, we now have Senator Krist, Senator Chambers, Senator Hansen, and Senator Pansing Brooks are here. Senator Morfeld is speaking across the street so will be here a few minutes late, I think. But you may notice that people will be coming and going. That's because we all have bills to be heard in other committees as well, and so somebody may get up and leave and then come back a little later. Please don't take that personally. It has nothing to do with the quality of the bill being presented or those who are presenting but, rather, it has to do with other places we have to be. So with that in mind, we'll begin today's hearing with LB60. Senator Lindstrom.

SENATOR LINDSTROM: (Exhibits 4-6) Good afternoon, Chairwoman Ebke and members of the Judiciary Committee. I am Brett Lindstrom, spelled B-r-e-t-t L-i-n-d-s-t-r-o-m, representing District 18 in northwest Omaha. I am bringing LB60 for your consideration today to clarify language and implement a notification requirement in custody issues where a sex offender has been given unsupervised access of or resides with a child. LB60 would change the law on which the recent Supreme Court case Hopkins v. Hopkins was determined. The Supreme Court decision in Hopkins was highly publicized and criticized, generating negative media attention throughout Nebraska, the United States, and the world. I've handed out to you articles about this case from the Omaha World-Herald and from the Daily Mail of London. The decision rejected a father's attempt to remove his two teenage daughters from the custody of their mother and new stepfather, a registered sex offender who was...who served four years in prison for molesting a teenage stepdaughter from a previous relationship. Before marrying the stepfather, the mother had lived in...had a live-in boyfriend who molested one of her children. The court reached this decision despite language already in Section 43-2933 that presumes it is a significant risk to the child to live in the same house as a registered sex offender. In the Hopkins Opinion, our Supreme Court judge asked for clear standards as to evidence and burdens of proof in such cases. I've e-mailed you the Opinion as an exhibit with relevant language highlighted and I have given the committee clerk a hard copy today. LB60 will change 43-2933 in three ways. First, it clarifies the burdens needed to be met under the statute. LB60 shifts the burden of proof to the person seeking to give the sex offender access to the child. Second, LB60 states the burden of proof is

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preponderance of evidence, which is a change from the previous language which allowed any evidence, no matter how credible, to overcome the presumption. Finally, LB60 adds a requirement that all persons who have custody or access rights receive a written notification that a sex offender has unsupervised access to the child or will be residing with the child. We have received feedback from several people who believe the bill is either too restrictive or overbroad because it places restrictions on those who may not pose a significant risk to children. Given the many offenses that may cause someone to be placed on the sex offender registry and the implication of constitutional rights in this statute, we must be careful not to craft this language in an overly broad manner. We drafted LB60 to carefully balance these interests. First, the statute only applies to sex offenders who were required to register as a result of a felony conviction in which the victim was a child or for an offense that would make it contrary to the best interest of the child to live with the sex offender. This language has been in statute since it was created. It does not apply to nonrelevant situations such as public urination. The changes we have made pertinent...excuse me, pertain specifically to a parent bringing into the household or giving unsupervised contact to someone who has had to register as a certain type of offender, not to the parent who is on the registry. In summary, LB60 reaffirms a strong public policy that we must protect our children. The bill clarifies language in existing statute and adds a notification requirement. The intent of LB60 is to provide more guidance to our judicial branch and to protect Nebraska's children. I would like...and I will leave it at that and I'd be happy to answer any questions that you may have. [LB60]

SENATOR EBKE: Do we have any questions for Senator Lindstrom right now? No? Okay. You going to stick around for closing? [LB60]

SENATOR LINDSTROM: Chairwoman, I do have a bill in Revenue so I'll play it by ear. [LB60]

SENATOR EBKE: Okay. [LB60]

SENATOR LINDSTROM: It's second up in Revenue so I'll try to be here. [LB60]

SENATOR EBKE: So it depends on when you get pulled out, okay. [LB60]

SENATOR LINDSTROM: Yes. Thank you. [LB60]

SENATOR EBKE: Great. Okay. Can I...can we have...need the first proponent of the bill and then can I see a show of hands of anybody who is going to testify on this bill? Six? Okay. That

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helps us to know when the...when to let the next senator come back for the...okay, so, first proponent. [LB60]

ROBERT HOPKINS: My name is Robert Hopkins, R-o-b-e-r-t H-o-p-k-i-n-s, and I am here today as the father in the custody case that Senator Lindstrom mentioned here urging you to pass this bill. What this amounts to, you'll probably hear a lot of talk about recidivism rates and stuff like that. And I did...I'll address those in a minute. But ultimately what this comes down to is what's in the best interest of a child. The children in this case and children in similar cases that I've researched in this situation, obviously it's impossible to have a normal childhood given the circumstances that are involved--frequently limited social interactions...I apologize. But ultimately it just, what it comes down to is a matter of common sense. You know, if this was your child, would you feel comfortable with your child living in this position? Going on to recidivism, there are some that are argue, you know, with the treatment that some offenders pose a lesser risk of others. I've read most of those studies forward and backward. Ultimately most of the studies agree that the overall possibility of recidivism is around 10 to 15 percent for a sexual-based offense and overall for any kind of offense is usually in the neighborhood of 35 to 40 percent. To me, that number is...you can say that treatment works, whatever, all you want, but ultimately what that shows, if...let's say you had a car that only had a 10 percent chance of blowing up. Would you risk putting your kids in there? You know, if there was something that was...I don't know. I'm sorry. I'm nervous. [LB60]

SENATOR EBKE: That's okay. [LB60]

ROBERT HOPKINS: Ultimately what I'm here for is just to urge the members of the committee to advance this bill and proceed forward with it, so. [LB60]

SENATOR EBKE: Thank you, Mr. Hopkins. Are there any questions for Mr. Hopkins? Guess not. Thank you. Next proponent. [LB60]

STEPHANIE HUDDLE: (Exhibit 7) Good afternoon, Chairperson Ebke. Members of the Judiciary Committee, my name is Stephanie Huddle, S-t-e-p-h-a-n-i-e H-u-d-d-l-e. I am the public policy coordinator for the Nebraska Coalition to End Sexual and Domestic Violence and I am here today to testify regarding our support of LB60. The Nebraska Coalition to End Sexual and Domestic Violence is a statewide, nonprofit advocacy organization committed to the prevention and elimination of sexual and domestic violence. We provide training and program capacity building to Nebraska's network of domestic violence and sexual assault programs, supporting and building upon the services that they provide. Our mission is to enhance safety and justice by changing the beliefs that perpetuate domestic violence and sexual assault. We believe LB60 will enhance the safety of Nebraska's children by ensuring a parent knows if a

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registered sex offender will reside with his or her child. It is still a common misperception that the majority of sexual abuse and sexual assault is perpetrated by strangers. The reality is that most victims actually know their assailant. In cases of child sexual abuse, it's estimated that 93 percent of victims actually know their abuser. And according to statistics reported by the Rape, Abuse and Incest National Network, 34 percent of child sexual abuse perpetrators are actually family members. Sexual abuse and assault can have devastating effects for victims. Children who are sexually abused may develop phobias, have trouble in school, have nightmares, wet the bed, and return to regressive behaviors such as sucking their thumb. Children exposed to sexual violence are more likely to become delinquent and engage in criminal behavior. Sexual abuse can have detrimental, long-lasting effects on a victim's mental health. A study conducted by the Office of Juvenile Justice and Delinquency found that when compared to nonvictims, victims of child sexual abuse are approximately four times more likely to abuse drugs, four times more likely to experience posttraumatic stress disorder as an adult, and approximately three times more likely to experience a major depressive episode as an adult. Those who sexually abuse children oftentimes groom their victims by gaining their trust and becoming friendly with them. Many rely on secret keeping or make threats to ensure victims don't disclose the abuse. Typically, the abuse occurs when the victim is isolated with the offender. Limiting the ability of a registered sex offender to have time alone with the child will minimize the opportunity for that child to be abused by him or her. By passing LB60 you are ensuring additional safeguards for Nebraska's children and also peace of mind for their parents. The Nebraska Coalition to End Sexual and Domestic Violence asks you to advance LB60. Thank you for your time and I will be happy to try to answer any of your questions. [LB60]

SENATOR EBKE: Thank you, Ms. Huddle. Any questions? I don't see any. Thank you for being here. [LB60]

STEPHANIE HUDDLE: Okay, thank you. [LB60]

SENATOR EBKE: Next proponent. [LB60]

JIM CREIGH: Thank you, Chairman Ebke. My name is Jim Creigh, J-i-m C-r-e-i-g-h. I'm an attorney in Omaha and I'd like to just give you a little bit of an additional overlay about the components of LB60. First thing I would like to emphasize is that LB60 does not create any new policy. What LB60 is attempting to do is restore the legislative intent of Section 43-2933 as it was originally enacted in 2007. The bill is drafted to repeal the recent Hopkins decision which many people believe incorrectly interpreted Section 43-2933. Senator Lindstrom has already given you a copy of the Hopkins case, as I understand it. The copy of that Opinion has a number of sections highlighted and those sections are really the key element of that Opinion. And LB60 has been drafted to address each of those sections. So first off, the Opinion mentions something

called a "bursting bubble" presumption, which is a legal term going to the burden of production of evidence. The Supreme Court held that in the case of a "bursting bubble" presumption, that that presumption can be overcome by any evidence, no matter how credible. So LB60 is drafted so that it makes clear that the presumption created is both a burden of production and also a burden of persuasion. And then it goes on and establishes that the standard of evidence required to overcome that burden is preponderance of the evidence, which is the lowest evidentiary standard. Again, that...the preponderance of the evidence standard reflects what many people understand was the original legislative intent when the statute was first enacted in 2007. And then as Senator Lindstrom mentioned, the one new element of LB60 is a requirement that notice be given by the person who is wanting to give unsupervised access to the child to a sex offender. That would be the only addition to the existing policy created by LB60 and that is a direct result of the facts from the Hopkins case where the father in that case did not know about the stepfather's sex offender status for some time. So again, just in summary, LB60 does not establish any new policy; it merely restores the original legislative intent from the statute that was enacted in 2007. And then finally, I'd like to review for the committee what the state of the law is today and what it would be going forward if LB60 is not enacted. Under the law of child custody modifications, the person who is seeking to change their existing parenting plan has the burden of showing that there has been a material change of circumstance since the date of the last amendment to the parenting plan. So in effect, the person seeking to remove the child from the sex offender environment would have a presumption against him or her in order to get that done and then if the person is able to overcome that presumption, then they must...next they have the burden of showing that the requested change is in the best interest of the child. So one of the effects that the Hopkins decision did was it reversed a presumption in favor of the person trying to remove the child from the sex offender environment and the consequence of that is that there is now a presumption against that person. And that is the law today and that's what the law would be going forward if LB60 is not enacted. That concludes my remarks. I'd be happy to answer any questions if there are any. [LB60]

SENATOR EBKE: Any questions? Senator Krist. [LB60]

SENATOR KRIST: Thank you, Chair. And thank you, Mr. Creigh, for coming. I think there's something missing from LB60 unless you can point out where we have succeeded. With the arguments and the Opinions of the Supreme Court, it appears that they're asking us to define some terms; they're asking us to be more clear both in our legislative intent and in the words that are black and white that they then would interpret. But I don't see any place in LB60, nor do I know of any place where, as they suggest...let me read you from the Opinion. This is the last page under part 2...is it Kyel's, is that how to pronounce that name, K-y-e-l, Kyel's? [LB60]

JIM CREIGH: I...yeah, I believe so. [LB60]

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SENATOR KRIST: Okay. Under "KYEL'S EVIDENCE TO OVERCOME," which is the flip, basically, right, about one sentence down: The Legislature has not defined "significant risk" in the context of (Section) 43-2933, and we have never directly interpreted this part of the statute, nor has (sic--can) this court located (sic--locate) legislative history to guide our reading of this term, which, as Senator Chambers tells us all the time, establishing a legislative history and intent is almost as important as the words that are on paper. So the court is asking us to define significant risk and we're not doing that, that I know of. And I asked legal counsel if it was in this bill and he shakes his head no for the... [LB60]

JIM CREIGH: Yeah, I would agree that's not in LB60. [LB60]

SENATOR KRIST: Don't you think that's important? [LB60]

JIM CREIGH: Yeah. We could certainly address that through an amendment. [LB60]

SENATOR KRIST: Okay, thank you. Thank you, Chair. [LB60]

SENATOR EBKE: Um-hum. Any other questions for Mr. Creigh? Thank you for being here today. [LB60]

JIM CREIGH: All right, thank you. [LB60]

SENATOR EBKE: Any other proponents? Proponents? How about opponents? Anybody in opposition to LB60? [LB60]

BROOKE COOLEY: Good afternoon. My name is Brooke Cooley, B-r-o-o-k-e C-o-o-l-e-y, and I am a doctoral student in the School of Criminology and Criminal Justice at the University of Nebraska-Omaha and I will be reading testimony on behalf of Dr. Lisa Sample, also a full professor in the School of Criminology and Criminal Justice at Nebraska-Omaha and she is also president of the sex offense policy research work group. [LB60]

SENATOR KRIST: Can I ask you a question? [LB60]

BROOKE COOLEY: Yeah. [LB60]

SENATOR KRIST: In that explanation or in that introduction--you won't be penalized for this question--who do you represent or who does she represent? Herself? The school? [LB60]

BROOKE COOLEY: Herself. [LB60]

SENATOR KRIST: Herself, okay, thank you. [LB60]

BROOKE COOLEY: Dr. Lisa... [LB60]

SENATOR KRIST: That's important. Thank you very much. [LB60]

BROOKE COOLEY: (Exhibit 8) I wish to thank this body for its commitment to preventing child victimization. It is an admirable goal and one that I share. But I believe LB60 will have little to no effect on reducing sexual reoffending and increasing the protection of children. The application of LB60 to all people registered for sex offenses against children homogenizes the risk for reoffending to a wide array of contact and noncontact offenders, which empirically is simply not the case. At this legislative body's request, the Nebraska Center for Justice Research investigated sexual reoffending among registrants in Nebraska and found, post-LB285, a two-year recidivism rate of only 2.6 percent and a one-year recidivism rate of only 1.7 percent for the convicted sex offenders. More broadly, in 2014, Karl Hanson and colleagues found the risk of sexual reoffending is highest during the first few years of release, and within five years, even the risk of reoffending for the highest risk offenders dropped from 22 percent to only 4.2 percent. LB60 ignores the effectiveness of sex offender treatment to lower the risk of reoffending. In 2016, Kim and colleagues conducted a metaanalysis of treatment studies and concluded sex offender treatment can be considered "proven" regarding reducing reoffending. More specifically, Dr. Maria Scalora, in 2003, found Nebraska's sex offender treatment program significantly lowers individuals' likelihoods of reoffending. There are long-term consequences for removing registrant parents from their homes. For instance: First, when removing children from two-parent to one-parent homes, you increase the likelihood of children living in poverty and their reliance on government aid. Second, if the non-sex offending parent is not capable of raising children alone, what is the cost to the foster care system? Third, is this body aware that the likelihood of child victimization is four times higher for children in foster care than for children in the general population? It is 28 times higher for children placed in group homes. Last, scholars estimate that the rate of sibling incest may be five times the rate of parent-child sexual abuse, which LB does not address. My arguments against LB60 are simple. LB60 makes assumptions about the risk of sexual reoffending that are not empirically supported, it ignores the dynamic nature of risk for reoffending as people age and take advantage of treatment, it does nothing to address sibling sexual assault prevalence, and it does not take the long-term consequences for the foster care system and government aid into account. In fact, in many ways, this bill could negatively affect the lives of children more than help prevent sexual assault in the home. Thank you for your time. Sincerely, Dr. Lisa Sample. [LB60]



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SENATOR EBKE: Thank you. Any questions? It's kind of hard to ask. For the record, she could have sent the letter, too, and then it would have been...it'll be part of the record. [LB60]

BROOKE COOLEY: I'll make sure to let her know. [LB60]

SENATOR EBKE: Okay, thanks. Okay. Any questions? Okay. Thank you for being here. [LB60]

BROOKE COOLEY: Thank you. [LB60]

SENATOR EBKE: Next opponent. [LB60]

DEREK LOGUE: My name is Derek Logue, first name spelled D-e-r-e-k, last name L-o-g-u-e. I am an antiregistry movement activist and a founder of the legal informational Web site [oncefallen.com](http://oncefallen.com). I am also a registered citizen who has experienced many forms of discrimination under color of law. I come to you today to oppose two specific proposals in this legislation. The first problem that I see with the legislation involves the written notice requirement, an act that seems to be more about humiliation than public safety. The U.S. Supreme Court has ruled on many occasions that the government cannot force individuals to express views taken up by the government to...that the government cannot force a citizen to display a message that is offensive to the individual's moral convictions and that the government cannot force individual to engage in forms of public expression contrary to the individual's personal beliefs. Our First Amendment rights are among the most cherished of rights and that right includes the right not to be forced to disseminate a government message that is intended to shame and humiliate every registered citizen who has the audacity to try to engage in normal, healthy adult relationships. The second offensive point in LB60 is the presumption of imminent danger that every registered citizen is assumed to present. Under this law, those who share my label are assumed guilty until innocence can be proven. I have experienced firsthand the difficulty of disproving a negative even with a low burden of proof in a court of law. I had also been tasked in preparing--on an episode of the former Dr. Drew show on HLN--to defend a man who had gained custody of his daughter and despite available evidence that the man may have actually been innocent, the assumption of the TV panel was that the child was in immediate danger and needed to be taken out immediately. And no amount of evidence would convince these people otherwise. Historically, the state has always been tasked with having to prove guilt. Because the burden of proof puts the burdened party at a huge disadvantage, how can anybody reasonably expect a registered citizen to meet such a burden when the courts, the media, the victim industry, and legislators are all too willing to believe the most outrageous myths about registered citizens and assign group risk to individuals? Obviously we've already...it's already been discussed that sex offenders have extremely low recidivism rates. There's dozens of federal, state, and individual university studies

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that have consistently shown a pattern of extremely low recidivism rates, and I have that as an exhibit in this as well as you can check it out later, of interesting to know that the largest studies that are published by the U.S. Department of Justice, it was one in 2003 that found a 5.3 recidivism rate after three years and a later study that came out more recently at 5.6 after five years. These studies range from anywhere from two years to ten years. Longer rate recidivism studies are not showing a significant increase because most recidivism occurs within the first two or three years of release. Since Senator Lindstrom has talked so much about Karl Hanson, I'd like to point out that Hanson's studies were of Canadian sex offenders, not American sex offenders, so the studies show a higher number because Canadian studies, Canadian laws and American laws are completely different. That's very important to know, you know. But he also came to the conclusion that after 10 to 14 years in the community without committing a sex offense, medium-risk offenders pose no more risk of recidivism than individuals who have never been arrested for a sex-related offense. And after 17 years without a new arrest, even a high-risk individual poses no more risk of committing a new sex crime than an individual who has never been committed of a sex crime before. He pointed out that research has long shown that the longer an ex-offender remains free of arrest and convictions, the lower of a chance he will reoffend. In fact, most detected recidivism occurs within three years of a previous arrest and almost always within five years. Senator Lindstrom has taken to Facebook to post studies with inflated numbers in an attempt to justify passing this legislation. In particular, he posted a link to the SMART Office report which quoted the debunked Prentky study which was not an actual reoffense rate but an estimate based upon records of individuals released from civil commitment. And even Mr. Prentky himself has warned not to use this study as indicative of those on the...across the board of the registry. I see I'm not going to be able to get through this entire thing but you can read the rest of that statement. But if we are truly serious about reducing recidivism beyond the already low rates, then our focus should be based on evidence from independent sources from...excuse me here, instead of stats that merely reflect the confirmation biases of agencies of government workers with agendas. You know, I could think of no greater example of a prosocial identity, which is proven to reduce recidivism rate, than in the institution of marriage and the family, and I believe that this law would cause some severe interference in that and that's why I came to oppose it. And I guess you'll just have to read the rest of this, but I've brought plenty of studies. And if you need some clarification on them, I'm more than happy to answer the questions. [LB60]

SENATOR EBKE: Any questions for Mr. Logue? Thank you. Did you give copies, go... [LB60]

SENATOR HALLORAN: Senator Ebke. [LB60]

SENATOR EBKE: I'm sorry. Senator Halloran. [LB60]

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DEREK LOGUE: Yes, I... [LB60]

SENATOR HALLORAN: I'm sorry. If I may? Thank you for your testimony. So the recidivism rate ranges from 4.5 percent to 5.5 percent? [LB60]

DEREK LOGUE: I have a collection on my Web site, which I printed in there as an exhibit, that shows that the studies, long-term studies--anywhere from 2 years all the way up to 15--is consistently less than 10 percent. Where anybody is getting rates higher than that, then there's probably something wrong with their numbers or some... [LB60]

SENATOR HALLORAN: So one in ten. [LB60]

DEREK LOGUE: I would...less than 10 percent. It all goes by how it's going. You know, many of them either use rearrest or reconviction rates. [LB60]

SENATOR HALLORAN: I'm looking for a good average figure. [LB60]

DEREK LOGUE: I would say less than 5 percent across the board. [LB60]

SENATOR HALLORAN: Okay. [LB60]

DEREK LOGUE: And then of course, you know, there is plenty of factors that go into it. That's why I included the study from Wisconsin because they did a very good job of breaking it down by offense type and risk assessment and everything else. And that study goes up to 15 years, so it's a very long-term study, and it's very thorough. [LB60]

SENATOR HALLORAN: So I think the nature of the bill is to err on the side of protecting children, would be my guess. And it...as an analogy, the recidivism rate for reoffense, say if we had a revolver gun. A revolver, for those that aren't aware, has a cylinder that you can spin. You've heard of the rather insidious game of Russian roulette where you put one bullet in the revolver and you spin it and you dare the other person to shoot it, you know, take turns shooting it at themselves? It's an odds game but it's a deadly game. So this would be like 1 in 20. This would be like a revolver that has a cylinder of 20 bullets. Well, then... [LB60]

DEREK LOGUE: Yeah, well, you're also assuming that any reoffense is going to be an offense against a child and that's not necessarily the case, you know. [LB60]

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SENATOR HALLORAN: That's true. [LB60]

DEREK LOGUE: The people who recidivate the most amount, and that's from Karl Hanson as well, are individuals who committed not hands-on offenses, like,... [LB60]

SENATOR HALLORAN: I understand. [LB60]

DEREK LOGUE: ...you know, somebody who flashed in public has a higher reoffense rate than a person who touched a child, that a person who looked at Internet pornography doesn't even have a victim, period. So if he goes back and looks at another Web site, it's not going to be a hands-on offense. So... [LB60]

SENATOR HALLORAN: But there...but there...right. I guess my point is, and it's just for the sake of the record, that there is a risk. [LB60]

DEREK LOGUE: There is an equal risk of lots of...you know, 95 percent of sex crime risks are of people not on the registry. What are you doing about that? [LB60]

SENATOR HALLORAN: Probably not enough, right. [LB60]

DEREK LOGUE: Well, there's no way you're going to be able to predict which of the 95 percent out there are the risk. [LB60]

SENATOR HALLORAN: That's true enough. [LB60]

DEREK LOGUE: And at the same time, you're going to capture an awful lot of...I like to think of it more as a net. You know, you go out, you're going to catch some tuna but you catch some dolphins in with it--not my idea, somebody else's, but I'm going to borrow it for the sake of this. We're going to be catching an awful lot of dolphins just to try to catch a couple of tuna here. [LB60]

SENATOR HALLORAN: But we're not fishing. [LB60]

DEREK LOGUE: That's essentially what this law is doing. [LB60]

SENATOR HALLORAN: That's all I have. Thank you. [LB60]

SENATOR EBKE: Okay. Any other questions? Thank you for being here today. [LB60]

DEREK LOGUE: Thanks. [LB60]

SENATOR EBKE: Next opponent. [LB60]

JEANIE MEZGER: (Exhibit 10) Madam Chairperson and members of the committee, my name is Jeanie Mezger, J-e-a-n-i-e M-e-z-g-e-r. Thank you for the chance to register my opposition to LB60. This bill and the existing--I think it's the Child Protection Act, I meant to go back and make sure of that--both begin with the assumption that registered sex offenders are dangerous even though studies show again and again that sex offenders have a very low rate of reoffense. Those studies show that registered sex offenders have a reoffense rate between 5 and 15 percent while felons in general have a reoffense rate above 70 percent. I used 70 to be polite. I also saw as high as 80 percent. But I agree that parents who do not live together should take an interest in those people who will become part of their children's world with the other parent--new romantic interests, new step-family members, new neighbors, new teachers. This is what all parents should do. How else would we learn if our kids were being harmed or were being led down a dangerous path? Is the new boyfriend a nice guy who will treat the kids well? Does the new girlfriend have a problem with anger? Will he teach them how to fish or how to cheat on taxes? Will she teach them how to handle money responsibly or will she teach them that a little shoplifting is no big deal? Is she an alcoholic? Is he a felon? All of these are questions that would interest me if my kids were living with new parent figures. Would I want to know if a sex offender is close to them? I would worry more about their safety if they were close to someone who beat up a convenience store clerk or who has a string of DUIs, someone in the category with a truly high reoffense rate. This law assumes that sex offenders are dangerous to children without any effort to ascertain risk level and without any effort to protect children from people who can throw their lives into chaos even without a sex offense. Senator Lindstrom's bill, if it becomes law, would hold one parent responsible for knowing and reporting to the other parent information that is already easily available to anybody who wants to know using the registry. So I'll use part of my time to go back to your Russian roulette question. When my kids were little, they were in and out of our car four times a day, six times a day, easily, and yet a child in a car is...that's probably the most dangerous thing you can do with a kid is drive them across town to soccer practice because that's where kids get hurt, that's where kids get killed. So I think that when you look at the chances of other risks to children, there are some risks that we accept without even blinking. And I know that the answer to that is: But sex offense against a child is the worst thing in the world, it will ruin the child's life. But I think that if you talk to any parent who has lost a child due to illness or accident, they would probably disagree about that worst thing. So thank you so much for your time and if you have any questions I'd be happy to answer. [LB60]

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SENATOR EBKE: Any questions for Ms. Mezger? Okay. Thank you for coming today. Next opponent. [LB60]

SENATOR CHAMBERS: Want me to take the baby? [LB60]

JEROMY WILSON: Yeah? [LB60]

SENATOR CHAMBERS: That's okay. You can... [LB60]

JEROMY WILSON: (Exhibit 11) Hello. My name is Jeromy Wilson, J-e-r-o-m-y, Wilson, W-i-l-s-o-n, and this is my daughter Avalynn. She's three months old. We're both against LB60. LB60 concerns me greatly. I'm a lifetime registrant because I went onto an adult dating Web site: Plenty of Fish. I believed that I was protected. I thought that who I met on the adult dating Web site was at least 19, as she claimed to be. That wasn't the case. And what was a romantic encounter, I had no idea I was breaking the law. In some states, they have a mistake-of-age defense for cases like mine, but they don't here in Nebraska, which would have cleared my name and I wouldn't be on the registry. Growing up, my mother was a drug addict who chose drugs over her children while we were being molested by the babysitter. I was a product of the system, the same system that is designed to make the laws here. I'm not perfect. I've made mistakes, as we all have, maybe not some as detrimental as some others, but I'm serving a life sentence outside these walls and outside of the prison walls and it's not fair to me or my family. I've chose to change my ways and change my thinking and change as much as I can to prevent something like this from ever happening again. I haven't been on an adult dating Web site since being released. I stay away from social media as much as possible, because I thought that I could do things to protect myself because I don't want to do this, I don't want to be labeled this, I don't want to be in these situations. I want to be on the right side of the law. If I could be in one of your chairs, I'd love to do that but I can't because the laws are designed to hold me down, and rightfully so. Some people that are in these situations, I'm not saying they don't deserve it. I'm not saying that maybe they don't deserve some form of punishment. But when it affects our children and it keeps me from being able to care for my child or potentially the...her mother could go back and refile the court case based on this law. It's retroactive so she can go back and file another case and even though the state of Nebraska has already proven and deemed me fit to have sole legal and physical custody, this law could potentially keep her from me if she decides to refile. And that's not fair to me. I think it's very important that we fix the registry because not all of us are going to be on your front doorstep or peeping in your windows or harming your children. Some of us have families. Some of us have children. There's a lot of us that do. And to make a broad spectrum saying that all these, everybody that's on the registry is under the same scope is...it's not fair and it's...I don't care about me. I care about her. I care about her future and her being able to have something better than I had. I'm a champion. I'm also a registered sex

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offender. I'm a human being. I'm a son. I'm a brother. I am an uncle. But more importantly, I am a father. Please allow me to give my daughter the best she can have without bringing unnecessary conflict which is detrimental to us. Thank you. [LB60]

SENATOR EBKE: Thank you, Mr. Wilson. Any questions? Senator Chambers. [LB60]

SENATOR CHAMBERS: I had the pleasure and honor of meeting his daughter and people were surprised at how well we took to each other. And she gave me--I can communicate with babies-- she gave me the highest recommendation of her daddy that I've ever heard given of anybody before. [LB60]

SENATOR EBKE: Yeah? [LB60]

SENATOR CHAMBERS: Be proud--she's proud of you. [LB60]

SENATOR EBKE: All right. [LB60]

JEROMY WILSON: Oh, there you go. [LB60]

SENATOR EBKE: Any other questions, comments? Thank you for being here today. [LB60]

JEROMY WILSON: Thank you. [LB60]

SENATOR EBKE: Are there any other opponents? [LB60]

JOHN MEZGER: My name is John Mezger, J-o-h-n M-e-z-g-e-r. I thank the committee for this opportunity to speak to you. Elocution is not my forte. I'm pretty nervous about this, so please forgive me in advance for any mistakes today. I was watching the Legislature this morning and Senator Chambers informed me that today was "stop bullying" day and I hope to do that with my speech today, as short as it may be. What really this case is about is trying to understand what the courts are doing. The courts obviously, in some people's opinion, made a mistake, but we really don't know all the facts. Why did Mr. Hopkins' wife get the children in the first place? What did the court see in her ex-husband that allowed her to obviously change the law or break the law or make their decision? I don't...I can't speak for what the judges think, neither can you, but I do know that our state motto is "Equality before the law." And I'm thinking that maybe that's what the judges were thinking: equality of the person before the law. Not since the 1930s and the 1940s has a single group of people been held up to public scorn and public shame as the ex-sex

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offenders in this country. In some states it's on their driver's license. It's on our passports. It's out there for the world to see. It might as well be yellow and on our sleeves. I have to say God bless that woman for marrying an ex-sex offender, because it's a hard life for them. They have little opportunity for good employment, little opportunity to find good housing. And there is even problems with healthcare for them, and let alone find somebody who would marry them. I think that woman understands equality before the law and I think it's time for the state to stand up for that motto or change it and stop the hypocrisy. Thank you. [LB60]

SENATOR EBKE: Thank you, Mr. Mezger. Any questions? Okay, thanks. Next opponent. Do we have any other opponent testimony? Anybody in the neutral? Okay. [LB60]

WILLIAM BASSLER: (Exhibit 12) Good day. My name is William Bassler, W-i-l-l-i-a-m B-a-s-s-l-e-r. I'm a registered citizen. And I have a statement here that is in the front of each of these things that I was going to read, but a number of the things that was in it has already been covered so I'm going to talk off the cuff. One of the things that seems to be missing in the senator's bill is the fact that people on the registry do not have a high reoffense rate. Now he points to a bunch of studies that have been done of people coming out of prison. Realize that those people when they come out of prison, if they reoffend, they go right back into prison and they're not in the general population. Think of it this way. You have a pool in your backyard and each day you put 100 balls into that pool. Each night you take one ball out. The balls that are left in that pool are the people that are not going to reoffend. This bill penalizes those people for trying to be good citizens. And the information that I have provided to you shows that there is no high reoffense rate. A Nebraska study that was done by this body, the Legislature, came up with a reoffense rate of six-tenths of 1 percent. It's not the only one that has come up with low studies. I've included a bunch of other studies that have looked at people coming out of prison, looked at people coming out of probation. So there is no high reoffense rate to justify demonizing a group. I committed a crime and I lost my family because of it. I was an evil, bad person. I worked very hard to change myself. I went through a number of programs, as do an awful lot of other people that are on the registry. And I have been in programs with a lot of people. I've never met a person in any program that said, I'm going to go back out and reoffend. I have met people in prison that have been drug users and drug sellers and any number of other things that thought what they did wasn't bad and they were going to go back to it, but that's not the case with sex offenders. They want a second chance at life. After I lost my first family, I didn't want to have anybody around me. I was just going to go to work, spend my time, do hobbies and things like that, never become involved. I had a lady chase after me. She wanted to be with me and I put her off and put her off, primarily because she had three small children. And finally I just gave up. I wore down and I started to date her. I eventually married her and had three stepchildren. My stepchildren are now in their 20s and each and every one of them has come to me and said, Dad, if it wasn't for you being in our lives, because of the way Mom was, we would be in prison, on drugs, or dead. And I'm a sex offender and my children think that I was the best thing for them. I'm not the only one.



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Ninety-nine percent of the people on the registry just don't want to be there and don't want to do it again. Thank you. [LB60]

SENATOR EBKE: Any questions? Senator Chambers. [LB60]

SENATOR CHAMBERS: Not a question, but anybody on that registry knows how people would tend to look at them knowing they've been on the registry. It's very difficult, I'm sure. But I think, as with other situations, you have to put a face to statistics; you have to have a chance to interact with people who are human beings who have admitted that a wrong was done but they've tried to do all they could to atone for it. And if they're never given the opportunity, then that idea of second chances, redemption, and all the other statements that are made, especially by religious people, count for nothing. So I've said this to a gentleman who came here before and was willing to start a program where he would try to help sex offenders, and I told him that it took some courage to come and make the kind of statements he made. But it takes even more for those who have been on that registry to come here. Now I've never been convicted of any crime. I don't mean to say it like that, like I've gotten away with them. That's not the point I make. (Laughter) But I know what it means to have people judge you a certain way because of how you look, not knowing anything about you. And if I wanted to lay out things that have happened to me in my life, although I've had a much longer one than you have, they wouldn't believe that I could be where I am now doing what I'm doing now because, to be honest, I still have some vengeful thoughts in my mind based on what happened to me, what happened to children who looked like me, what happened to old people who look like me. But I don't give in to those kind of sensations. So I'm glad that you came today and I hope nothing that I'm saying sounds like I'm patronizing or putting you on the spot. But I just wanted to make it clear that I recognize that people can make mistakes and straighten their life out. And we often will say, I know I will, it's never too late if you're going the wrong way on the road to stop, turn around, retrace your steps, and do differently. And you obviously have, so thank you. [LB60]

WILLIAM BASSLER: Thank you, sir. [LB60]

SENATOR EBKE: Any other questions or comments? Okay, thank you. Your bag is on the floor there next to you, too, I think. Okay. Do we have other...yes. Okay. [LB60]

RONALD WHITT: Good afternoon. My name is Ronald Whitt. Until about three and a half years ago, I didn't have a dog in this fight. Okay? I was cruising along, getting ready for retirement, and something happened to a stepson of mine. He came back from the wars with serious, serious problems. He self-medicated and he got himself in trouble. He met a young lady and he broke the law. And he is serving time. And when he gets out, he will have completed all of the programs. He will...he has changed his life. He's changed his direction in life. And yet,

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when he gets out, he will be registered. And we all know sex offenders. They're the lowest of the low. I can tell you that my son is not low. He's a good person. He broke the law and he is suffering from it and will continue to suffer all of his life. Now today we've heard about presumption. Well, we are presuming that the status quo needs to support something along the line. You have to show harm. You have to show significance and you have to show that someone is psychological, physical, socially harmed. I can tell you that my son will be all of that as a registrant. We can make laws. This law, I believe in looking it over, is flawed. It has not taken into consideration we have generalized from one specific person to a whole group of individuals, and you as lawmakers know we don't do that in America. We take the individual into consideration. I hadn't intended to testify today but the statistics are there. My son is not going to reoffend. He is not. He's a good person. Okay? But he broke the law and he is paying for it. And he deserves to pay for the law. We heard another presenter. He also believed that he was not committing a crime. Oh, yes, he was. Okay. And he's convicted. If you have any questions... [LB60]

SENATOR EBKE: Any questions for Mr. Whitt? [LB60]

RONALD WHITT: I would ask that you reject the...and if you put a law together, make sure that the registry is attended to. Thank you. [LB60]

SENATOR EBKE: Thank you for being here. [LB60]

JEFFREY RIFFLE: Good afternoon. My name is Jeffrey Riffle. I'm on the Nebraska Sex Offender Registry and I am currently in a pending divorce in Sarpy County. For two years since my divorce was filed we had... [LB60]

SENATOR EBKE: Could you spell your...I'm sorry, could you spell your last name? [LB60]

JEFFREY RIFFLE: R-i-f-f-l-e. [LB60]

SENATOR EBKE: Thank you. [LB60]

JEFFREY RIFFLE: My divorce was filed in November of 2014. My...the judge ordered fifty-fifty custody based on the report of the guardian ad litem for my child. They found no risk or no reason to not have custody of my child at that time. September...or August there was a news article about the Hopkins case on TV and, although I had the upper hand before this point, it immediately shifted to my wife's side. And September 1, when my divorce hearing was to begin, they immediately took custody of my child away from me based on the law you're trying to fix

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here. I was convicted of a misdemeanor 13 years ago. I have had no contact with law enforcement, no activity that was illegal, nothing. I don't smoke. I don't drink. I don't do anything wrong. I do my job. For seven years I've been clear of anything. Yet, this law says, as it's on the books right now, that a sex offender cannot have custody of their child unless the judge reads onto the record that he believes I am not a risk. It is very difficult to disprove a negative. This law is a broad brush and everybody that has the word "sex offender" attached to them gets no custody of their kids. Now I've raised my daughter for four years. Doctors say there's never been any mental, physical, any kind of abuse. My daughter was happy and healthy up until September 1. She now goes to therapy once a week. She is very anxious. She's depressed. She sees her father one day a week. I just think that when you do this law, there needs to be more consideration of the offense. Right now it's worded that it has to be a felony or anything else that can be determined detrimental to the child. That is very vague and there's no specifics on what that event is. As I stated, I've raised my daughter since birth. Her mother is...I don't want to say anything bad on the record, but she's got bipolar disorder, personality disorder, and she doesn't treat my daughter well. I have treated my daughter like she's my heart. She's now in almost full custody of my wife and it's just not right. That's all I can say. [LB60]

SENATOR EBKE: Okay, thank you for being here. Any questions for Mr. Riffle? [LB60]

JEFFREY RIFFLE: Thank you. [LB60]

SENATOR EBKE: Thank you. Are there any other opponents? Anybody speaking in the neutral? Senator Lindstrom. [LB60]

SENATOR LINDSTROM: (Inaudible.) [LB60]

SENATOR EBKE: Yeah, yeah. Close? [LB60]

SENATOR LINDSTROM: Yeah. Thank you, Chairwoman Ebke. I appreciate both the proponents and opponents. This is not an easy issue and it's not ever easy to sit in this chair and tell your story. You know, when I looked at this issue, this is a policy issue not specifically towards one person, one instance. This is for kids that don't have a voice, that weren't able to represent themselves here today. I know it was mentioned that...we're not dealing with the registry itself. We're dealing with custody issues. It was stated that it's easily available through the registry to find out if your ex in these cases was dating or invited a sex offender to come live with you. Without knowing the name, you would never know that without any notification. And, you know, put myself in that issue, if my wife and I got divorced and she had custody of the kids, I would want to know who would be living with them. There's a lot of statistics thrown around as far as recidivism and whether it's 5 percent, 20 percent, 1 percent, 0.001 percent, you know, I'd

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err on the side of not taking any chances and that I...going back to Senator Halloran's analogy with the revolver, do you want to take that risk as a parent and take that risk with your kids? And so while I appreciate some of the stories and I appreciate some of the opponents that are trying to do the right thing, what we're trying to do here is protect kids in situations where they can't protect themselves. So going back to Senator Krist, your question about the amendment, we will work with the committee and get some language for you with regards to the fix on that and get amendment to you. So with that, I appreciate you hearing this LB60 today and I'd be happy to answer any final questions. [LB60]

SENATOR KRIST: Go ahead. [LB60]

SENATOR CHAMBERS: You go first. [LB60]

SENATOR EBKE: Senator Krist. [LB60]

SENATOR KRIST: We arm wrestled and I won. [LB60]

SENATOR EBKE: Yeah, go for it. [LB60]

SENATOR KRIST: I think the courts are speaking specifically to wanting guidance from the legislative process to make sure that it's black and white and so that they can interpret it correctly. That may not be the only phraseology that needs to be cleaned up if the bill goes forward. [LB60]

SENATOR LINDSTROM: Sure. [LB60]

SENATOR KRIST: And I also just want to put on the record that this flip-flop in terms of the burden of proof, I do have some issues with it. I lived with a system for 21 years where you were guilty until proven innocent with the UCMJ, United States Military Code of Justice (sic-- Uniform Code of Military Justice). And I don't think that's, in terms of civil courts, I don't believe that that's a good way for us to go, although the court is very specific in terms of the way they interpreted the law as it currently exists. So this is a deep subject and it is hurtful on all ends, both for those parents who have found themselves in a situation that has put them on the registry and for the person who wants to protect that child. But I just want you to know I think this subject is worth communicating on but I don't think...I think we still have to do some work not just specifically with that terminology but potentially how it's phrased. Thank you. [LB60]

SENATOR LINDSTROM: Okay, appreciate that. [LB60]

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SENATOR EBKE: Senator Chambers. [LB60]

SENATOR CHAMBERS: Senator Lindstrom, in the case that resulted in our being here today, there was not any evidence in that case where the man who was living with the woman who had the children had ever done anything to harm those girls. Isn't that true? [LB60]

SENATOR LINDSTROM: Those girls, yes; a prior case, yes. And we're talking about a felony in this case, not...and in all this, the...it was stated the misdemeanor... [LB60]

SENATOR CHAMBERS: But here's what I'm asking you. [LB60]

SENATOR LINDSTROM: But, no, he had...he did have a prior. [LB60]

SENATOR CHAMBERS: The case was not brought against the man who was living in the house with the woman, was it? [LB60]

SENATOR LINDSTROM: Not in that case, no. [LB60]

SENATOR CHAMBERS: He wasn't charged with anything, was he? [LB60]

SENATOR LINDSTROM: Not in... [LB60]

SENATOR CHAMBERS: The case was brought by a man who said that the woman he had previously been with and with whom he apparently had children by had a man in the house who had previously been convicted of a sex offense. That man who previously had been convicted of it was not the subject of any legal action in the case that brought us here, was he? It was a man objecting to the woman having him in the house with this complaining man's daughters. That was the posture of the case, wasn't it? [LB60]

SENATOR LINDSTROM: In that, yes, with the two daughters that were in the house, yeah. [LB60]

SENATOR CHAMBERS: And nothing had been wrong. The daughters didn't say anything had been wrong. The woman said that there hadn't been anything done wrong. It was his presence alone. And I believe the court said that the notion or even a presumption that there was a danger had been overcome. [LB60]

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SENATOR LINDSTROM: Understand I did receive an e-mail from one of the daughters that does describe her fear for her younger daughter with the other individual living with them. If you want me to read a portion of it, I can. [LB60]

SENATOR CHAMBERS: Was he charged with having had improper or illegal contact with this younger daughter? [LB60]

SENATOR LINDSTROM: No. [LB60]

SENATOR CHAMBERS: So we're dealing with somebody who is innocent. [LB60]

SENATOR LINDSTROM: Innocent in the case where with these two daughters, but would you take the risk of allowing them to live with them and take the chance of him? He was convicted before of molestation of another girl the same... [LB60]

SENATOR CHAMBERS: So... [LB60]

SENATOR LINDSTROM: ...about around the same age as the two daughters that he was going to go live with. [LB60]

SENATOR CHAMBERS: So if somebody...if somebody had been accused of shoplifting, they should never be allowed to enter a store again, should they? [LB60]

SENATOR LINDSTROM: Totally, completely different. [LB60]

SENATOR CHAMBERS: Well, shoplifters, that's a way of life. It's stealing. If somebody had been convicted of robbing a bank, should there be a lifetime ban on their ever entering a bank again? [LB60]

SENATOR LINDSTROM: The victim in this case is a minor. The victim in this case will have...this is not just a one-year, two-year...this will have ramifications for entire life. These issues ruin people's lives, so I don't know if you can equate stealing a pack of gum or robbing a bank to sex offense. [LB60]

SENATOR CHAMBERS: Well, your view then is that if somebody commits a sex offense, they are going to do that, you can count on them doing that again. [LB60]

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SENATOR LINDSTROM: Not in all cases. [LB60]

SENATOR CHAMBERS: That's your view? [LB60]

SENATOR LINDSTROM: But where I err is on the error of protecting the child versus taking the chance that that person would recidivate. That is where we sit here. [LB60]

SENATOR CHAMBERS: That's the view you've taken on this and that's why you brought the bill? [LB60]

SENATOR LINDSTROM: I would think most people would take that view. [LB60]

SENATOR CHAMBERS: Say it again? [LB60]

SENATOR LINDSTROM: I would think most people would take that view. [LB60]

SENATOR CHAMBERS: I'm not interested in more people. I'm interested in you because you brought the bill. [LB60]

SENATOR LINDSTROM: Yes, I am...yeah, absolutely. [LB60]

SENATOR CHAMBERS: Had you been aware of the case before it was publicized in the newspaper? [LB60]

SENATOR LINDSTROM: No, I was not aware of, no. [LB60]

SENATOR CHAMBERS: So nothing had happened in that family that would have brought it to the public's attention other than the fact that a decision was handed down in a case that people didn't like and it caught some reporter's attention, an article was written, and all of the biases...not bias. Biases are an attitude favoring somebody that it shouldn't. All of the prejudices, all of the fears, all of the superstitions coalesced into a bill like this. [LB60]

SENATOR LINDSTROM: Well, Senator, a lot of what we do down here is based on things that we see and read in the...in our community, in our world, in our districts. And so when we see things, when we see wrongs and try to make a right, wherever it comes from, that's what we do. And so because it got notary (sic)... [LB60]

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SENATOR CHAMBERS: But here's...you said when we see wrong. What was done wrong in the case that brought us here? Who did something wrong? [LB60]

SENATOR LINDSTROM: I think that in looking at this case, looking at how it's set up, looking at how the judge ruled on it, that there's...the burden of proof should be shifted to the parent that is inviting the convicted sex offender to live with them. You know, again, I put myself in the shoes of being a dad and going through that process and knowing that my children potentially could be...again, I don't care what percentage it would be, if it's any type of percent, if there was one chance that that could happen, this in my opinion can at least work to solve some of that and not put children in a vulnerable situation. [LB60]

SENATOR CHAMBERS: Did the man who was complaining charge that the woman had...was he married to the woman with whom he had children, do you know? [LB60]

SENATOR LINDSTROM: I'm sorry, who in this... [LB60]

SENATOR CHAMBERS: The complaining man, had he and the woman been married? [LB60]

SENATOR LINDSTROM: They had been married, they had been married, yes. [LB60]

SENATOR CHAMBERS: Was he saying that she was an unfit mother and, therefore, should lose her parental rights? Is that what he was charging? [LB60]

SENATOR LINDSTROM: I don't remember if that was particularly the case on that. I know...I can't speak to that. [LB60]

SENATOR CHAMBERS: Well, if she was not unfit, then it meant nothing she did was harmful or threatening enough to the children to lose her parental rights. [LB60]

SENATOR LINDSTROM: But I don't think the issue is necessarily the wife being a bad or a good mother with regards to how she was treating the kids. It was the fact that she was inviting a convicted sex offender, a felon, to live in the household with her daughters. [LB60]

SENATOR CHAMBERS: That's why I fight so hard down here. Like you mentioned, we deal with a lot of matters in the Legislature... [LB60]

SENATOR LINDSTROM: Yeah. [LB60]



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SENATOR CHAMBERS: ...based on things people read in the newspaper,... [LB60]

SENATOR LINDSTROM: Sure. [LB60]

SENATOR CHAMBERS: ...attitudes they developed. A bill was introduced that was to be made into law and if I disagree with it, no matter what it makes me look like, I believe in trying to do justice. And the example I've given...and I'm not attacking you for what you're doing. [LB60]

SENATOR LINDSTROM: I understand. [LB60]

SENATOR CHAMBERS: I hope you know that. [LB60]

SENATOR LINDSTROM: I understand. [LB60]

SENATOR CHAMBERS: You're doing what you believe is right. [LB60]

SENATOR LINDSTROM: I understand, Senator. [LB60]

SENATOR CHAMBERS: And that's what your job is. [LB60]

SENATOR LINDSTROM: Right. [LB60]

SENATOR CHAMBERS: We might just have a different approach, but I think it was maybe Thomas Jefferson who said a difference of opinion does not necessarily even mean a difference in philosophy. So it doesn't go to the depth of me saying you're a bad person for bringing a bill that you believe in. But the point I make, when it comes to how the law is going to look at people, justice is the one that is supposed to be blindfolded so that the only thing considered would be the facts. You can't see the race, the color, the social status and have a preconceived notion of whether this person did the crime or not. A clean-cut young man like yourself, handsome...isn't he a good-looking guy? [LB60]

\_\_\_\_\_: (Whistle.) (Laughter) [LB60]

SENATOR KRIST: I plead the Fifth. [LB60]

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SENATOR CHAMBERS: He could commit a crime and I'd...look at me now. If the two of us went before a judge,... [LB60]

SENATOR KRIST: Guilty. [LB60]

SENATOR CHAMBERS: See? I don't even have any scars... [LB60]

SENATOR LINDSTROM: Guilty for being handsome? (Laugh) That is good. [LB60]

SENATOR CHAMBERS: ...or that I'm aware of. But we all know how things go in this society. [LB60]

SENATOR LINDSTROM: Right. [LB60]

SENATOR CHAMBERS: And I know about being prejudged. There are people who think I'm stupid who haven't heard me talk because I wear my hair like I wear it, I wear a sweatshirt, I wear jeans. My daughter got me some jeans that were fashionable. They had slashes across the legs and I was... [LB60]

SENATOR LINDSTROM: Not skinny jeans? (Laugh) [LB60]

SENATOR CHAMBERS: I was going to wear them and somebody told me that I shouldn't do it. I said, oh, so I should dishonor what my daughter gave me. But I don't wear them out where people down here can see me. Just what I'm trying to get to, the example I give: If we have over here Mata Hari, Al Capone, and Jack the Ripper, and over here Martin Luther King, Mahatma Gandhi, and Mother Teresa, these three have got it made. Nobody would even believe that they should be accused. But these are the ones who are going to face the bar of justice. [LB60]

SENATOR LINDSTROM: But that's a...to just make a counterpoint, they've lived their life and made decisions over their course of their life to get to that level. Mother Teresa didn't wake up one day going, you know, I'm going to be good today. She had to make certain decisions over the course of her life to get to that level, just like anybody that, you know, you don't wake up one morning and want to do bad things but throughout life you make certain decisions, make bad decisions, and you're over here. So there's a progression of a life that goes into this and that's what I'm saying is that, right or wrong, some of the folks that testified made decisions to get to where they're at. What I'm trying to do is protect the children who haven't had enough time to make good or bad decisions and protect them. [LB60]

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SENATOR CHAMBERS: But all three of these good ones that I mentioned have been accused and examples have been given of arrogance, selfishness, self-promotion. And some people think it's a crime to even accuse them of that because they're on a pedestal. So a reputation and an aura can be created around them that give them a break they're not entitled to. Now I'm not going to say Jack the Ripper, who they never found who Jack the Ripper is but they thought he might have been a scion from a royal family, but they never found out for sure. The point I'm getting to is this. Should the law--we're the policymakers--... [LB60]

SENATOR LINDSTROM: Right. [LB60]

SENATOR CHAMBERS: ...make a presumption that certain people fit a certain category and everyone in that category is going to be judged as being the worst who could be in that category and should be treated accordingly? That's what this bill is saying, isn't it,... [LB60]

SENATOR LINDSTROM: It's... [LB60]

SENATOR CHAMBERS: ...that you can expect them to reoffend and prove that they're not going to. [LB60]

SENATOR LINDSTROM: Based on the stats, I would say what I've seen and what people testified on, the majority do not, but is it worth taking the chance that they might and do? Where do you take that chance? [LB60]

SENATOR CHAMBERS: Okay. I just wanted some things in the record. I'm not going to interrogate you any further. [LB60]

SENATOR LINDSTROM: Sure, I understand, appreciate it. [LB60]

SENATOR CHAMBERS: See, he's got the sympathy of the crowd already. But thank you. [LB60]

SENATOR LINDSTROM: (Laugh) Thank you, Senator. [LB60]

SENATOR EBKE: Any other questions? Senator Halloran. [LB60]

SENATOR HALLORAN: Yeah. Less a question, more of a comment, but since I'm not qualified to make comments so much as a question I'll ask the question. Were there any...clearly there was

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no one here testifying who had been a victim of child abuse. So to your point, Senator, much of this is about the voiceless; it's about those who not only ran the risk of being abused but were abused. And in an effort to avoid that happening in the future, my estimation is, that's the nature of this bill. Thank you. [LB60]

SENATOR LINDSTROM: Thank would be true. Thank you, Senator. [LB60]

SENATOR EBKE: Any other questions, comments? Thank you, Senator Lindstrom. [LB60]

SENATOR LINDSTROM: Thank you very much, appreciate it. [LB60]

SENATOR EBKE: (Exhibits 1-3) We have three letters for the record: one from Vicki Henry, Women Against the Registry, who is opposed; Ivy Svoboda, Nebraska Alliance of Child Advocacy Centers, in support; and Karen Bowling of the Nebraska Family Alliance in support. That closes the hearing on LB60. We will move to LB307. Senator Brasch. Let me just announce as well that we are making a switch. Number three and number four will be switched on our schedule here because of the number of out-of-state testifiers for LB122. So after LB307 we'll move to LB122. How many...how many are planning on testifying on LB307, please? Proponents, opponents, anybody, anybody that's planning on testifying on LB307? [LB60 LB307]

SENATOR CHAMBERS: Are you trying to recruit those to testify against it? [LB307]

SENATOR EBKE: I'm just trying to get an idea. So I saw four or five hands? Okay, thank you. Senator Brasch. [LB307]

SENATOR BRASCH: (Exhibits 1 and 2) Thank you, Madam Chair and members of the Judiciary Committee. Good afternoon. My name is Lydia Brasch, L-y-d-i-a B-r-a-s-c-h, and I represent the 16th District in the Nebraska Legislature. I'm here to present LB307 which was brought to me at the request of the State Court Administrator's Office in the Nebraska judicial branch. In 2015, I introduced LB338 with the same intent as this bill, LB307. The intent of LB307 is to clarify that specific court fees, including those relating to domestic relations, are to be based upon nonmarried parents filing for custody and parenting time. At present, these court fees are primarily being collected from only married individuals filing for divorce and are not collected from nonmarried parents filing for custody and parenting time. Nonmarried parents are generally not being assessed these court fees because of vagueness in the original court fee statute, 33-107.02. LB307 is simply a correction and clarification to that court fee statute. I'd like to emphasize that LB307 does not impose a new court fee nor does it increase an already

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existing fee. It does not add a monetary burden on those unable to pay the existing fee. LB307 amends the section of statute that assesses a docket fee. You'll notice that in lieu of the phrase docket fee we use the phrases mediation fee and civil legal services fee. The two fees already included in the court fee statute which directs \$50 to the Parenting Act Fund and \$15 to the Legal Aid and Services Fund. LB307 is not the same bill that was brought in 2015. Much more work was done over the interim to improve the clarity of the bill so the intent was unambiguous as much as possible. A recent amendment is being included, which I had the page give to you, to further clarify that the court fee status exempt county attorneys and authorize child support attorneys working with the Department of Health and Human Services from being assessed the court fee. The amended version of LB307 corrects this oversight and removes imposing any monetary burden upon the Department of Health Services. The purpose of the mediation fee is to underwrite and subsidize the cost of mediation for indigent and low-income parents to develop a parenting plan as required by the Nebraska Parenting Act. And I did give you a copy of their informational brochure. In mediation, these issues discussed and cooperatively determined are parenting, parenting time arrangements, custody, visitation, and other important topics regarding to the welfare of children. Revenues from the court fees are deposited into the Parenting Act Fund which is managed by the State Court Administrator's Office and is allocated annually to the six court-approved, nonprofit mediation centers, as well as the Conciliation, Mediation Office of Douglas County. When there is a financial burden or any inability to pay court fees, there are avenues to petition the court to waive the fees. Based on 2016 Nebraska judicial branch statistics, there were 3,440 dissolutions of marriage filed by parents with parenting and custody issues. These married parents were assessed the Parenting Act Fund fee, but nearly the same amount, 3,337, of never-married parents filing similar actions may have not been assessed the fee because of the ambiguity of the statutes as to whether the fee should not be applied to them. It is very possible that eight years ago when the Legislature voted to enact the Parenting Act Fund it may have overlooked that there could be almost an equal number of never-married parents with custody concerns and disputes who are using the court system as those who are married seeking a divorce. This bill clarifies our statutes and equalizes the needs of these families whether their parents are married or are never...were never married. The amount of money this bill authorizes the court to collect is not insignificant. Even a modest estimate could result in approximately \$50,000 for the Parenting Act Fund to offset its mediation services to the parents and their children who are otherwise unable to pay. Collecting fees from those with the means to pay perhaps provides a better source of revenue as opposed to our appropriation process, especially during the years of economic downturns. This bill, with the amendment, continues to exempt county attorneys from being assessed this fee for paternity filings made pursuant to Title IV-D of the federal Social Security Act. Under this section of the Social Security Act, legal fees for these types of actions are funded by the federal government in order for the county attorneys to pursue a determination of paternity of an unmarried father and seeks appropriate child support. County attorneys would continue to be exempt from paying the \$65 fee under the amended version of LB307, similar to the existing exemption under the dissolution of marriage provision. However,

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this bill clarifies that a father or a mother filing for parenting time or custody subsequent to the county attorney paternity action would be assessed the \$65 court fee. During 2015, LB338, the committee hearing, a question was asked by Senator Pansing Brooks. Basically, her question was, couldn't this change be made administratively based on the current language of the statute? To best answer your question, my office worked with the Nebraska Office of Dispute Resolution and the Nebraska State Court Administrator's Office and requested an Opinion from the Office of the Attorney General. The conclusion of the Opinion stated that, "the applicability of the docket fee is not entirely clear and that, if you wish to ensure that the docket fee is assessed, amendment of the statute would be appropriate." And that Opinion is also available on-line should you like to see it from the Attorney General. Ultimately, the intent of this bill is that the court fees collected from both unmarried parents as well as married couples filing for divorce would continue to generate needed revenues for the Parenting Act Fund. The fund will help assist in...to subsidize the cost of mediation for those indigent and low-income parents at court-approved mediation centers. And finally, this bill will assist in finding a valuable mediation and conflict resolution service that helps protect the well-being of children during these very difficult times, during times of immense physical, mental, and emotional stress as their parents to come to a friendly, mediated agreement concerning the best possible outcome regarding issues of parenting time such as visitation, support, and other child-centered needs. I thank you for your time and consideration. I believe that Corey Steel, the State Court Administrator; and Casey Karges, the executive director of The Mediation Center, will be testifying after me and can answer any questions you may have regarding the Parenting Act Fund and mediation services that are offered through this fund. I want to thank you for your time again and I'm happy to answer any questions you may have. [LB307]

SENATOR EBKE: Does anyone have any questions at this time? Senator Pansing Brooks. [LB307]

SENATOR PANSING BROOKS: I just want to thank you for following up on my question so thoroughly, Senator Brasch. [LB307]

SENATOR BRASCH: We want to be thorough. Thank you for asking the questions. Good question. [LB307]

SENATOR EBKE: Any other questions? Okay. You going to stay for close? [LB307]

SENATOR BRASCH: I'll stay for a while if... [LB307]

SENATOR EBKE: See how it goes, okay. [LB307]

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SENATOR BRASCH: See how it goes. Thank you. [LB307]

SENATOR EBKE: Okay. First proponent. [LB307]

COREY STEEL: (Exhibit 3) Good afternoon, Chair Ebke and members of the Judiciary Committee. I am Corey Steel, C-o-r-e-y S-t-e-e-l, and I'm the State Court Administrator for the judicial branch. I have written testimony that's being handed out to you. I'm actually going to go off script a little bit here because Senator Brasch did such an excellent job with her opening. She really answered a lot of the questions. I want to be very brief and I want to keep this as simple as possible. Currently with our Office of Dispute Resolution and the mediation centers, for those individuals that are married and come through and ask for a divorce, there is a \$65 fee that is charged and that is for the use of the Mediation Centers to help with parenting time, to help with those divorce issues when there are children involved. Currently when a family comes...when the individuals come in that have not been married and are asking for parenting time or custody of their children there is no fee but yet that same service is provided. We are providing that service for those based on the Parenting Act. We continue to see that fund dwindle down because of the fact we're providing for all based on the Parenting Act. This really to us is not a new fee, it's to try to make it an equal fee for those that are married and come through for dissolution of marriage or those that are coming through that have never been married but still have those child custody issues and concerns. The mediation centers across the state do a phenomenal job. This is a huge benefit to us in the court system, because every time we use those mediation centers it takes that issue out of the hands of the courts and allows for a judge to agree with that parenting plan or agree with that child custody parenting issue that is in front of them. It is a much better resolution to the issue that comes in front of a court than a judge ordering that on the merits of (inaudible). So with that, you have the testimony. I'm here to answer any questions but I wanted to break it down as simple as possible as I potentially could. Again, we did...have worked on this over the past two years to address some concerns. One of those concerns was could we just do this administratively? Could the Administrative Office of the Courts add that fee in? We don't believe we can. Statute potentially precludes that. So that would be the statutory change to allow for that. The second concern that was addressed was a lot of those fees are generated through the Department of Health and Human Services or for the county attorneys that are filing those. We've excluded those out of that so this would be individuals that are coming in for parenting time based on nonmarried parents that can afford to pay for those. So I'd be willing to answer any questions that you may have. [LB307]

SENATOR EBKE: Any questions for Mr. Steel? Senator Chambers. [LB307]

SENATOR CHAMBERS: If Senator Halloran had his hand up he can go first. [LB307]

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SENATOR HALLORAN: No, go ahead. [LB307]

SENATOR CHAMBERS: Oh, okay, because I had been asking a lot of questions. Mr. Steel, what are people seeking when they come for this service? [LB307]

COREY STEEL: People are seeking what it's actually...it's ordered through the court that they go through and meet with a trained mediator to determine child custody, determine parenting time, to determine those things. So it's actually part of the Parenting Act and it's a requirement. But there's no funds that are generated for those unmarried parents. It's only on the married parents' side where that fund is. So it's a requirement on both, but yet fees are only generated through the court on one side, not the other. [LB307]

SENATOR CHAMBERS: But they are ordered by a court... [LB307]

COREY STEEL: Correct. [LB307]

SENATOR CHAMBERS: ...to go here. And they go there seeking what? Other than to avoid being charged with contempt for not going, what are they...would they...obviously they won't come on their own or a court wouldn't have to order it. Is that true? [LB307]

COREY STEEL: Right, it's an attempt for them to civilly sit down with trained mediators to go through...and Casey can talk about the particulars of what he does when they do come to them with the parenting time. So they sit down with the two parents and they try to come to a resolution of parenting time and those types of things so that when they go in front of the court they have a plan and then the court would adopt that plan, instead of evidence being put on in court and the judge making that determination. It's a much more civil process. [LB307]

SENATOR CHAMBERS: And suppose mediation doesn't work? What happens then? [LB307]

COREY STEEL: Then the court has the ultimate decision in making... [LB307]

SENATOR CHAMBERS: Then what? [LB307]

COREY STEEL: If they cannot come to an agreement then the court would then hear evidence put on in the court and then the court would determine... [LB307]

SENATOR CHAMBERS: Do they get their money back? [LB307]



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COREY STEEL: Do they get their money back? No, sir. [LB307]

SENATOR CHAMBERS: The fees that they paid, are they returned to them? [LB307]

COREY STEEL: No, sir, because they went through that service. It was still provided. [LB307]

SENATOR CHAMBERS: So it's the way for the court to create money for that system by compelling people to go to something they may not want to go to... [LB307]

COREY STEEL: That was something the Legislature decided in the Parenting Act. [LB307]

SENATOR CHAMBERS: What did you say? [LB307]

COREY STEEL: That was something the Legislature decided in the Parenting Act. [LB307]

SENATOR CHAMBERS: I'm talking about the way it is now, whoever did it, the courts compel people to go to this money-generating activity... [LB307]

COREY STEEL: It's a requirement by statute... [LB307]

SENATOR CHAMBERS: When you say the Legislature did it, somebody brought this to the Legislature... [LB307]

COREY STEEL: True. [LB307]

SENATOR CHAMBERS: ...to ask for it, because legislators I don't think would just hatch this. When the first legislation to mandate mediation, was the court, the Court Administrator, or any governmental entity involved in bringing that to the Legislature? [LB307]

COREY STEEL: I can't answer that right now, but I can find that answer out by talking with our ODR director and get back to you. [LB307]

SENATOR CHAMBERS: I think it was brought. Usually I don't favor compulsory things of this kind, but now we're where we are. So without assigning responsibility for who brought us here, the court, if there are two people fighting right now like, as I say, scorpions in a bottle, it's clear they're not going to agree to anything no matter how long you make them stay in the room and

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have somebody talking. But nevertheless, they're ordered by the court to go through it, aren't they? [LB307]

COREY STEEL: Correct. [LB307]

SENATOR CHAMBERS: And they have to pay that fee. [LB307]

COREY STEEL: Correct. [LB307]

SENATOR CHAMBERS: And if it fails they then have to go to court anyway. [LB307]

COREY STEEL: Correct. [LB307]

SENATOR CHAMBERS: And the money has been generated for these programs that these fees are allotted to. [LB307]

COREY STEEL: But I will tell you we've had great success with these programs as well. It saves court time. It comes...Casey could talk about the successes that we've had with this mediation and what happens. It eliminates a lot of undue burden on the court and so they are successful, Senator Chambers. [LB307]

SENATOR CHAMBERS: Well, the courts are lazy then. They don't want to do their jobs. [LB307]

COREY STEEL: No, sir. I don't... [LB307]

SENATOR CHAMBERS: They hope somebody else will do it. If I bought a car and I took it home and it was defective, can I take that car back and get some satisfaction? [LB307]

COREY STEEL: Potentially, if there's a warranty. [LB307]

SENATOR CHAMBERS: So this thing that they're compelled to go to doesn't work. They don't want to go there. [LB307]

COREY STEEL: I would disagree that it doesn't work. [LB307]

SENATOR CHAMBERS: Let's say that they refuse to go. What would the court do? [LB307]

COREY STEEL: If they if they refuse to go to mediation then the court would then make the ultimate decision what takes place on the parenting time. [LB307]

SENATOR CHAMBERS: The court would what? [LB307]

COREY STEEL: The court makes the ultimate decision. So if the family determines...or if the individual determines they're not going to go, they're not going to cooperate, it goes back in front of the judge and then the judge makes the determination on the custody or parenting time. [LB307]

SENATOR CHAMBERS: So right now there are some birds that are escaping the net or the snare that the courts have contrived, whether due to legislative fiat or not. And you want...when I say you, they want to catch those birds that were too smart to tie the knot and then enter an institution that they see doesn't work in most cases, because every marriage, as you know, ends in either death or divorce--the only two ways. So there are some birds too smart for that. And because they don't do that and the court orders them to go here, and that mediation was created for people who are married they're going to get a divorce and all these other things, you're going to--not you personally--draw people into that who have been compelled to go there. But now there's a way to generate some revenue by making them pay for this compelled participation. [LB307]

COREY STEEL: No, I think there's a misunderstanding, Senator Chambers. Currently if you're married and go through a divorce you go through this...the mediation is there as well for the parenting time and for those. Those that are unmarried coming through for child custody, which would be the same reason they're there for the divorce proceedings and then the child custody, are not paying. So we're not trying to create another avenue to create funds. We're actually currently doing the service, providing the service for that other group that is unmarried that has not, as you say, tied the knot. And so that service is there. So it's coming to an example as an administrator. I'm providing the service and I'm only getting paid for half of that service. And so statute requires, and I'm in that position, as you said today, that I have to provide that service for married parents that are going through and unmarried parents that are coming through for child custody. When this was created I don't think the number of unmarried parents coming forward were the same as they are today. We're at fifty-fifty. So we are seeing just as many divorces as we are seeing unmarried parents coming through for parenting time. [LB307]

SENATOR CHAMBERS: Then wouldn't there be... [LB307]

COREY STEEL: What we are trying to do is say we want to provide the service and continue to provide the service and we do that now. But we're continuing to pay the service and our cash funds are continuing to be depleted because we're only collecting on half of the participants that are participating in the service. [LB307]

SENATOR CHAMBERS: But wouldn't there be fewer services rendered to fewer birds if the mediation was strictly voluntary? See, you compel even those who are not married to come for the service. You're just not charging them as much. Let it be strictly voluntary. Anybody who doesn't want to go to mediation doesn't have to go to mediation. If I change the law so that's the way it is and we require fees from all those who voluntarily come, married or not, whoever receives the service would then pay for it because they've voluntarily gone there to receive it. But if I compel you by law and the coercive power of the court can be used to make sure you go there then the courts should not be able to demand money because that to me is what extortion is. [LB307]

COREY STEEL: The other option would be then to have no fee and then I come in for a General Fund appropriation. If the service is going to be there and we agree that the service is beneficial, it has saved court time, it actually is a much more prosperous way to come up with parenting time... [LB307]

SENATOR CHAMBERS: I'm going to say one more time, why not make it voluntary? Only those who volunteer for the mediation receive it and they will pay. And they will be made to know that this is a service and you give all the reasons why it's of value. And they voluntarily come there. Let them pay. But don't compel me to ride the bus when I don't want to ride the bus and then make me pay the fare. That's what I'm getting at. But I won't keep saying the same thing over and over. But you brought something to my attention that had been under my radar scope. But now that it's on my radar, they may find out that it was a can they should have left closed. It may be Pandora's box. But that's all that I have, Madam Chair. [LB307]

SENATOR EBKE: Thank you. Senator Halloran. [LB307]

SENATOR HALLORAN: Thank you, Madam Chair. Hi, Mr. Steel. Thank you for your testimony. I think there may also be some confusion here about who the service is for. [LB307]

COREY STEEL: Correct. [LB307]

SENATOR HALLORAN: The courts may gain some benefit from it, but I think that's secondary. I would guess and suggest that the purpose of mediation is for a more thoughtful event with a

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third person arbiter to work with the couple to work out. May not both parties be perfectly satisfied with it,... [LB307]

COREY STEEL: Correct. [LB307]

SENATOR HALLORAN: ...but probably a little more...no disrespect to the court in general, but they're overloaded. It might be a more thoughtful process where the parties and the children involved for that matter end up with a better resolution to the problem. [LB307]

COREY STEEL: Correct. [LB307]

SENATOR HALLORAN: Would that be a fair...? [LB307]

COREY STEEL: I would agree with that. And Casey Karges will get into that as he actually is boots on the ground. After me he will actually talk about the mediation process and how it is effective and how it does work. [LB307]

SENATOR HALLORAN: All right. Should I ask you or someone else about the fiscal note. I'm just a little confused. [LB307]

COREY STEEL: You can ask me about the fiscal note. [LB307]

SENATOR HALLORAN: Okay. There's a net...it says there will be an estimated \$56,700 because the bill will apply...well, how is it? There will be a gain of \$56,700. Is that net after the \$36,140 fiscal...? [LB307]

COREY STEEL: I don't have the fiscal note. Okay, the fiscal note is gone with the amendment. There isn't any fiscal note that will cost. [LB307]

SENATOR HALLORAN: Okay. [LB307]

COREY STEEL: We are actually going to receive. [LB307]

SENATOR HALLORAN: Net, okay. [LB307]

COREY STEEL: Yeah, net. [LB307]

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SENATOR HALLORAN: Thank you. [LB307]

SENATOR EBKE: Any other questions for Mr. Steel? Thank you for being here today. [LB307]

COREY STEEL: Thank you. [LB307]

SENATOR EBKE: Next proponent. [LB307]

CASEY KARGES: (Exhibit 4) Good afternoon, Chairperson Ebke and the Judiciary Committee. I'm Casey Karges, C-a-s-e-y, last name Karges, K-a-r-g-e-s. I'm the executive director of The Mediation Center, one of the six court-approved mediation centers across the state, here to testify in support of LB307. We've been talking about the purposes of the Parenting Act Fund and the funds need to generate mediation for parenting plans across the state. I was here ten years ago when this first was started. The Speaker of the House at that time had lifted up and proposed a bill, had been through a mediation and saw the advantages of keeping the kids out of the middle of the conflict with the possibility of mediation. At that time, what Senator Chambers is bringing up of the idea of the voluntary part mediation, do know if parents do come to an agreement on their own they are not required they can...they do not have to go to mediation. They can just take whatever they agree to and they can come to court on their own with an agreed-upon parenting plan. If it moves to a litigation, that's when in some way that if they don't come to an agreement on their own they have to then attempt a mediation to see if they can come to an agreement. What we've been learning about, the process is 75 percent of the time if someone does go through a mediated process they are able to work out most of their agreements. In most of these cases they're getting over a hump. Then there are those cases where parents are really going to struggle. It gives an opportunity and when we work on the most difficult of cases, sometimes we're able to help come to an agreement or two on the way to hopefully parents working better as they work towards hopefully a full agreement; if not, they go to court. When the Parenting Act study was done, 93 percent of everything in Lancaster County gets filed, gets agreed upon before it does move into a court process. The reason we're coming is that we're seeing more and more people who are coming to our centers who are not married who are requesting to come and to use mediation. I'll just...look, five years ago we had 192 cases who were not married who came to The Mediation Center to go through a parenting plan, and that was five years ago. This past year we had 342 cases that came requesting mediation. So it's a phenomenon, people are choosing not to be married and having children. We're seeing that and as we do our mediations we're doing those at a deficit because we're not receiving funds to help supplement what we think is a very helpful process. As they do studies on mandatory mediation and voluntary mediation, that even mandatory mediation has a pretty high success rate of parents able to work out these issues. Our goal is if parents can work together, especially on issues dealing with kids, you know, the court is going to go away, mediator is going to go away, everybody...and then they

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got to live this parenting plan out. If they can craft the plan together we know it can be a more peaceful solution. We're trying to help that process to see if that can happen. So the reason that we're bringing this forward is we are seeing a new phenomenon of more and more people who are choosing to have children. We're getting those cases and being asked to mediate those cases. But we're asking that it would be supplemented with that income. So we'd ask that you would support LB307 and I'm open to questions. [LB307]

SENATOR EBKE: Senator Chambers. [LB307]

SENATOR CHAMBERS: I'm not going to ask you all of the questions I asked Mr. Steel because I think you will understand what I'm saying quicker. Is everybody...what percentage of the people who come, if you can break into a percentage, even if it's raw or rough, come voluntarily and would be there without the court ordering them to come? [LB307]

CASEY KARGES: Right now we have a larger percent who are court ordered since the Parenting Act. So the number of cases that have been court ordered come to us because the court asked them to attempt a mediation. [LB307]

SENATOR CHAMBERS: And if they're getting a divorce it's obvious in most cases they're not getting along. [LB307]

CASEY KARGES: Yes. [LB307]

SENATOR CHAMBERS: They may not even be living in the same house, may not even be living in the same city and yet they're going to be compelled by the court to come together in this room and you're going to mediate. Now when they come together, are they provided boxing gloves? (Laughter) [LB307]

CASEY KARGES: Well, I would say, Senator, most of the time, most of the time parents can work it out. It's usually a hump. They need a mediator, sometimes it's a friend, sometimes it's a neighbor. There are those cases that they're going to go to court. It's a more limited number than it has been in the past. Most of the time parents are able in some way sometimes...it's to take a little time. And we work through some process of them hearing one another. In mediation we're trying to explore the options and we do interest base. They have to agree. You don't have to agree to anything in mediation. It's an opportunity just to see if they can do it, because we know if they can do it the odds of them living it out are better. Now do know... [LB307]

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SENATOR CHAMBERS: How much time do they have to spend in this process before they can tell you it's not going to work, we don't want to be here? [LB307]

CASEY KARGES: What we have to do is we have to do a screening. And the reason we do the screening is there are some parents shouldn't be in the same building on the same day. And then after that we ask that they come in, tell...offer what you think a good plan would look like, do you hear the other party's side. After they do that either party can say, you know what, we gave it a try. [LB307]

SENATOR CHAMBERS: Because you get the fee then. [LB307]

CASEY KARGES: And that would be it. Well, we get it...what we're asking for is the filing fee. And so if they do the filing fee we get fee when...to supplement the overall mediation when they file. [LB307]

SENATOR CHAMBERS: Then would you be willing to let it be strictly voluntary? If people volunteer to do this then they'll pay the fee. They know that. But to be compelled when they don't want to be around each other to spend money to come to be in each other's presence with somebody who's meddling in their business is not something that is very pleasant. So who decided that mediation which is to connote the idea of a peaceful resolution, to use coercion to force warring people to come together when you know there's not going to be a peaceful resolution and then you want to make them pay for it on top of it? That doesn't compute with me. Now I know you can't agree because you're here for a purpose, but do you at least understand the words that I'm saying? [LB307]

CASEY KARGES: Yes. [LB307]

SENATOR CHAMBERS: The picture I'm drawing? [LB307]

CASEY KARGES: Yep, yep. And do know it came...and who...it was Senator Flood was the one that brought the original bill. And we worked on the issues that we're working on to work on that. So I...mediation... [LB307]

SENATOR CHAMBERS: What year was that? [LB307]

CASEY KARGES: 2007? Yeah, 2007. [LB307]



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SENATOR CHAMBERS: And I was here at that time. [LB307]

CASEY KARGES: Yeah, yep. [LB307]

SENATOR CHAMBERS: And was I amenable to that program being set up and saying that this is a good thing? [LB307]

CASEY KARGES: I don't think you were cheerleading on that side, but you were here and I was here ten years ago when we started this. [LB307]

SENATOR CHAMBERS: And I don't like the idea of the compulsion. And you might say like with driving it is an implied consent: When you decide to enter the institution of marriage, you're implying that you consent to everything that is attached to it, good or bad, and the bad would be to be forced to go into this mediation if you want to get apart from each other. That doesn't make sense to me. So if I would bring a bill along the lines of what I've discussed, that wouldn't destroy your mediation program, would it, since it works so successfully in 75 percent of the cases? Why don't you advertise on billboards and other places and tell what a good job you've been doing, but also do like these lawyers who advertise, you don't pay unless it works? They say you don't give us anything unless you win. Would that be okay with you? [LB307]

CASEY KARGES: Yeah, that'd be good. [LB307]

SENATOR CHAMBERS: Okay. [LB307]

CASEY KARGES: Just one thing I do want to lift up, 90 percent of the cases that we work on at the mediation centers are indigent or low income. So we get an awful lot of people who are looking to try to resolve their disputes in a more peaceful way. [LB307]

SENATOR CHAMBERS: So I want you to know what you agreed to, that this mediation becomes voluntary and can never be ordered by the court. [LB307]

CASEY KARGES: Well, I... [LB307]

SENATOR CHAMBERS: That's not what you agreed to? [LB307]

CASEY KARGES: Well, what I'll say is the studies are showing even those who are compelled to mediate, mandated to mediate, success rates are almost as high. So what I'll push for is I

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believe in the process. I think it does help parents in the long run. A majority of parents who use it are able to come to solutions together. There are persons, they're heading to court. And they need to... [LB307]

SENATOR CHAMBERS: Are you a pilgrim or a puritan? [LB307]

CASEY KARGES: I'm not sure. [LB307]

SENATOR CHAMBERS: They're meddlesome. You know, their stock and trade is meddling in other people's business. They say hell for a pilgrim is to be in a place where they're told everybody has got to mind their own business and leave other people's business alone. There's no fire, no brimstone; that is worse. They say put me where there's fire and brimstone, I've got to meddle in other people's business. But that's all I have. Thank you. [LB307]

CASEY KARGES: Thank you. [LB307]

SENATOR EBKE: Any other questions? Senator Krist. [LB307]

SENATOR KRIST: So the courts compel people to go to mediation right now. Statistically can you tell me, when they are compelled, what is the failure rate and the success rate of people who do not go to the next step, spend more money, and occupy the courtroom? [LB307]

CASEY KARGES: Statistics are telling us the rate are about the same. [LB307]

SENATOR KRIST: Whether they are compelled or not compelled. [LB307]

CASEY KARGES: Yes, yes. [LB307]

SENATOR KRIST: So if I compel, you said the number was 300 and how much this year? [LB307]

CASEY KARGES: Well, we worked on 342 cases at The Mediation Center. [LB307]

SENATOR KRIST: What percentage of those are those that were compelled? [LB307]

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CASEY KARGES: I think our statistics, Deb (phonetic), I think court order is probably around 60 percent, 60 percent or 70 percent. [LB307]

SENATOR KRIST: Could you provide the legal counsel that breakdown? [LB307]

CASEY KARGES: Yes, yes. [LB307]

SENATOR KRIST: Of those that were compelled, those that were voluntary, what was the percentage of success between the two? [LB307]

CASEY KARGES: Okay. [LB307]

SENATOR KRIST: And what I'd like to see is a breakdown of what this would cost a couple who succeed as opposed to going to the next level and what it would cost them to take it to court because obviously you're talking about indigent people getting them...indigent and those people who may not be able to afford a million dollar lawyer to do what they're going to do. So I'd like to see both the success rate for those who were compelled, those who were not compelled, and then at what rate would they have gone forward and what is the average cost out of their pocket if they paid for it as opposed to those who fail in mediation and go on to the courtroom. [LB307]

CASEY KARGES: Okay. [LB307]

SENATOR KRIST: I already know just talking to Mr. Steel in the past that court time is not inexpensive just in terms of the court, judge, and those people who are there. So I can get that out of JUSTICE. What I need from you is a snapshot of what we just talked. [LB307]

CASEY KARGES: Yeah, we have that stuff. [LB307]

SENATOR KRIST: Perfect. Thank you very much. Thank you, Chair. [LB307]

SENATOR EBKE: Any other questions? Thank you for being here. [LB307]

CASEY KARGES: Thank you. [LB307]

SENATOR EBKE: Next proponent. [LB307]

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KELLY RILEY: (Exhibit 5) Good afternoon, Chairman Ebke and members of the Judiciary Committee. I am Kelly Riley, R-i-l-e-y, executive director of the Resolution Center. Our office is located in Beatrice and we serve 16 counties in southeast Nebraska. The Resolution Center is one of the six state-approved mediation centers that provide services to the citizens of Nebraska in all 93 counties, regardless of their ability to pay. Our approval is through the Nebraska Office of Dispute Resolution, Nebraska State Court Administrator's Office. Current statute, Sections 33-106 and 33-107, provides for court filing fees which are directed to the Parenting Act Fund. A portion of these funds are provided to the six approved mediation centers to provide financial assistance when serving citizens that are eligible to receive services on a sliding fee scale, based on their income and percentage of poverty. The language in these sections outlines that the filing fee applies to modifications of a dissolution or annulment of marriage, or an award of child custody, child support, parenting time, visitation, or other access as defined elsewhere in statute. As currently written, the filing fee does not apply to parents that have never been married yet initiating a paternity filing to modify an award of child support or to establish or modify custody, parenting time, visitation, or other access as defined elsewhere in statute. LB307 would clarify the language so that filing fees will also apply to nonmarried parents. As you have heard through other testimony, the caseload of nonmarried parents that the mediation centers serve, with a high percentage of those receiving services on a sliding fee basis, is steadily growing. This follows the trend within Nebraska, as outlined in the Nebraska 2014 Vital Statics Report, that shows in 2014, 33 percent of all live births were to unmarried women whereas 25 years ago, it was 19.2 percent. LB307 would provide additional funding to financially support the mediation centers which fulfill the state's obligation to provide mediation services to all citizens of Nebraska, including those needing to create a plan involving children. Mediation is one option available to parents. It does not take away their access to the legal process and it allows the parents to work together as they draw on their expertise of their family's uniqueness and craft a plan on how they can best parent their children. One thing I want...would like to add, Senator Chambers, is, yes, a lot of times people...there are the voluntary ones. A lot of times attorneys will refer people to mediation. And then sometimes when the parents have not been able to do it on their own, the court will mandate them to try mediation. I would say that a lot of those parents do not know what mediation is. And, yes, they are in disagreement and there's high conflict. Through the skills that we're trained, we are able to help them learn how to talk about their situation and keeping the focus on this on the children. So a lot of times when people are going through a divorce, or separating even if they're...have never been married, they are very angry with each other. And we're able to put the focus on the children and they find out that they are willing to work together in the best interest of their children and create a plan that works for their family. Where a judge most definitely can make that decision, a judge doesn't see the whole family, and that family is able to take into all of their considerations and create a good plan for them. So thank you for providing...allowing me to provide my perspective as why I encourage you to vote for LB307. [LB307]

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SENATOR EBKE: Thank you, Ms. Riley. Senator Chambers. [LB307]

SENATOR CHAMBERS: Just one question. [LB307]

KELLY RILEY: Yes. [LB307]

SENATOR CHAMBERS: Is there a proviso for the waiver of fees if people don't have money?  
[LB307]

KELLY RILEY: Through the mediation service? [LB307]

SENATOR CHAMBERS: Yes. [LB307]

KELLY RILEY: Yes. There are some people that pay absolutely nothing. [LB307]

SENATOR CHAMBERS: And what do they do, just sign an affidavit or they have to get proof?  
[LB307]

KELLY RILEY: So we have a form, an application for reduced fees, and they provide their  
income. And some people do not have income and so we waive all fees. [LB307]

SENATOR CHAMBERS: And there are no threats or implied threats that under pain of perjury  
you must and those kind of things? [LB307]

KELLY RILEY: No. [LB307]

SENATOR CHAMBERS: Okay. [LB307]

KELLY RILEY: Nope. [LB307]

SENATOR CHAMBERS: That's all I have. [LB307]

KELLY RILEY: Okay. Thank you. [LB307]

SENATOR EBKE: Any other questions? Thank you for being here today. Are there any other  
proponents? [LB307]

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DEBORA DENNY: Good afternoon, Chairman Ebke. Debora Denny, D-e-n-n-y, first name is Debora, D-e-b-o-r-a. I'm the director of the Office of Dispute Resolution in the State Court Administrator's Office. I administer the Parenting Act Fund and I wanted just to give the committee some further information on how the fund works. The \$50 filing fee that is currently assessed for...on all individuals filing for divorce and modification goes into a fund which yields around \$500,000 a year. That \$500,000 is to...by state policy is to be allocated among the six mediation centers and Douglas County Conciliation Office. That yields about \$40,000 for the Scottsbluff center in western Nebraska--so every year that center receives a grant of about \$40,000--to a high end to Douglas County which receives about \$115,000. Casey's centers receives a grant of about \$85,000 per year and that, again, underwrites the costs for people who are indigent and low income who come to The Mediation Center to mediate a plan where they, the mom and the dad or the parents, try to talk through custody. So it's that fund, which is a public-private partnership, that the state of Nebraska has deemed saying this can save us some money in terms of providing access to justice to parents to try to cooperatively come up with how we're going to coparent after we separate. Many states actually have a general fund budget in which staff mediators are hired and placed in the court system to assist the judges. We only have one such staff mediator and that's in Omaha. The rest of the state, the Legislature has not deemed nor has the Supreme Court requested budgets to have staff mediators in every courthouse which would cost quite a bit of money. Instead the framework which Nebraska has used for over 25 years is this public-private partnership where we provide a small grant to these nonprofit organizations and then they leverage this grant with volunteer mediators who are trained and supervised and with some income coming in from paying parents. As Casey Karges said, about 90 percent of these parents that come to the table are indigent or low income. And according to the Dispute Resolution Act which these centers operate under, they must provide access to mediation on a sliding fee scale. And they are not denying anyone mediation because of an inability to pay. So if you just do the math, Casey Karges' center receives a grant of about \$85,000 a year from this filing fee. The average cost of a mediation by a private mediator would easily, in a parenting mediation, be about \$1,000 per case. His center does about 1,000 parenting cases per year. A thousand parenting cases at \$1,000 a case is \$1 million. He said about 90 percent of his clients are indigent or low income. And his center receives \$85,000 to underwrite that cost. You ask how does he do it from a business perspective? Again, it's through the use of volunteer and mediators who do stipend work to help moms and dads and parents who we want to help them transition so that their kids don't have to be a part of their parents' confusion and conflict after a divorce. And again, as Senator Brasch said, this bill is to take the unmarried parents who are not assessed a court fee--it's a filing fee; most people who go to court file...pay a filing fee--and it's just to say these people also need to pay the filing fee. And there is a way that those individuals who can't pay a court filing fee can ask for the judge to waive that fee. So I urge that the committee vote this bill on to floor for full debate. [LB307]

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SENATOR EBKE: Thank you. Any questions for Ms. Denny? Thank you for being here today. [LB307]

DEBORA DENNY: Thank you. [LB307]

SENATOR EBKE: Next proponent. Are there any more proponents? [LB307]

JIM CREIGH: Thank you, Chairman Ebke. My name is Jim Creigh, J-i-m C-r-e-i-g-h. I'm here in a mixed capacity. I'm here to generally support the intention of LB307 to equalize treatment of parents who have been married with those who have never been married. So I generally support the intention of the bill. However, I also believe that the bill should be revenue neutral. As Corey Steel mentioned earlier, there are about equal number of divorces and paternity cases in the state right now. Those are original filings. In addition, there's about an equal number of modifications that are filed to both divorces and paternity cases. As the statute is structured right now, the Parenting Act fee is assessed on original divorce filings and all modifications, whether those modifications are to an original divorce or to a paternity action. By adding the additional paternity cases, that would add about 33 percent to the overall caseload, which means that if the filing...if the per case filing fee is not adjusted that would result in a 33 percent increase in the Parenting Act Fund. I would observe that, at least in cases of divorces, there are 13 court fees that are assessed when a divorce is filed. The Parenting Act fee is largest of those 13 fees. And so I would encourage the committee to pass the bill through but make an adjustment to the per case filing fee in order to make the Parenting Act...to make this bill revenue neutral. And in order to do that you would have to reduce the filing fee from \$50 per case to \$35. And if you did that, it would be revenue neutral. [LB307]

SENATOR EBKE: Any questions for Mr. Creigh? Thank you for being here. [LB307]

JIM CREIGH: Thank you. [LB307]

SENATOR EBKE: Any other proponents? How about opponents? Anyone in the neutral? Senator Brasch, would you like to close? [LB307]

SENATOR BRASCH: Very brief closing, I know you've been here a while. But as you see, the amendment that we gave there is no fiscal note. I just wanted that to be clear for the record. And the other is that my carrying this bill for me at the end of the day is all about helping that kid. And as Senator Chambers mentioned, Mom and Dad maybe didn't get along. But I did hear a comedian once say is that Mom and Dad got along great; one of them just didn't get along with the other girlfriend or the boyfriend. So that that's from a comedian. So that's another scenario

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that...but on this bill I understand that parents, they come to a difficult place. And what we're talking about are two sets of parents that have the wherewithal. They have the income. And they are parting ways and they both have basically the same issues of visitation, laying some ground rules, you know, what is the best step forward for that child? And they both have the money but the way the statutes are written right now it does not require, it's not clear. It's just saying that if you're married you're going to pay this. But if you're never married then you can walk away from here and these fees are paying for those individuals who don't have money, who don't have the ability to pay. And it seems that it would be the right thing to do to make that if you have the money, let's help those who don't have the money and your domestic situation or your marital status and parting ways is the same. And at the end of the day the disputes between the parents, these shouldn't really hurt that child. And so this is where I think that this is maybe keeping the parents in better control, some clear-cut rules and helps them moving forward. I do ask for your support in this bill. If there's more clarification you need, I'm willing to talk about an amendment if necessary. Thank you. You have a long afternoon. [LB307]

SENATOR EBKE: Any questions for Senator Brasch? Okay, do we have any letter on this one? We have no letters on this one. That closes the hearing on LB307. We will move to LB122. Okay, Senator Pansing Brooks. [LB307]

SENATOR PANSING BROOKS: (Exhibits 1-4) Okay. Thank you, Chairman Ebke and fellow members of the Judiciary Committee. For the record, I am Patty Pansing Brooks, P-a-t-t-y P-a-n-s-i-n-g B-r-o-o-k-s, representing District 28 right here in the heart of Lincoln. I'm here to introduce LB122 today to help ensure family members remain connected to one another when one of them becomes ill or incapacitated. LB122 will help family members guard against abuse, provide access, protect one another, and provide comfort when one of them is sick, has Alzheimer's or dementia, or other...or facing any other end-of-life situations. Under this bill, a caregiver, whether related or not, may not arbitrarily deny visitation between an adult resident of a home, healthcare facility, or a residential dwelling and family members of that resident. If a family member is being denied visitation with a resident, the family member may petition the county court to compel visitation with the resident. The court will have the power to compel visitation unless it finds the resident, while having the capacity to evaluate and communicate decisions regarding visitation, expresses a desire not to have visitation with the petitioner or if visitation is not in the best interest of the individual. The bill resonated with me because my mother, Lu Pansing, lived with us the last ten years of her life. When I heard about this bill, I realized that I, too, could have stopped my siblings and other family members from visiting my mom. There would have been nothing more detrimental to the last years of my mom's life. Truly, my mother would rejuvenate and sparkle--her whole demeanor would change--once the family would arrive and the love was surrounding her as they would visit. I remember hearing several years ago that Casey Kasem, the famous disc jockey and creator of the Top 40 in music, was denied visitation by his children and was denied visitation by his children by his wife, and



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thinking how wrong that seemed. I was surprised that there was not a process already in place to protect family members seeking to visit and take care of loved ones. It just seemed like common sense to me. So when Genenne Gibson Didier, a Lincoln resident and friend, brought me her own story of visitation denial, I felt this was an issue that needed to be addressed in Nebraska statutes. She helped us get in contact with the Kasem Cares Foundation and we learned about the work they have done to bring this legislation to other states. The Kasem Foundation was started by Kerri Kasem, the daughter of Casey Kasem. Kerri has come all the way to Nebraska today from California and will be testifying about her personal experience and her foundation's work. I am delighted that she has flown to Nebraska to testify and I'm also happy to tell you that Kelly Rooney, the daughter of the late Mickey Rooney, has joined us, as well, from California to tell her story. They both do honor to the lives of their fathers by working on this important legislation. Right to visitation legislation has gained momentum over the last few years due to increased attention of this issue. Eight states now have visitation laws, including the conservative states of Iowa, Texas, Louisiana, Virginia, and Alabama. I am providing a map for your information from Kasem Cares which shows which states have right to visitation laws. Wisconsin unanimously passed its own right to visitation bill last year and Governor Scott Walker signed it into law after it passed through both houses unanimously. LB122 is modeled after that bill with just a few changes to conform to current Nebraska statutes. I've passed out a copy of a news article from Wisconsin highlighting the bill's signing last year. These bills are getting traction because so many of us know firsthand what it is like to have a family member that is incapacitated or ill. When my own mother lived with us, we did not have a family dispute over visitation, thankfully, but what about the cases where that does occur, where one sibling with the power of attorney or a step-parent may arbitrarily deny visitation? What if that individual isn't receiving the care that they need? The thought of someone in a position of power denying access to one of our own family members would be nearly unimaginable to most of us, yet, as you will hear from multiple testifiers and others today, it is something that happens far too often. This is particularly troubling because studies show that family relationships have a profound impact on life, longevity, and health. I have one amendment to this bill which has been provided to you. AM223 adds extended family members into the definition of family. We had intended to do that in the first place but inadvertently left that out in the introduced language. We also fixed the age for an adult child from 18 to 19 to conform with Nebraska law. In addition, we changed the court petition to take place in county court instead of district court due to an oversight and as recommended by the Nebraska Bar Association. Finally, we added a reference to Nebraska Statute 71-6021, as this section of statute already provides procedures to be able to appeal the refusal of access to a nursing home and we did not want to interfere with that process already in statute. I am providing a copy of that statute to you for clarification purposes as well. I'm very happy to have the support of the Nebraska AARP, the Nebraska Bar Association, and the Nebraska chapter of the National Association of Social Workers, among others. In closing, I would urge you to advance LB122 to General File and help families living under these heartrending situations. And with that, I will answer any questions you might have. [LB122]

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SENATOR EBKE: Anybody have any questions at this time for Senator Pansing Brooks?  
[LB122]

SENATOR PANSING BROOKS: Thank you. [LB122]

SENATOR EBKE: Okay. First proponent. [LB122]

KERRI KASEM: Thank you. Good afternoon, Chairwoman Ebke and committee members. My name is Kerri Kasem, and I am the founder of Kasem Cares, and I am here today to ask you to pass LB122. It's a common-sense bill. What happened with my family is about three years ago my stepmother basically said, you'll never see your dad again. She got rid of all his communication, his ways to communicate, fired the staff and wouldn't let the man who was driving him drive him over to any of our houses. We had seen my dad every single week, talked to him every day on the phone until he lost his voice, extremely close to my dad. And when she said that, we called the police and the police couldn't do anything. They did a welfare check and they said, you know, we can't really tell you anything except he's okay. We called Adult Protective Services and they couldn't do anything. And then we went to court and we realized very quickly that the court couldn't do anything either, even though my father told the court-appointed attorney and the court-appointed doctor, I want to see my children. Judge Lesley Green looked at both parties and said, Casey Kasem wants to see his kids, now go out in the hallway and figure it out. There was no law in place that allowed her to rule on visitation. We even had a videotape of my father when he was first...he was wrongly diagnosed with Parkinson's. He had Lewy body dementia but he was wrongly diagnosed and we knew that if he got sick enough we'd never see him again because his wife had done this to her own siblings with her mom. Her mom died. She was...the kids were not told that she was sick, in the hospital, and they were only told until after she was buried. And we said, Dad, she's going to do this to us. So he signed over a power of attorney to us and he...we made a tape with him and his wishes and what he wanted. Even with that, the court could not rule on visitation without having to go through an entire fight over power of attorney or guardianship. Most people don't have enough money for a retainer to a lawyer, much less going through an entire fight in court over power of attorney or conservatorship. And most of the time, a spouse will win. So even against all odds and after I was told I'll never win conservatorship, I'll never win, you know, the power of attorney fight, I'll never see my dad again, I fought and I fought and I fought and I did eventually win. But it took \$350,000 to do so. This bill would allow a judge to just rule on visitation. And if that parent doesn't want to see you, there's no forced visitation. If that parent adamantly says, look, I don't want to see my child, okay. But if that parent, like my father, wants to, or if that parent is unable to make their decisions, they're too sick, they have Alzheimer's, they may be in a coma, whatever it may be, you look at the history of child visitation and you go on that. You don't go on hearsay--these kids are bad, these kids upset them, these kids are estranged. We had to fight every law in court and we proved that we loved our dad and that we were just here to see

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him. This isn't about money; it never was. So I ask that this very common-sense law go through this committee and hit the floor and be passed because it is a very common-sense law. So thank you very much. [LB122]

SENATOR EBKE: Thank you, Ms. Kasem. Any questions? Senator Chambers. [LB122]

SENATOR CHAMBERS: Not a question. I don't want her head to get big. You have a very capable advocate in your corner with Senator Pansing Brooks. [LB122]

KERRI KASEM: Yes. [LB122]

SENATOR CHAMBERS: Okay. [LB122]

KERRI KASEM: She's incredible. She's courageous. She's wonderful. She's well spoken. I am so happy we have Senator Pansing Brooks as the one who is carrying this bill. It's absolutely wonderful. [LB122]

SENATOR CHAMBERS: That's all I have. [LB122]

KERRI KASEM: Yes. [LB122]

SENATOR EBKE: Any other? Senator Hansen. [LB122]

SENATOR HANSEN: Thank you, Chairwoman Ebke. Ms. Kasem, thank you for coming all the way out from California for us and for sharing your story and for all of your work on this issue. I know Senator Pansing Brooks passed out a map. Is there any success stories from other states that you'd like to share? [LB122]

KERRI KASEM: We get letters all the time and even comments on social media: Without your bill, I would have never seen my family again. There was a woman in California that waited for me after I got off air--I do radio--and she had a letter in her hand and she had been crying and she had been waiting there. And she said, I got to see my dad last week because of your bill, and he just died, and without your bill I would have never seen him again. And we get those letters all the time. There are so many people who don't get to see their parents again because of out of spite, out of money, out of whatever it may be. And that caretaker can be a spouse, can be a sibling, can be a professional caretaker. And once they are in someone's care, if that person says you can't see your mom or dad, the law is on their side. So we need to switch that and we need to

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switch the burden of proof to prove why this person can't see their children. Now if it's one kid, maybe, but most of the time these isolators, they take the whole family and they say, sorry, these are bad kids, sorry, he has bad friends, oh, they upset him. It's all hearsay. Where's the burden of proof? So we get it all the time and I go through the letters. Kathy, who is testifying next, she goes through all the victims' letters and there's so many people we can't help because we're a small organization and we can only lobby and go to so many states per year. We have the bill in 15 states right now so, yeah, that's our goal. But we get those letters every day. [LB122]

SENATOR HANSEN: Great. Thank you again for coming to Nebraska and (inaudible). [LB122]

KERRI KASEM: Thank you. Thank you very much. Thank you all. [LB122]

SENATOR EBKE: Senator Baker. [LB122]

KERRI KASEM: Oh. [LB122]

SENATOR BAKER: Thank you, Chairman Ebke. I...you don't want to share this you don't have to, but you ever figure out why you were denied seeing your father, any reason? [LB122]

KERRI KASEM: Such a good, yeah, good question. She kept coming up with different stories. When one wouldn't hold and one wouldn't gel, she'd come up with another story. And when we'd disprove that, she'd come up with another story. All I know is that it was very contentious from the beginning. She made it very clear when we were kids that that was her family now and we were from an old marriage and she made that very clear. And my dad kept telling us she's just insecure, it's going to get better, I promise it's going to get better, and it didn't. It got worse and worse and worse and he tried his hardest to make it work. And towards the end I remember he'd been saying it's going to get better for about 15 years. And we're all in the car and she had done something, again, that was horrible. And we said, Dad, it's not getting better, it's not getting better. And he looked at us and he goes, it's going to get better. And there was a pause with all of us, even him, and we all started laughing. There was nothing we could do. It was like, it's not getting better and there's nothing we can do about it. So he had felt I think at the time when he did realize that he needed to do something about it, it was right around the time of his diagnosis and he did say we're going to get a...I'm going to get a divorce, I'm going to do something about this, and that sickness hit him and hit him hard because it wasn't Parkinson's, it was Lewy body dementia which takes you down fast, and he was too weak to fight it. [LB122]

SENATOR BAKER: Thank you. [LB122]

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KERRI KASEM: Okay. [LB122]

SENATOR EBKE: Okay. I don't see any other questions. Thank you for coming. [LB122]

KERRI KASEM: Thank you very much. [LB122]

SENATOR EBKE: Yep. Safe travels. [LB122]

KERRI KASEM: Thank you. [LB122]

SENATOR EBKE: Next proponent. [LB122]

KELLY ROONEY: Good afternoon, Chairwoman Ebke and committee members. I am an advocate board member with the Kasem Cares Foundation. [LB122]

SENATOR EBKE: Could you state your name for the record. [LB122]

KELLY ROONEY: I'm sorry, excuse me. [LB122]

SENATOR EBKE: Thank you. [LB122]

KELLY ROONEY: Kelly, K-e-l-l-y, Rooney, R-o-o-n-e-y. [LB122]

SENATOR EBKE: Thank you. [LB122]

KELLY ROONEY: Excuse me if I become emotional. I'm an advocate for the board...I'm an advocate and a board member with the Kasem Cares Foundation. I'm the first daughter to the beloved Mickey Rooney. He encouraged my siblings and I since very young to be individuals and to work for ourselves, which most of us have. I've been a hairdresser for 40 years and I've loved my dad my entire life. He passed away April 6, 2014, at the age of 93. He had shared with my sister and I three years before he passed that he was being abused by secondary family members. We pleaded with him to leave with us the day he told us and he begged us not to take him that day. He didn't want it to happen that way, he said, and we pleaded with him to come with us but he just refused. So I begged him to please call 911. We were going to leave but we were going to figure it out and have him come live with one of us. He made a pact with us and said that he would. We were lied to by secondary family members that said once they could secure him in a safe place, that we could all be a family again and that they would make a way

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for him to be able to live with one of us. My dad...I called the police three times. I called special services three times when we couldn't reach him. He did end up finally calling 911 and went with my secondary family members before the judge, who put him in caretaker, to caretakership with secondary family members who didn't have jobs. As soon as he was placed in their hands, we never heard from him again and we repeatedly called every single week trying to speak with him, finding his address, finding his phone number. Finally my sister got a phone call one day stating, Kerry, I heard that you're calling just to find out about my finances. And my sister said, that is a lie, Dad; we have only been calling to see about your welfare and to make sure you are okay; they are lying to you. He said, that's okay, honey, I hear you. She says, do you hear me? And he says, I hear you. He said, we will all be together very, very soon. The last time I saw my dad was when we buried him and even at that time my sisters and my brothers and I fought for three weeks in the court trying to get his body because nobody was burying him. Finally someone came forward and gave him a place of burial and we could bury him. I would like to urge you, too, when you all have time, to please YouTube Mickey Rooney before Congress. And I'm here today because of him, because of what he was stating. He finally divulged before the country what he was going through. My story is very similar to the Kasem story and to many other stories I find. The more I talk to people, as a hairdresser, I'm hearing it over and over and over again. We're all getting old and we all want to be sustained and loved by our family members. And I know that my dad and Kerri's dad would be very proud of us today. It wasn't about celebrity with my dad and it wasn't with Kerri either. But I do want to use my voice on behalf of those people so that they don't have to suffer like Kerri and I and other people are suffering right now to be able to be with their loved ones before they pass. So I urge you and I pray for LB122 to go forward so that this common-sense bill would be in place so that others wouldn't have to go through what we've gone through. And I like what Kerri's dad used to say when he used to sign off on the radio: Keep your feet on the ground and keep reaching for the stars. And that's what Kerri is doing with these states. She's trying to get these states so that other people, our human race, will not go through these kinds of things. Thank you so much for hearing me today, appreciate it. [LB122]

SENATOR EBKE: Thank you, Ms. Rooney, for coming. Any questions, comments? Oh, Senator Hansen. [LB122]

SENATOR HANSEN: Senator. Thank you, Chairwoman Ebke. Ms. Rooney,... [LB122]

KELLY ROONEY: Yes. [LB122]

SENATOR HANSEN: ...thank you again for testifying. Thank you for coming out. [LB122]

KELLY ROONEY: Thank you. [LB122]

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SENATOR HANSEN: You said you talked with...you get the opportunity to talk with a variety of families and people who have gone through this. [LB122]

KELLY ROONEY: Yes. [LB122]

SENATOR HANSEN: There kind of any common trends or situations that you've noticed that you'd like to share? [LB122]

KELLY ROONEY: Yes. It seems as though as soon as we start to speak about these things that people all of a sudden start divulging they're having the same issues. Either it's their own parent, it's a grandparent, but it just seems like it's just become like a disease because we're aging. All of us are aging. And the more I've talked to people and if I bring up my own issue, they immediately start divulging what they are going through and they want to know how to get help and they want to know how they can stop it because they don't want it to happen to them. So we encourage them. And Kerri has talked about this before, which I think is a very wise thing, to take our cell phones and to videotape our loved ones while they're cognizant and have them say what it is that they want, what it is that you want while they're cognizant and videotape them, because even in my case, two weeks before my dad passed they made him change the will. So to me paper is almost becoming of no effect anymore. You know, so we're in this digital age. We should be taking these videos, putting them in a secure box, keeping them, holding up a newspaper, the time and the date of when this was done and why the person is cognizant of doing that. And I try to encourage people that are in my chair that are going through this and talking to me about it to do that. And they're like, wow, I hadn't thought about that before. You know, we're kind of becoming dissocialized with social media. So I really get to do a hands-on, eye-to-eye with people and there's a lot of it going on. It's really become widespread to the degree I just didn't realize myself. So that's why I'm here. [LB122]

SENATOR HANSEN: Absolutely. [LB122]

KELLY ROONEY: Thank you for hearing me. [LB122]

SENATOR HANSEN: Thank you for sharing; thanks for coming out. [LB122]

KELLY ROONEY: Thank you. [LB122]

SENATOR EBKE: Senator Baker. [LB122]

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SENATOR BAKER: Thank you. Ms. Rooney, you say you hear stories from lots of people. What seems to be the reasons that people do it? Is it about money? Is it about jealousy? Is it about control? Is it about the parent or the person in question being improperly influenced, you know, what... [LB122]

KELLY ROONEY: You said it, Senator Baker. You said it. [LB122]

SENATOR BAKER: Okay. [LB122]

KELLY ROONEY: We're living in that day and age of greed and selfishness. And in my case, because my dad was a celebrity, people might look at me differently my whole life. But he was my dad and I loved him so very much and honored the history and what he gave to the world. And so it just seems we're living in these different times, doesn't it? I think to all of us we know we're living in different times, so I think it's really important to have these things set in order. It's a shame that we have to have so many laws, you know, but it's a good thing, too, right? So this will sustain those that are coming after us so that they won't have to be paying hundreds of thousands of dollars. I couldn't pay hundreds of thousands of dollars to go to court to fight these caretakers who have my dad's accolades in a safe that belong in a museum because those are part of our American history. They belong back to the people, the people that gave those accolades to him. And it's a shame because those caretakers are greedy and they're jealous and they're envious, just what you said, Senator Baker. [LB122]

SENATOR BAKER: Thank you. [LB122]

KELLY ROONEY: Thank you. [LB122]

SENATOR EBKE: Any other questions? Thank you for coming today. [LB122]

KELLY ROONEY: Thank you for hearing me. [LB122]

SENATOR EBKE: Next proponent. [LB122]

KATHLEEN BRAWN: Madam Chairman and committee members, my name is Kathleen Wright Brawn, and this...I am the chairman of the board of Kasem Cares Foundation. I'm also a victim, along with my father, because this is...families are victims of this, not just the elder. I need to answer your question because it's such an important question. What's going on right now in our United States is all about money, it really is. It's all about money. There's a formula that's being followed. It's being taught between lawyers and bankers. What happened to me was a little



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bit different than them but it was...they followed the same sort of formula. My father, I was raised in the Midwest which I'm grateful to be here in Nebraska with sensible people, and my father, when he was age 65, came into a lot of money. He sold his business. He worked so hard his whole life. He was a teacher and then he was a book salesman. And then he became a publisher and he owned his own company, worked his way up to that. I was so proud of him. He was also a family man and he loved us four children, one of them handicapped with special needs. My father, when he turned 65, sold his company and he suffered a stroke. He never knew what to do with that amount of money. He didn't know how to manage the money and here he was sick. So he started surrounding himself with some people that weren't good people. And from day one they started taking advantage of him and us, his children, for things he was trying to set up for us and for our family. He had a will. He had everything that you are supposed to have, an estate plan and everything. The probate lawyer was one of the main perpetrators of what happened. And what I found out after his death was the bank--this was...it happened in Washington State--and the bankers are actually paying lawyers to bring them wealthy sick people. And my father was basically...his whole fortune was stolen by his probate attorney, a bank, his finance manager, his bookkeeper, and his tax person. How it went down, this was our father. We loved him. We respected him. We thought he was okay. He tried to hide that he was getting ill. He, too, had Lewy body dementia, which you die within five to seven years of diagnosis. And he basically was trying to hide it. He didn't want to go into a conservatorship because he'd heard of all of the horrible stories, and guardianship. So he turned to these outside people because he was sick and he was frail and he was losing...he was scared, I know that. And he turned to these people. They said, we'll take care of you, we'll protect you, let's...we'll take care of all of your plans and we'll do all this. Well, they brought in a fifth person and that was what we called the guardian in this formula that they follow. It was an ex-employee; it was a woman. My dad was alone and she started out as a friend. He was...he had no attraction to this woman at all but he enjoyed her company, and so she was a companion and slowly moved into caretaking role. Christmas of 2012 she took him on a trip. He didn't want to go. He told us all, I don't want to go, I don't feel good. And we said, tell her you don't want to go. Well, that morning, Christmas Eve night, my brother got a call. He was supposed to spend Christmas with my dad. And she had...she was there with my dad and Dad said, I changed my mind. So he went with her anyway. She took him away. We didn't know where he was for two weeks. We didn't know if he was getting his medicine. We didn't know anything. When they came back, she moved him into her house which we found out later was actually my dad owned the house and she had it quitclaim deeded to her with the probate attorney and the bookkeeper helped her quitclaim deed it to her, in her name only, as a gift from my father. My dad passed away in 2014. For 14 months I wasn't allowed to see my father. We were made out to be the guilty ones, the bad kids. I was supposed to be a drug addict--I'm a grandma. And finally the very last day that he was...we were given a call that he had a medical emergency, he was in the hospital, we could come see him. We flew up there. We walked in the hospital. It was like out of Twilight Zone. No nurses and doctors would look at us. They looked down at the ground. We were told, you can't

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talk about money and you can't talk about his finances. We walked in there. He was in a coma. He couldn't even talk. I immediately went to my father and I held his hand and I said, Dad, we're here, we've been fighting for you, we've been trying to call you, we've been trying to get to you and be with you. We left the hospital that night. The next morning we showed up and they said, you have 20 minutes to say good-bye to your dad because we're turning the plug off. I sat there holding my dad's hand and he wiggled his finger in my hand, saying, I hear you, because I kept saying, I love you, Daddy, I'm here, I'm here. And when he wiggled his finger, the nurse said, he hears you. I had to sit there for 20 minutes knowing my dad was going to be dead in 20 minutes and there was not a thing I could do about it. I asked them, please give him his last rites, he's Catholic. No, no, it'll take too long for the priest to get here. I said, please let me be with him when he dies, he was with me when I was born, I want to be with him when he dies. I was refused that, and my siblings. To this day, we don't know where our father is. He was cremated three days later. We asked for his ashes. He had a tomb, or a grave, next to his parents for 30 years. She refused to give us his ashes, this woman that had come in and ended up marrying him four months before he died, changed the will, changed his trust, took the...changed the insurance policies. My handicapped brother, us three children were told we couldn't even see the will or the trust because we weren't beneficiaries. This is happening everywhere right now. She talked about greed. It is about greed and it is about money. Isolate the individual, medicate the individual, and then steal their estate--that's the formula--and then quietly cremate. This is going on. Our elderly are being treated like numbers. They're not being treated like people. Families are being destroyed and traumatized. It's time now for us to come together instead of being Republicans and Democrats and rich and poor. This is what our whole society was based on was family and it's time for us to vote from our heart and common sense what the right thing to do is. This bill takes care of the very first step which is isolation. That's what needs to be set first. Stop the isolation, you stop the whole thing from starting. So I am for LB122. Thank you for hearing me today. [LB122]

SENATOR EBKE: Thank you very much for being here. Any questions? Guess not. Okay, thank you for making the trip. Next proponent. [LB122]

GENENNE DIDIER: Thank you, Chairwoman Ebke. Senators, thank you so much. My name is Genenne Didier, G-e-n-e-n-e D-i-d-i-e-r. I am here representing all the little girls who love their uncle. Strength can be hard sometimes but I don't sit here alone. I have five family members behind me and we all had to go and rescue my uncle in 2010. I was really lucky when I was young. I had some really neat role models. One of them came here today upon my request. He was a really awesome gentleman. He was the first resource officer I had at my grade school. His name was Officer John Ways and I just saw he came today and I wanted to say thank you, Officer Ways. He is a hero of mine. And now the tears flow. And I know Senator Chambers has seen my tears over the years. Let me take you back to 1966. I was just four years old but I knew what I wanted in life for sure. My mom's sister married a really awesome man and I knew that

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for sure, so I proposed to him. And he said yes. And it was even documented in our 1966 Christmas letter that I married Uncle Charlie. Fast-forward to May 2010. A voice mail message on my phone from my cousin said that he needed to talk to me about my uncle Charlie. It was feared that another relative was starving him. Over a 48-hour period and many phone calls, the consensus was that it was true and it was widespread. A meeting with every interested party was held, and if you can imagine a group of young cousins all getting together, pooling our money for candy, but this time we were at Brewsky's and we were pooling our money to retain an attorney so that we could hopefully get an emergency protection order to save our uncle. The blame really only lies with the one person, and that was the abuser, and she also happened to be my cousin. We all did what we could do when we knew what we knew. What's truly unfortunate, though, is that family members did reach out to the appropriate agencies. We did reach out to Lincoln Police and they did do the two wellness checks, which they had to do, which was in their realm and they walked in and said, we see a man who is dying. But we did reach out to APS for ten days and they didn't return the service. So that was ten days of no food and hydration that he could have gotten sooner. Those phone calls were documented because after this was all said and done I did my research and called all the appropriate people I needed to talk to and did talk to the county attorney, did talk to police officers that might do a follow-up case, but nothing came from that. After we did obtain the attorney, who was incredible, it wasn't until actually I called the Governor's Office, and that's when we got the state to kind of do some moving, which was great. It was just a little too late. On June 3, 2010, we busted our Uncle Charlie out of the house with that emergency protective order. He was diagnosed with severe caloric malnutrition, and that is a diagnosis found in third-world countries of children that are malnourished and also in abuse cases in nursing homes. The doctor, the ER doctor, during his observations, he watched as I wet, moistened my uncle's lips with the little sponge, and some of you have seen it. But when I went to put it on my uncle's lips, he sucked it so hard, that's how much hydration he wanted. That was a little disturbing to watch. Four years after our uncle's situation happened, I was watching the news and unfolding on the television was the Kasem situation. It was literally parallel to ours. And I knew, and we knew, what was to come in the next few days for their family and we were kind of traumatized all over again, so Lincoln, Nebraska, isn't so different than L.A. When Mr. Kasem was being removed from the hospital in Washington State, that was the same thing that was going on two miles down the road. LB122, if this would have been in place, it would have been really helpful for us because there wouldn't have been that barrier. We could have gone into that home, I believe, because it's a private residence. I don't think that she would have had the opportunity to withhold food and water from him, or would have had that deterrence for that. And I think it would be really helpful for a lot of family members in Nebraska. Thank you so much. Thank you, Senator Pansing Brooks, and thank you all. [LB122]

SENATOR EBKE: Thank you for your testimony. Any questions? Thank you for being here today. [LB122]

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GENENNE DIDIER: Thank you. Thanks. [LB122]

SENATOR EBKE: Next proponent. [LB122]

MARK INTERMILL: Good afternoon, Senator Ebke and members of the Judiciary Committee. My name is Mark Intermill, M-a-r-k I-n-t-e-r-m-i-l-l, and I'm here today representing AARP. And I want to let Ms. Rooney know that my wife and I were watching TCM the other night and Breakfast at Tiffany's came on and Mickey Rooney stole scene after scene, so he gave us great joy even today. We support LB122. I have...I'm in my 40th year of working in the field of aging services, starting as a nursing home ombudsman in Manhattan, Kansas. That's where the gray hair started. We have...and I can tell you that the stories that you've heard today are happening throughout the Midwest. We see them time and time again. And I also want to thank this committee for the action that you took last year to begin to address some of those issues. You advanced LB1007 which defined isolation and included isolation in the definition of exploitation in the Adult Protective Services Act, and that was amended into LB934 which also addressed some of these issues by strengthening the Office of Public Guardian. So those are important steps. But as we just heard, Adult Protective Services in Nebraska needs some attention and some help. To say Adult Protective Services is underfunded is probably an insult to underfunding. We need help in that arena. And until then, I think this particular bill is a logical next step to help families try to address the circumstances that they find themselves in when they are denied access to a family member. So with that, I would encourage you to advance this bill. I think it is an important piece of legislation. Help us take that next step to making sure that we're able to protect vulnerable adults in Nebraska and assure that they are as safe as possible. So thank you and I'd be happy to try to answer questions. [LB122]

SENATOR EBKE: Any questions for Mr. Intermill? Guess not. Thank you for being here. Next proponent. Welcome. [LB122]

PHYLLIS KALBACH: My name is Phyllis Kalbach, K-a-l-b-a-c-h, and good afternoon, Chairman Ebke and committee members. And thank you for letting me speak here. My father died at the age of 95, 3,000 miles away from his home and family because predators isolated him from his family in California and took him to an undisclosed, isolated position in Tennessee. During this isolation, these predators stole absolutely everything he owned. And when they were finished with him, they took him to another city somewhere in Tennessee and threw him in the street. They threw my father in the street like garbage. I'm sorry. This is difficult. When these people took my father to Tennessee, my father owned homes, property, bank accounts, and investments. He had no bills. But when he died he was penniless. Bill collectors began calling my family wanting payment for the loans that these people charged up. He is buried in Tennessee even though he had paid for a burial site in California next to my mother in California. Our

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father had been diagnosed by the veterans hospital--he was a veteran of World War II and Korea--with dementia. He was blind in one eye, going blind in the other, and he had suffered strokes. He could barely hear. According to doctors, he was only going to get worse. My brother, my sister, and I worked together. We had a very good working relationship and we still do and we were very close and we still are and we worked to take care of him. However, one day a friend shows up that he met somewhere, someplace, a friend, and she has a couple of daughters and granddaughters. And all of a sudden she works her magic and she takes control. And the key to this magic and the key to this control was isolation. She becomes...these people become his family. My family, his real family, who was working to take care of him, who had known him all of our lives, we were shoved aside. We had no access to him. And it happened so quickly. Our voices were silenced. And when I questioned her about this, I said, what's going on? And she said, you really don't understand, do you? She says, I am taking everything he's got, everything, and there's nothing you can do about it, nothing. And the hair stood up on the back of my neck. And my family, we went to the police, we went to social services, we went to the veterans hospital, to the doctors and, well, this is not my area, this is somebody else's, and so on. Well, I guess the pressure got too much and all of a sudden he just disappeared and he died thousands of miles away, homeless, injured, penniless, and alone, after being thrown in the street. And we are...my family, we're educated people. We have college degrees and graduate degrees. But these people, boy, they just ran over us like you would not believe because we had no idea that this was going on. And I want to give you some statistics because you've been asking why are they doing this. Well, a study from MetLife calls this type of financial abuse the "Crime of the 21st Century" and they just absolutely say that. Losses are not only money but it is people are losing their dignities, they're losing other things. We don't know where my father's war medals are, pictures. So it's so much more to us, it is more than money. And the Census Bureau currently projects that the baby-boom population will total 61.3 million in 2029. Now these are figures you can find. And financial experts estimate that those over the age of 50 control over 70 percent of the nation's wealth. And baby boomers have started to pass along their life savings to their heirs. When done, some \$30 trillion will be transferred from one generation to the next. And there are people out there, opportunists and professionals, who are prepared to take this and nobody, nobody is immune to this. So protecting the vulnerable people, the key to protecting these vulnerable people is isolation because as they take control, the first step really is identifying who the vulnerable, who they can take from. The second step is isolation. Without isolation, it would be almost very, very difficult to do what they want to do. They would probably have to find other ways. But isolation is absolutely the basis of these people coming in and taking control of families. And I always tell people the elderly person is just the weapon. The entire family becomes victims. I am...I just turned 69 years old and I'm vulnerable. I know that now and it frightens me because, if I become vulnerable, my children are vulnerable. They're going to have to go through what we went through. And I want my children with me when I die. And I will say my father, before he died, I was told he wanted...he said he wants to go home, he wanted...he said, where's my son, is my son here? And we were the people he was kept from.

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And these people, obviously they did not care for him. They threw him in the street. So I am supporting this law. It is the basis of what we need to protect our most vulnerable people. Thank you. [LB122]

SENATOR EBKE: Thank you for being here today. Any questions? [LB122]

PHYLLIS KALBACH: No questions? [LB122]

SENATOR EBKE: Thank you. Next proponent. [LB122]

KAREY McCAULEY: (Exhibit 9) Good afternoon, Chairman Ebke and the committee members. My name is Karey McCauley, K-a-r-e-y M-c-C-a-u-l-e-y. I wanted you to know why this bill means so much to me. LB122 means so much to us for these reasons. The loss of a loved one is so painful and when the responsibility of caring for them falls on another relative, the stress and emotions can be exhausting. In many cases, there are the usual disagreements in care, who is doing what for them to help them, which I've seen firsthand. In the case of my husband's uncle is where this bill comes into play and would have prevented the devastation our family experienced. The person caring for him blocked visits from people who questioned her care of his uncle. Grandchildren, nieces and nephews, and close friends, one by one, were increasing told they could no longer visit. I believe, had there been a law in place that prevented isolation and allowed others access to information about him and his medical condition, then more opportunities may have been available that would have prevented him the suffering he experienced. By the time I received a phone call from his granddaughter saying she thought her mother was killing her grandpa, other agencies and family members had been notified, at which time it was too late. The abuse and neglect had taken its toll. Advanced renal failure was irreversible. Whether it is caring, loving, feeding, administering meds, or the knowledge of medical information, more hands and eyes on deck would have resulted in better care of an elderly man. The prevention and blocking of someone from seeing their loved one is very cruel and should never be allowed, even by law. I want to thank you for considering this bill and giving a voice to those who cannot speak for themselves. End-of-life care should include all of that person's family and friends and be surrounded by love. Thank you so much. [LB122]

SENATOR EBKE: Thank you for being here today. Questions? Okay, I guess we're good. Thank you. [LB122]

KAREY McCAULEY: Do you want me to leave this right here? [LB122]

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SENATOR EBKE: Just leave it on that edge...or, actually, yeah, just leave it there and we'll get it. [LB122]

KAREY McCAULEY: Thank you. [LB122]

SENATOR EBKE: Thank you. Next proponent. [LB122]

ELIZABETH SMITH: Go ahead? [LB122]

SENATOR EBKE: Go right ahead, yeah. [LB122]

ELIZABETH SMITH: (Exhibit 10) Thank you, Senator Ebke and the committee members. My name is Elizabeth Smith. I'm here today to support LB122. This bill would have helped my Uncle Charlie, who passed away June 7, 2010. My father, who is still living today, and Charlie were brothers. My father is 86 and has lived with Parkinson's dementia for over ten years. We have to take care of him in his home. I believe my uncle would be alive today if he had been given the same care as my father, but he is taken from us by abuse and negligence. I received a call from my uncle's stepdaughter, who had assumed physical custody and control of him. She stated that he was brain dead and could no longer eat or swallow and that we should visit him while we could. When I went to visit him, I was disturbed. He was very thin, face sunken. His appearance was unkempt. His fingernails were long and dirty and there was a distinct smell of urine. He was in a bed in a dark sun room, a dirty blanket on him, as well as a dirty ceiling fan running above him. I had suggested thickened Ensure and had brought some for him to try, but she refused to give it to my uncle. I visited the next day with my sister and the conditions were the same. We decided to call his grandson in Virginia so he could hear his voice. My uncle was coherent and called his grandson by his nickname, which totally denied her claim that he was brain dead. We realized that she had been listening to our conversation with a baby monitor. As she had come into the room, she seemed upset and cut the call short. She then discontinued our access and isolated him from us. As my sister and I were leaving, her children approached our car to tell us that they had numerous concerns about her care of my uncle, including that she was not feeding him. Then more relatives called each other with their concerns and so a family meeting was arranged. At this meeting we learned from each other that numerous calls had already been placed to various agencies but had not gotten help that our uncle needed. So we decided to put our money together to hire an attorney in hopes of getting an emergency protection order, which was granted. To help families to not have to experience what ours did, I feel that LB122 would greatly help other families in Nebraska. I still think about what my uncle endured his last days of his life. Thank you. [LB122]

SENATOR EBKE: Thank you, Ms. Smith. Smith, right? [LB122]

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ELIZABETH SMITH: Yes. [LB122]

SENATOR EBKE: Okay, thank you. Any questions? Thank you for being here. [LB122]

ELIZABETH SMITH: Thank you. [LB122]

SENATOR EBKE: Next proponent. [LB122]

MERRY GIBSON: My name is Merry Gibson, M-e-r-r-y, last name Gibson, G-i-b-s-o-n. I am here to support LB122. I am aware of many cases that loved ones are being isolated from their families and friends. This is leaving them in a state of boredom and depression. Too many people are spending the remainder of their life with little or no activity outside the care facility while friends and family who would love to take them on an outing but are denied for no reason. I've personally been involved with a case where the mother just loved to go shopping for cards for friends and family and always said it's good to just get out and get some fresh air. She was always cheerful and happy and ready to go. The last time I saw her, she didn't understand why family and friends didn't visit her. She stated it was like being in a prison and she seemed very sad and depressed. She has spent way too many birthdays, Thanksgivings, Christmases, and other holidays without the joy of being with family and friends. The mother is living in a care facility with her adult disabled daughter Beth. I had the honor of having Beth live with me for a year. I truly enjoyed her company. In a year's time she was learning to read and use a computer. We went to movies, concerts, the circus, and many dinners with friends. She was baptized and became a member of my church where she helped in the office, with Sunday school, with cleaning, with communion, and found a wonderful church family that loved and accepted her as she is. She is no longer allowed to attend the church of her choice. I was denied all contact with Beth and her mother and given no reason. I was denied contact not only in person but by phone and even by mail. I have not been able to visit Beth for several years. I am not a criminal but I am being treated that way. We considered each other best friends. This is not fair to me or to Beth and her mother. Beth and her mother should have been set financially for the rest of their lives but this has dragged on for five years. Their wishes have not been honored. I am not a family member but I strongly urge you to pass LB122. This is a huge problem and will only get worse as baby boomers age. I also request that you extend this bill to include friends and life partners. We need to protect those who no longer have any control over their own lives. [LB122]

SENATOR EBKE: Thank you, Ms. Gibson. Are there any questions? Okay, thank you. Next proponent. [LB122]

MARVEL MURPHY: Hello. My name is Marvel Murphy, M-a-r-v-e-l, Murphy, M-u-r-p-h-y. I have been isolated from my sister-in-law and my niece. I went to see Mayta and Beth once. What



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a reunion it was: hugs and kisses and tears. I hadn't seen them for a long time. We were very close. [LB122]

KAREN KYLE: Go ahead. [LB122]

MARVEL MURPHY: I have no idea why I can't see them. The judge thinks I can. The judge also thinks I have a...they have a phone. Well, I tried to call them. The staff picks up the phone. They ask who I am and I tell them and I tell them who I want to talk to and they just put me off. And then they give me the third degree and they give me many excuses. They're never able to talk to me. My calls are never returned. Once, I asked them. I said, why do I...can't I talk to them? And they say, the guardian doesn't want you to. And this is family I was very close to. Every Saturday night with five children, my brother and my sister-in-law, for many years, very close we were. I'm losing my...isn't it the guardian ad litem or the attorney's job to see the court orders are followed? The phone also should work. There should be phone numbers for them to relate to so they can call places. Excuse me, folks. It appears people are not doing their jobs. When I was up there one time, visitation person arrived to take Mayta for a short visit with one of her daughters. And I am...excuse me. Okay, well, I have an example here I want to show you while I was up there. When I was up there, Mayta had blood spots on her shoulder. And I said, what's wrong with you? She showed it to me. She had a sore half the big of her hand...as the palm of my hand. And I said, oh, my God! I said, can I put something? There was no bandage or nothing on it, just soaking through her blouse. And I said, my goodness, you should have something on that. I said, do you have bandage material and medicine? And she said, I have nothing. And she is here at this facility that should be looking after her. I agree. Anyway, I don't know if you do but I'm sure you do too. And when I was there, the lady...wait a minute. Okay, yeah, I can see it. I just am getting shook up...when I was up there, the visitation that was taking her to see her daughter, which she could only see her once a week for one hour, okay? And I happened to arrive there and I went up and to see her and her and Beth had...well, were there. Her daughter lives with her in this same place and...but the daughter can't go. And I asked the girl. I said, are you going to go see your sister, because they're very close, and she said, no, they won't let me go see her. So I asked the lady. I said, can I go see her? She said no. And I said, why? Well, you just can't see her. Well, they were going to a public place. I don't need to tell you no more. They don't tell you what to do when you're going to a public place. You can go. They don't...you know, they're not going to kick you out. So I went and I...she said, you can't sit with us. So I got the closest table I could find and I sat there, by golly, and I talked to her. She's hard of hearing but I talked to her. And there was another time too. The daughter had a heart...a stroke, I'm sorry, a stroke. This was her second one. And they didn't even call us, family members, to tell us about it. So to me this is an isolation thing from the family and the loved ones. And is this what they call protecting the wards? I really don't understand it. And then what happens to the freedom for these folks? They are at the age where they should be able to live and be happy. And I have an example, you know. This reminds me, I live out in the country. Well,

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you can probably tell. And every time I go to town I go by this feedlot. And you know what I think of? These cows--you know what a feedlot is--they're all trapped in this and what are they waiting for: the slaughterhouse. And, you know, this is what it reminds me of. And if it's so possible that you people can pass a law for this happening, I hear so much of this and everybody is involved somewhere and they can't do a thing about it. Why in the heck? Excuse me, I'm getting kind of emotional but it's terribly upsetting. You know what, we're all going to be there. I'm probably not very far from it. But we don't want to live it. You know? And so if you can please, oh, my God, if you can please see in your heart, you can do something for these people. They have...they cannot go and do for themselves. We can't even do nothing for them. And so...oh. [LB122]

SENATOR EBKE: Oh. That's okay. Thank you. [LB122]

MARVEL MURPHY: I, see, I'm getting...I'm sorry. [LB122]

SENATOR EBKE: You got excited. That's okay. [LB122]

MARVEL MURPHY: I'm sorry. Is there any questions? Anything you want to know? I'm here. I'll be glad to answer. [LB122]

SENATOR EBKE: Okay, thank you. Go right ahead. [LB122]

MARY ROSE: (Exhibits 11 and 12) My name is Mary Rose, M-a-r-y R-o-s-e. Good afternoon, Judiciary Committee members and Chair Ebke. I am an advocate and a daughter of a mother who, as her chosen medical power of attorney, I was unnecessarily isolated from her after she was kidnapped from my home in Sandwich, Illinois, on Saturday, November 3, 2012, while she was forced into guardianship to be abused and financially exploited. Later, in December 2012 and thereafter, I then had very limited visitation and strict restrictions, along with having to pay \$50 an hour, cash only, to a monitor until, finally, December 2015. I am the youngest of 12. My mother was 40 when she had me. I was the last one to live at home with my parents and I spent my 20s and my 30s as my parents' caregiver and driver. I was my dad's medical power of attorney and I took care of him for six years while he had lung cancer and other complications, until he passed away in 2004. I am doing everything that I am doing because I promised my dad I would take care of my mom. In 1998, and following updates that were made by the request of attorneys, my mom repeatedly chose me to be her medical power of attorney and yet that was never put into effect, as she was never deemed incapacitated or incompetent except by an attorney who forced my mom into guardianship and registered invalid will and trust. I am also a nurse. My nursing background is cancer, bone marrow transplant, geriatric case management, home health, children with special medical needs, home health, ER, trauma. And I am currently

the director of nursing in our community nursing home. I have always been active in my church and community, along with a volunteer of many organizations. I have done so much research on guardianship and the abuses and exploitation that happens. And even though this bill does not deal with guardianship abuse, it deals with the same problem they all have in common, and that is the unnecessary isolation of the elderly and the vulnerable. What is elder abuse? According to the National Council on Aging Web site, elder abuse includes: physical abuse, which is the use of this "antipsychotropic" drugs like my mother was used, 250 milligrams of Seroquel; emotional abuse; keeping family members from her; exploitation; and neglect. My mother's...every tooth in my mom's mouth is rotted and infected. She lays in bed all day long and skips meals. She doesn't get out of bed. She is not walking. Perpetrators include children, other family members, and spouses, as well as the staff at the nursing home, assisted living, and other facilities and, in my experience, anyone that has something to gain from elders, like the attorneys, GALs, for-profit guardians, and the doctors who are the medical directors of the unregulated assisted-living facilities. (Inaudible) I have some other examples of abuse. The main important one is confinement, which means restraining or isolating an older adult other than for medical reasons. What makes an older adult vulnerable to abuse? Social isolation and mental impairment such as dementia or Alzheimer's disease are two factors. And I'm not going to go into the rest of the rest. I ask that this committee please understand the importance of this bill and the need to pass it. I can get you any kind of best practice and evidenced best research that talks about the serious and detrimental ramifications of isolation on the health and welfare of the elderly and vulnerable. But we all know the basic facts of the truth is human contact and relationships have on all of us, especially the elderly and the vulnerable who are already fighting enough demons and battles. I share my mother's story and horrific ordeal not because I want your sympathy but, rather, that you vote for LB122 because I do not want the hell of the isolation my mom and others who have had similar cases in Douglas County courts to have been put through to continue to be allowed and tolerated in the state of Nebraska. Thank you for your consideration, your time. The other thing I have included, and I'm not going to go through all the dates, but are the basic words of my mom: My daughter called to speak to me, why couldn't she answer? I know my time is up so I'll let you read all of these. These are my mother's words at the age of 81. At the age of 85, she is still in a for-profit guardianship. Thank you. [LB122]

SENATOR EBKE: Thank you. [LB122]

MARY ROSE: Any questions? [LB122]

SENATOR EBKE: Any questions? Thank you. Can I...next proponent come up. And can I see a show of hands of how many people are still planning on testifying on this bill in any capacity, way up high? Two? Okay. Thank you. [LB122]

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KAREN KYLE: (Exhibits 13-20) Good afternoon, Senators. My name is Karen Kyle, K-a-r-e-n K-y-l-e. After graduating high school, I spent nine years serving my country in the United States Army Reserve. I trained as a military police officer. I was employed for 33 years by the Metropolitan Utilities District. I am now retired and I'm a criminal--just ask these lawyers! I cannot see my mother or my sister. It is wrong. They're living in an assisted-living facility. They have no access to anyone except those that are causing harm. Their lives have been reduced to watching TV. Their quality of life has been stripped from them. I have been banned so many times I can't even keep track. My mom's estate once had the financial means to keep her bills paid for the rest of her life. It will soon be depleted and the state of Nebraska will be paying for her care. There are more vulnerable adults that just waste away each day. Imagine being without hope. I have researched Douglas County probate cases on my own. I found Mary Rose. I have found others. I have talked to these people. Based on what I am being told--these are my opinions--the probate court in Douglas County appears to be using the same group of attorneys. Cronyism is involved. Evidence is being created. There is no foundation to support this. There is no just cause. We all feel targeted. Former guardians are being removed unjustly. Adversarial supervisors are being utilized to oversee visitations. No one should have to pay to see a loved one. I am hearing that powers of attorney are being revoked with no evidentiary hearings. My mother held four powers of attorney for healthcare and they were all revoked without a trial. Motions are not being set for hearings in a timely fashion. Persons with no standing whatsoever are filing petitions for guardianship. Court-ordered visitations are not being followed. I have currently a motion for contempt of court of visitation filed in August of 2015. It has not been set for trial. The wards' attorneys are to blame. Most importantly, I am hearing over and over again there is no due process. I see the request for attorney's fees. In my opinion, attorneys are getting very rich at the expense of the wards. Nebraska Revised Statutes--these are the criminal statutes--28-358 and 28-358.01 specifically address the isolation of vulnerable adults. You wrote those laws. We told law enforcement. They're telling us this is a civil matter. Law enforcement will not investigate. Families are sick of hearing this. There is nothing civil about this. It is criminal. Something is very wrong. There will be more seniors subjected to the nonsense of isolation. We are just now on the front edge of baby boomers. More are coming. Everyone at this hearing feels the compelling need to protect our vulnerable adults from financial harm and this horrendous emotional harm caused by this isolation. We are here because we have been forced to live this never-ending nightmare. I wish that each isolated vulnerable adult could be here today to speak with you. Many would want to. They can't address their state senators. They can't go where they want. Our seniors are to be honored, respected, and treated with dignity. They should not be emotionally imprisoned and financially exploited. Their constitutional right of life, liberty, and the pursuit of happiness no longer exists for them. When each of you go home tonight, you spend time with your family, you're lucky that you can do so. Look around at each family member. Think about your friends. Who can you do without and which ones could do without you? Hold each other pretty close. Pray to God this issue will never affect any of you. There are people out there that can and will take you away from those you love. I strongly recommend this

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bill be strengthened. I have researched these cases in Douglas County. I know what the problems are. The first thing, mandate that law enforcement investigate. They are being unduly influenced. [LB122]

SENATOR EBKE: Thanks for being here today. Any questions? [LB122]

KAREN KYLE: Here's my recommendation for strengthening this bill and here's some other evidence. [LB122]

SENATOR EBKE: We'll get some...our page will pick those up for you. [LB122]

KAREN KYLE: And here's your own laws. And I can't get law enforcement to look into this. [LB122]

SENATOR EBKE: Thank you for coming in today. Next proponent. [LB122]

MIKE FERENCE: Hi. My name is Mike Ference, F-e-r-e-n-c-e. Dear Chairman, members, I'm in support of LB122 because of a situation with Mary Chris (phonetic), with her mom, my aunt. My dad is 80 years old. He was not allowed to see his sister. She has a sister that's a nun that was harmful if she went to see her. This gal has been locked up for four years, cannot go to a family picnic, a baptism, and this is why I'm supporting, ask you to support LB122. The fact of the matter is at one time she was not even allowed to have her local priest come see her because that would be too damaging on her. And I know you guys got a tough job and I appreciate your time. Any... [LB122]

SENATOR EBKE: Thank you for being here today. Senator Krist. [LB122]

SENATOR KRIST: What facility is she in? [LB122]

MIKE FERENCE: House of Hope in Omaha. [LB122]

SENATOR KRIST: House of Hope in Omaha. [LB122]

MIKE FERENCE: Yes. And you have to go see her. You have to have somebody take you down there and you have to go through three locked doors to go see her. [LB122]

SENATOR KRIST: I'm going to go see her. [LB122]

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MIKE FERENCE: You're a good man. [LB122]

SENATOR KRIST: No, that's my job. [LB122]

MIKE FERENCE: No, I...I know but... [LB122]

SENATOR KRIST: You know, we can walk into any penitentiary, any other state systems,... [LB122]

MIKE FERENCE: Uh-huh. [LB122]

SENATOR KRIST: ...any of our jails. If this situation exists, then we need to go in and visit people that are in this situation. Now let me give you two recommendations. This goes across the board. You already have a process in place where if you in your place could advocate for your aunt...is that right? [LB122]

MIKE FERENCE: Yes, my aunt. [LB122]

SENATOR KRIST: You could go to your state senator and have the Ombudsman's Office look into the situation. And I know you've tried it before but I can tell you the Ombudsman's Office will do everything they can up to a point and then that information comes back to the state senator. If you haven't taken it back--the last step--back to the state senator, and if you have names of state senators who have not taken that action, I'd like to know--not here--I'd like to know them so...I'd like to know that. But I assure you, if you'll just jot down on a piece of paper her name, the name of the facility--I think I know where it's at--I will visit the facility. [LB122]

MIKE FERENCE: Thank you, sir. [LB122]

SENATOR KRIST: Thank you. [LB122]

MIKE FERENCE: Thank you guys. More questions? Appreciate it. [LB122]

SENATOR EBKE: Okay, thank you. Are there other proponents? [LB122]

BUB WINDLE: Chairwoman Ebke, members of the committee, my name is Bub Windle, B-u-b W-i-n-d-l-e. I'm here on behalf of the Nebraska State Bar Association. I think you've heard a lot of reasons on why we need this bill, on why we need a process, so I will be brief and speak just

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to the amendment, and in particular the section of the amendment that states that the petition would be filed in county court. The members of the bar association that handle this sort of thing think that the county courts handle these sorts of actions. They are the courts that handle guardianships. There may even be an existing guardianship action over which they have jurisdiction. So the petition should be filed in the first instance in the county court. We support the bill. We thank Senator Pansing Brooks for introducing it and for introducing the amendment. With that, I can answer any questions. [LB122]

SENATOR EBKE: Any questions for Mr. Windle? Senator Chambers. [LB122]

SENATOR CHAMBERS: Representatives of the bar association come before us periodically on bills and I have not had a good opinion of the bar association down through the years. But it seems to me that if a representative of the bar association can be here, listen to this testimony, it might be a good idea for the bar association to set up a unit with volunteer attorneys who will help people in these circumstances and would periodically pay visits. If they had a unit, it wouldn't be up to one person. This can be draining, even if it's not your family member, to go to these places, to see things going on where you don't have any direct power to do anything. But just like the prisons where exposure and sunlight are the best ways to try to get things done, if there were volunteers from the bar association appearing to look things over, then we might be on the road to getting some relief for these people and reports, as Senator Krist suggested, could be made to senators who have an interest in doing it. I get calls of all kind and I do what I can. But I can't do legwork and go to all these facilities. But when I'm made aware of something, now, in the Legislature I am a persona non grata, but when I go to these places things straighten out at least for the time being. And I will let them know that I'm coming. Then there is a cleanup crew, there is deodorizing, there is a changing of linen, there are things done that ought to be done routinely. And I don't want to catch them in a bad situation because I know it's there. If my presence can do anything, I want it to have a result like that. I'm not putting this on you personally, but you're here as a representative of the bar association and maybe you can be an emissary from here and just see how they feel about it. Now I would work with him on it if they would like to do such a thing. [LB122]

BUB WINDLE: Yeah. [LB122]

SENATOR EBKE: Senator Krist. [LB122]

SENATOR KRIST: "Yeah"? Good answer. (Laughter) Bub, I want to go one step further. What I'd like you to do is ask the legal counsel or the clerk to get you a transcript of this and I want you to send it out to every bar member. I want...I would love for them to read the kind of testimony that we've heard today. I think it would be wonderful for them to hear what we heard

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today and make sure that they understand that there's an issue. Now we all know there's always two sides to the story and I've heard there's a million and one stories in the naked city and I've heard a lot of them. But there's too much piling on to say that there isn't a problem. And Senator Chambers' suggestion about the bar becoming involved in something that is good for society, good for your image, you know, would be something great for us as well. So thank you, Chair. [LB122]

SENATOR EBKE: Any other questions, comments? Thank you. [LB122]

BUB WINDLE: Thank you. [LB122]

SENATOR EBKE: (Exhibits 5-8) Okay, do we have any other proponents? Last opportunity. Are there any opponents to the bill? Seeing none, are there any in the neutral capacity? While you're making your way up here, we do have a few letters. We have a letter in support from Stephanie Clark of the National Association of Social Workers; a letter of support from Heath Boddy of the Nebraska Health Care Association; a letter in opposition from Jane Mitera on behalf of herself; and a letter of support on behalf of Elle Hansen, on behalf of herself. [LB122]

SENATOR PANSING BROOKS: Thank you. Thank you all for listening to these really heartrending stories. I know it's been a long process. We did have people come in and then we had more people coming that heard about the bill. So as you can tell, there are some real needs that are occurring across our state. I just want to bring us back to the fact that what we're looking at is trying to create a fair process that allows family members to be able to petition the court to be able to see and request and say that it's in the best interest of the resident to be able to have access to that person in somebody's home or in another facility. So again, the court can decide it's not in the best interest. And of course some of this discussion went broader than what we're discussing in the bill, but clearly having an access and an ability to petition the court to be able to have contact with your loved one is really important. Being surrounded in love in the last days, I can't think of anything more important. So I hope that you'll help pass this bill. Thank you. [LB122]

SENATOR EBKE: Any questions or comments for Senator Pansing Brooks? [LB122]

SENATOR CHAMBERS: Just one comment. [LB122]

SENATOR EBKE: Yes, sir. [LB122]



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SENATOR CHAMBERS: I'm going to stop doing this to you, but I refer to her as my goddaughter in whom I am well pleased. (Laughter) [LB122]

SENATOR PANSING BROOKS: And I'm grateful. Thank you. [LB122]

SENATOR EBKE: Okay, this concludes the hearing on LB122. We're going to take about a seven-minute break. We will resume at 5:15 but we need to find Senator McCollister and we need to make...do some switching here. [LB122]

BREAK

SENATOR EBKE: Okay, thank you all for returning. We are ready to start the hearing on LB198, Senator McCollister's bill. Welcome back once again. [LB198]

SENATOR McCOLLISTER: Thank you, Chairwoman Ebke and good evening. I am John, J-o-h-n, McCollister, M-c-C-o-l-l-i-s-t-e-r, and I represent the 20th Legislative District in Omaha, Nebraska. Today I'm introducing LB198. The bill would repeal the section of our state laws that created the Crimes Against Children Fund in 1990. The fund was created to reduce expenses incurred by county attorneys in the investigation and prosecution of crimes against children. It was used by a group of county attorneys when consulting with and retaining expert witnesses and for other costs that arose during the course of their efforts to investigate and prosecute the crimes in question. The fund has not received an appropriation since Fiscal Year 2003-2004. When the Crimes Against Children Fund was created, the Nebraska Commission on Law Enforcement and Criminal Justice was given the authority to administer the fund. The commission worked with the County Attorney Standards Advisory Committee (sic--Council) to develop rules and regulation for the disbursement of the money in the fund and the council made recommendations about awarding of the money appropriated to the fund. LB198 would support the Nebraska Commission on Law Enforcement and Criminal Justice's recommendation that the Nebraska Revised Statutes Section 81-1429.01 be repealed. Commission staff are here today. They can provide additional historical and answer any questions you may have. Thank you. [LB198]

SENATOR EBKE: Thank you, Senator McCollister. Does anybody have any questions at this point? So let me be clear, this fund hasn't been funded for 12-, 13-some years? [LB198]

SENATOR McCOLLISTER: Yeah, that's absolutely correct. [LB198]

SENATOR EBKE: Okay. [LB198]

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SENATOR McCOLLISTER: So it's...I would view this as a housekeeping bill. [LB198]

SENATOR EBKE: Okay, sort of a clean up. Okay, thank you. [LB198]

SENATOR McCOLLISTER: Thank you. [LB198]

SENATOR EBKE: First proponent. [LB198]

DARRELL FISHER: Good afternoon, Chairwoman Ebke, members of the Judiciary Committee. My name is Darrell Fisher, spelled D-a-r-r-e-l-l; Fisher is common spelling, no C. I am the executive director of the Nebraska Commission on Law Enforcement and Criminal Justice, more commonly known as the Crime Commission. I'm here today to testify in support of LB198 and I would like to thank Senator McCollister for carrying this bill for the commission. LB198 is a bill to repeal the Crimes Against Children Fund found in Nebraska Revised Statute 81-1429.01. This fund was originally created in 1990 by LB1246 to provide some limited assistance to smaller counties in the event there was a crime involving a child and the county needed financial support to adequately investigate and prosecute. This bill was also...it also created a division within the Attorney General's Office to assist the county attorneys in the prosecution of crimes against children and also required the Attorney General's Office to prosecute these crimes if warranted when the county attorney could not or would not prosecute them. The bill also requires the county attorneys to receive yearly training related to crimes against children. These requirements are still in statute. This fund never had its own specific dedicated revenue stream. When money was put into the fund it was taken from other cash or General Funds. In FY '03-04, all money was removed and nothing has been appropriated to the Crimes Against Children Fund since that date. Crimes against children will continue to be investigated and prosecuted without any assistance from this fund by the county attorneys and the Attorney General's Child Protection Division. There is no fiscal impact to LB198. I respectfully request you to advance this bill to General File and I would be happy to answer any questions you may have. Thank you. [LB198]

SENATOR EBKE: Any questions for Mr. Fisher? I guess we're good. Thank you. [LB198]

DARRELL FISHER: Thank you very much. [LB198]

SENATOR EBKE: Are there any other proponents of this legislation? Are there any opponents to LB198? Senator Bolz, you're not getting ready to...you're not in opposition to this? Okay. [LB198]

SENATOR BOLZ: No, I was...(laughter). I was trying to wink and nod at the page. [LB198]

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SENATOR EBKE: Okay. Are there any in the neutral capacity? Senator McCollister? Senator McCollister waives. That concludes...do we have any letters? [LB198]

SENATOR HALLORAN: Senator Ebke. [LB198]

SENATOR EBKE: Hang on. [LB198]

SENATOR HALLORAN: Can we make Senator McCollister an honorary Judiciary member? (Laughter) [LB198]

SENATOR EBKE: We could. We'll give him a badge or something. [LB198]

SENATOR MCCOLLISTER: I know what kind of hours you keep. No, thank you. [LB198]

SENATOR EBKE: There are no letters on LB198 so this concludes the hearing on LB198 and we move to LB104, Senator Bolz's bill. And we do a switch of committee counsel as well, although he left. Okay, we'll wing it. Go ahead. [LB198]

SENATOR BOLZ: (Exhibits 1-4) Good evening, committee. My name is Kate Bolz; that's K-a-t-e B-o-l-z, and I am the state senator representing District 29. I'm here today to introduce LB104. LB104 establishes surrogates to make healthcare decisions for those incapable or incapacitated but who do not have a guardianship in place or a medical power of attorney. This is particularly needed for people such as people with developmental disabilities who are capable of maintaining general independence but who might rely on family or other designated close friends or family members to help make certain complex family decisions. The bill also establishes a hierarchy for decision making when someone is incapacitated and they have not declared their own surrogate. Guardianship is when a person is appointed by the court to make personal decisions for a protected person such as decisions related to medical needs, residence, and education. Guardianship has been and will remain one option for people who are unable to make decisions for themselves as it relates to healthcare or other complex matters. But guardianship is not right for everyone. In fact, the law requires that guardianship be a last resort and that if someone is generally capable of independence, as a general principle, we should seek the least restrictive environment. Additionally guardianships can be expensive, and with court fees and attorneys' salaries they can cost up to \$5,000 for a guardianship. Power of attorney is another option. It's less restrictive than a guardianship but it does take time and money for a court to verify it. It is more explicit in controlling...to decision making than our proposed surrogate might be. A power of attorney is usually drafted with help of an attorney and the designation of a power of attorney is binding until revoked. In contrast, LB104 establishes a surrogate which is temporary and it is

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removed once a person is no longer incapacitated. To be clear, it is not our intent to replace or supersede other parts of law that allow for certain protections related to preventing assisted suicide, for example. It is also not our intent to replace or supersede preexisting advance directives. Rather, this is another tool in the toolbox or another step in the continuum to allow clarity in terms of decision making when an individual needs some assistance in that area. The bill was brought to me by the Autism Medical Legal Partnership. This is an initiative that you'll hear more about later tonight, but was...the initiative found this option to be less expensive and less restrictive. I have a couple of changes proposed to you in an amendment which strikes a couple of sections that were just a drafting issue. We never intended the surrogate to supersede the role of the guardian and the amendment clarifies that. It also puts into place some liability protections for healthcare providers. Healthcare organizations do have thoughtful ways of handling this type of situation and that is respected and appreciated by me and my office. The bill makes surrogacy a more clear option and allows for consistency among healthcare providers. I want to add a brief personal note which is my own personal experience with this type of issue. I ended up a couple of years ago taking someone to the hospital who had had a seizure. And in the emergency room I was asked whether or not I could make healthcare decisions for this person and I could not. And in this particular circumstance, despite the fact that this individual had had a seizure and couldn't tell you what day of the week it was, he was later asked to sign forms and make decisions about his own healthcare because family members weren't available. The ultimate result was that he was given some healthcare procedures and later disputed the bill because he did not feel that he was asked to sign his forms when he was in a place that he could fairly sign them. That is the introduction that I had prepared for you. If the committee will let me, I also have a couple of letters from testifiers who were unable to stay with us this evening due to the late hour. Both had children that they needed to go pick up from various activities. And so with a little bit of humoring I would like to read a statement...a brief section of the statement from Dave Pantos who is the former executive director of the Autism Action Partnership. He says that parents of disabled children are used to making healthcare decisions for their kids. However, when children reach the age of majority they must often continue to make these decisions. This is approximately 70 percent of children with developmental disabilities like autism...this is because approximately 70 percent of children with developmental disabilities like autism suffer from significant medical comorbidities and require ongoing care. Unfortunately, there is widespread confusion and uncertainty among medical providers whether parents continue to have this ability to make medical decisions. As a result, parents and other caregivers are told they must secure a guardianship in probate court to be able to continue to assist their disabled children. I also just would like to share a section of a letter from Ann Mangiameli who is the managing attorney for the Health, Education and Law Project at Legal Aid of Nebraska. And the section I wanted to share with you is related to the HELP Project. And she says: The focus of the HELP project is to eliminate legal barriers to patient health. Because of this focus, Legal Aid of Nebraska supports LB104. LB104 would allow medical professionals to look to family members for medical decisions when advance directives and guardianships are not in

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place. It provides a less-restrictive alternative to guardianship and provides for quick medical decisions without the need to obtain an emergency guardianship. Because there is currently no clear legislation allowing family members to make medical decisions when advance directives and guardianships are not in place, families are often told they need to obtain guardianship when a loved one is unable to make their own medical decisions. Not only is this costly for a family but the stress of a court proceeding can be overwhelming to a family who may have just received devastating news of an accident resulting in a traumatic brain injury to their spouse, sibling or adult child. So thank you for allowing me to share that in the record and I'd be happy to answer any questions that you have this time. [LB104]

SENATOR EBKE: Do we have any questions for Senator Bolz right now? Are there people coming behind you? [LB104]

SENATOR BOLZ: I think there are a couple...there is one family member who'd like to share her story and a couple of others that I think have some items to bring up with you. [LB104]

SENATOR EBKE: Okay. Wonderful. First proponent. [LB104]

DEBRA TIMM: Hello, my name is Debra Timm, it's D-e-b-r-a T-i-m-m, and I am here at the request of Legal Aid. We just went through guardianship, my husband and I, for our son. He is on the autism spectrum. Three years ago he was also diagnosed with epilepsy. So not only do we deal with a neurological disorder, we also have a child that has a pretty specific and it can be devastating medical need. When Matt turned 18 we were encouraged immediately to get guardianship. We looked into it and found out what the cost was. And we did not do that. It's a lot of money. You also need to go through a background check, both of us. You need to have your child, your adult child...the sheriff comes to your house and, of course, they have to let him know that this proceeding is going to happen. Again, Matt is on the autism spectrum. That type of thing can be very confusing for a child like Matt. We were very grateful when it did happen because the police officer that came was in plain clothes and he also came in an unmarked car, which was nice. But I question why this is even necessary. My husband and I have been making all of Matt's medical decisions since the day he was born. I left my job when he was three years old. He is my full-time job. I fight with insurance companies. I fight with drug companies to get him the medications he needs. That's pretty much what I do day in and day out. I will always have his best interests in mind, always. I always have and we hope that he can live with us as long as we are able to care for him. And I look at the expense that's involved and I think there are so many parents who are not able to do this because of the expense and I think life is difficult enough when you have a child with a special need and/or a medical need. And I'm grateful that we were able to go through Legal Aid and the Autism Society which had a grant. We were able to do it for \$133 which is why we went ahead and did it. I just, again, question down the road if

this is a necessity. When we go into the hospital with Matt, which is quite often unfortunately due to his seizures, he is unconscious many times I am still...I carry a copy of guardianship on my phone. I'm still questioned about whether he should or...you know, he's unconscious. They're going to have to listen to me one way or the other. But there are times when I'm talking to medical facilities on the phone where they will ask to talk to Matt. If he's home he may take the phone. But he may tell them, and I'm not going to say...tell you exactly what he says sometimes, but he's said some not nice things and hung up on people before. So it is always going to be in our best interest that we are making the medical decisions. He is somewhat high functioning in certain areas but he would never be able to really take care of himself. So I'm very much in support of trying to make this easier for parents that have children with special needs as they care for them into their adulthood. Again, we deal with so much every single day of our lives. This could be one thing that would make it much easier for everybody. So if you have questions I'd be happy to answer any. [LB104]

SENATOR EBKE: Senator Krist. [LB104]

SENATOR KRIST: I, too, have a special needs special person. So just for the legislative record, you talk about the expense. [LB104]

DEBRA TIMM: Yes. [LB104]

SENATOR KRIST: Okay. Can you tell just so we all have that record to share because our experience--Courtney is 32 years old--our experience is a little older than yours. How much was it going to be to adopt and/or to take any other action in order to have...to be able to speak for your son? [LB104]

DEBRA TIMM: For us, the initial amount that I was given, that was the low amount was \$1,500. And that's basically lawyers' fees. There's a fee for having the sheriff come to your house. My husband Jim and I had to go to guardianship class. There's a fee for that. There is a fee for, of course, the background checks. Again, I've been his parent since the day he was born. They haven't taken him away from me yet, but again they have to do background checks. And the majority of it is the legal fees because it's very, very expensive and on the high side I've been told if there's any questions, complications it could be \$5,000. And I think \$1,500 is a lot of money. You know, in the society we live in right now, healthcare insurance is so, so expensive. And again, having a child with special needs, we still carry him on our healthcare insurance. But each...all these things add up and this is an ongoing thing. The last I numbers I heard for caring for a special needs child through their life it's over \$2 million compared to about \$250,000 I think they say for your normal child. So... [LB104]

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SENATOR KRIST: Back in the day when we were going through it the estimate was somewhere between \$2,500 and \$3,000 and that was baseline above that. So you were assisted through the Autism Society? [LB104]

DEBRA TIMM: Yes. [LB104]

SENATOR KRIST: Okay. And if this were an option, you would have probably gone with this option first? [LB104]

DEBRA TIMM: The Autism Society one? [LB104]

SENATOR KRIST: This proposed... [LB104]

DEBRA TIMM: Oh, okay. I don't know that we would have sought guardianship if I was told I didn't need to. We only sought it because we were told we absolutely needed to do it in order to protect our child. [LB104]

SENATOR KRIST: Right. So I think it's a question for legal counsel before we go forward, is this a 100 percent substitute for it because what I don't want to do is give people with special needs children the misconception that this is going to take care of their needs. [LB104]

DEBRA TIMM: I think you always have to have the option there. If people want to do guardianship and have the means to do it, or like we were to able to do it going through the Legal Aid process, absolutely fine. But I also, as the parent of a special needs child, there are so many people who they can't afford to do this. [LB104]

SENATOR KRIST: Agreed. [LB104]

DEBRA TIMM: So LB104 is I think a really, really great starting point. So that is there to protect us to start with. What you choose to do after that should be up to you. Again, somewhere down the road would we have chosen to do guardianship? Perhaps. I don't know that. I was just told by our doctors that we really needed to go ahead and do this based on our situation. Not only did we have a child on the autism spectrum, he has a serious medical condition too. [LB104]

SENATOR KRIST: So thank you for helping me put a legislative record in place about the options and for establishing. I think anybody who has a special needs person today understands

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that there are so many things that are happening. The ABLE Act and other things that have come out. And Senator Bolz has been very instrumental in helping us all guide through some of those processes. But I think we need to make sure that people understand that this is part of the tools in the toolbox. It's not the answer. It's not the panacea to everything. So thank you. [LB104]

DEBRA TIMM: It would be a great start. (Laugh) That much I would say. So thank you. [LB104]

SENATOR EBKE: Senator Halloran. [LB104]

SENATOR HALLORAN: Yes, you never stop being a mother, do you? [LB104]

DEBRA TIMM: No, I never will. I mean this is my job. I think moms are always moms but in the case of a parent, mom or dad, that has a child that will potentially never move away from home you're on 24/7. You don't...I can't tell you the last time I slept thought the night. It's been a long, long time. [LB104]

SENATOR HALLORAN: Sure. I appreciate that. So help me out a little bit. Is this is primarily for healthcare? He's an adult now? [LB104]

DEBRA TIMM: He is an adult. He's 20 years old, yes. [LB104]

SENATOR HALLORAN: Okay. So I'm looking for clarity because I just don't know, but is this primarily for healthcare decision making or...? [LB104]

DEBRA TIMM: Well, yes. The guardianship...you're talking about LB104 or the guardianship component of it? [LB104]

SENATOR HALLORAN: Either one or both, yeah. [LB104]

DEBRA TIMM: Okay. Once they turn 18, we live in kind of an interesting state anyway because when you turn 18, you are a legal adult. So when Matt turned 18 the insurance companies would no longer talk to me because he was a legal adult. But for healthcare purposes, this state says 19. So that's interesting enough if you have a typical child. But when you have a child with special needs--this one won't talk to me; this one won't talk to him. It gets really, really interesting. It's really important to have something in place that's going to protect both of us. I think LB104



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could do that. And I think the guardianship component, if you choose to do that, also helps to do that. Does that answer your question, or do you want to hear something more specific? [LB104]

SENATOR HALLORAN: It kind of does. I guess I want to...but from a simplistic perspective, power of attorney for health decisions doesn't...isn't sufficient, right? I mean I don't...I'm just asking the question. I don't know. [LB104]

DEBRA TIMM: What isn't sufficient? [LB104]

SENATOR HALLORAN: Power of attorney for healthcare. [LB104]

DEBRA TIMM: Well, you can do power of attorney. I mean that's always one option. I don't know that that's the best option. [LB104]

SENATOR HALLORAN: Okay. [LB104]

DEBRA TIMM: Again, as a parent, my child is never going to grow up, if that makes sense. I will always need to be making decisions for him in order to protect him and care for him. LB104 would give me that opportunity for medical reasons. Of course there's all other types of things that you can do too. Matt does receive Social Security dollars. I am the payee so I take care of the things he needs to pay for and such. It's a very complicated, complex thing that starts...well, when they're 16 years old you start kind of this process. Once they turn 18 they have to go through DHHS. They have to be labeled as disabled. You have to get Medicaid. Guardianship is another component of that. There's the school system, all the IEPs you have to do, all the testing you have to do, the forms you fill out, the hoops you jump through. Again, I fight for drugs for this child, something I did not want him to take but he needs to take. [LB104]

SENATOR HALLORAN: Right. [LB104]

DEBRA TIMM: There's a lot of components that go into this. So I hope that answered your question. [LB104]

SENATOR HALLORAN: Okay. No, that helps claritywise. Thanks. [LB104]

SENATOR EBKE: Any other questions? Thank you for being here. [LB104]

DEBRA TIMM: Okay, thank you. [LB104]

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SENATOR EBKE: Are there other proponents? Figured you were sitting back there for a reason. [LB104]

KIM ROBAK: Senator Ebke and members of the committee, my name is Kim Robak, K-i-m R-o-b-a-k. I'm here today on behalf of Nebraska Methodist Health System in support of LB104. When the Health System was looking at the legislative bills that come before the Legislature that affect the healthcare industry, they looked at LB104 and said this is a great piece of legislation. We could certainly use this. And so I asked why? How would this be helpful to you? And they said oftentimes they will have somebody who is an elderly person or maybe a person with special needs who has outlived their parents or has...the elderly has no family member and no power of attorney or no guardian. So they're in for healthcare services and they're happy to work with a neighbor or a special friend or somebody who provides them advice. But when it comes to signing a consent, these individuals can't sign consent forms. They are not allowed to do so. So the hospital needs to have somebody who can provide these services. This would provide an alternative to going to court. So right now what they do is they oftentimes wait until a person is in an emergency situation. They could provide the care today, but they can't do that because they don't have anyone giving them advice or giving them consent. So once you get into an emergency situation and go to court and you can get a court order and you can get somebody to have permission to do this. So this would prevent them having to wait to have to do that in the system. So we thank Senator Bolz for bringing this. This is a very nice piece of legislation. We also thank her for being gracious enough to work with us on some liability language that would allow a physician to make a decision based on a surrogate's advice and not be held responsible if someone comes back later and sues them and says you shouldn't have done that. So that language is in the amendment and we appreciate her being willing to work with us on that. And with that, we'd be happy to answer any questions but we support the bill. [LB104]

SENATOR EBKE: Great. So let me ask a question. Since you're a lawyer, as Senator Chambers would say, so let's say that in some small town in Nebraska there's a 95-year-old lady who's out walking on the sidewalk, trips, falls, breaks her hip. Kids are scattered all over the country and the neighbor or somebody driving by on the street picks her up and gets somebody...gets the ambulance to come, follows her to hospital. Can the elderly lady then at that point, somebody is going to ask, well, who can make decisions for you, right, while they're administering pain medication? [LB104]

KIM ROBAK: Right. [LB104]

SENATOR EBKE: Under the process of this legislation, would she then be able to say Joe who's my neighbor can provide that until my sons get here? [LB104]

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KIM ROBAK: That's correct. That's exactly it. She has to tell the hospital that this is the person I want to act on my behalf. This is my surrogate. So someone can't just come in and take over. And in theory according to at least the bill as it's written, this person should know you well enough to be able to know what types of care you would ask for. [LB104]

SENATOR EBKE: All right. Okay. [LB104]

KIM ROBAK: Exactly that case, Senator. [LB104]

SENATOR EBKE: Okay. Any other questions? Thank you. Are there any other proponents? Anybody in the opponent category? Anybody testifying in the neutral capacity? Here we go. [LB104]

TOM VENZOR: Chairwoman Ebke and Judiciary Committee, my name is Tom Venzor; that's T-o-m V-e-n-z-o-r. I'm the executive director for the Nebraska Catholic Conference. And the Nebraska Catholic Conference represents the mutual public policy interests of the three Catholic Bishops serving here in Nebraska. And just wanted to come in neutral just to discuss it. You know, we've reached out to Senator Bolz. And one of the concerns we had, and she stated a willingness to work with us through this issue, is that in LB104 just...so right now we have durable healthcare power of attorney law that's it found in Sections 30-3401 through 30-3432. And in there there's the definition sections and then there's protections for like the individual, the patient, the surrogate who's been appointed, and like the healthcare providers and the organizations. And there's a lot of language in there that we thought would be really good and helpful for this in terms of being able to bolster some of those protections for those various people involved in this. And so that was kind of our main concern and we'll be willing to work with her to implement some of those maybe perhaps through an amendment. [LB104]

SENATOR EBKE: Any questions for Mr. Venzor? Thank you. [LB104]

TOM VENZOR: Thank you very much. [LB104]

JERRY STILMOCK: Madam Chair, members of the committee, my name is Jerry Stilmock, J-e-r-r-y S-t-i-l-m-o-c-k, testifying on behalf of my clients, the Nebraska State Volunteer Firefighters Association and the Nebraska Fire Chiefs Association. The amendment of which Senator Bolz spoke of goes to issues of immunity, liability protection. We're coming in as a neutral position. I want to make sure I said on the record. Allow me one courtesy--communication. And I'm guilty in not communicating. I'm coming in on the coattails of an amendment that others worked for and achieved. And I get frustrated when I watch a basketball game at the high school level and

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the members of the team aren't communicating and they're not talking when they should be speaking. And we use a lot of texting when we should be speaking to one another. And so I learned something...I relearned something that I critique others on, and that's to communicate. I...Senator Bolz, I will continue to communicate with you and please accept my apologies for only going to you today. Thank you. [LB104]

SENATOR EBKE: Thank you. Any questions? Thanks for being here. [LB104]

JERRY STILMOCK: Thank you, Senators. Good night. [LB104]

SENATOR EBKE: Next neutral. [LB104]

BUB WINDLE: Chairwoman Ebke, members of the committee, my name is Bub Windle, B-u-b W-i-n-d-l-e. I'm here on behalf of the Nebraska State Bar Association. We are here to testify in support of the amendment but in a neutral capacity on the bill. In particular we support the sections of the amendment that strike Sections 4 and 5 of the bill. As Senator Bolz alluded to, we just want to ensure that if a surrogate is designated, that that surrogate does not otherwise supersede or revoke a healthcare power of attorney or guardian that otherwise properly was designated and the amendment addresses those concerns. And so we support that amendment and thank Senator Bolz for working with us on that. With that, I can answer any questions. [LB104]

SENATOR EBKE: Any questions for Mr. Windle? Thank you. Are there any others testifying in the neutral capacity? Senator Bolz. [LB104]

SENATOR BOLZ: I realize that the hour is late and I promise to be brief. [LB104]

SENATOR EBKE: Oh, no, it's early yet. (Laughter) [LB104]

SENATOR BOLZ: I guess on Judiciary time it's early. But I just wanted to say a couple of quick things. The first is I think we've gotten amendments that help to clarify the language and some really positive changes. If there are other tweaks that need to be made in this sort of tricky area of law I'd be happy to work with anyone to make that happen. I want to get it right however that needs to be done. I think that the concept is right on. I think that the bill language is very close. If there are additional things that need to be adjusted I'd be happy to work with the committee and work with the stakeholders to do that. And I also just wanted to pop up and make sure that you had a chance to ask any last questions. The core concept really is that surrogacy is a part of the continuum of healthcare-making decisions. It may not be appropriate for everyone. There are

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
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people who it is most appropriate to have a power of attorney. There are people for whom it is most appropriate to have a guardianship. There are people for whom it may be appropriate to have both of those things and they haven't put those in place yet. And so surrogacy really fills the gap both for people who may just need some temporary assistance and for people who have not put a more permanent decision-making structure into place. Thank you. [LB104]

SENATOR EBKE: Okay. (Exhibits 5-8) We have four letters for the record: Peggy Reisher of the Brain Injury Alliance in support; Kelly Keller of the National Association of Social Workers in support; Cathy Martinez on behalf of herself in support; and Jacob Dahlke on behalf of himself in the neutral capacity. That will conclude our hearing on LB104 and that means we all get to go home. [LB104]