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LATHROP: I will begin that process while people are filtering in here. You ready, Laurie? All right. Good morning and welcome to the Judiciary Committee. My name is Steve Lathrop and I represent Legislative District 12, which includes Ralston and parts of southwest Omaha. I'm the Chair of the Judiciary Committee. Committee hearings are an important part of the legislative process. Public hearings provide an opportunity for legislators to receive input from Nebraskans. This important process, like so much of our daily lives, is complicated by COVID. To allow for input during the pandemic, we have some new options for those wishing to be heard. I would encourage you strongly to consider taking advantage of the additional methods of sharing your thoughts and opinions. For complete details on the four options available, go to the Legislature's website at nebraskalegislature.gov. We will be following COVID-19 procedures this session for the safety of our committee members, staff, pages, and the public. We ask those attending our hearings to abide by the following procedures. Due to social distancing requirements, seating in the hearing room is limited. We ask that you enter only-- enter the hearing room only when it's necessary for you to attend the bill hearing in progress. The bills will be taken up in the order posted outside the hearing room. The list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for public-- for the public to move in and out of the hearing room. We request that you wear face coverings while in the hearing room. Testifiers may remove their face covering during testimony to assist the committee and the transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front of the table and chair between testifiers. If you choose to wear a mask while you're testifying, which is perfectly fine, just make sure you're close enough to the mike and you speak clearly. Some of those thick masks, it's really hard for us to understand and, and it will be hard for the transcribers. When public hearings reach seating capacity or near capacity, the entrance will be monitored by a Sergeant at Arms who will allow people to enter the hearing room based upon seating availability. Persons waiting to enter a hearing room are asked to observe social distancing and wear a face covering while waiting in the hallway or outside the building. The Legislature does not have the availability, because of the HVAC project, for an overflow room for hearings which may attract many testifiers and observers. For hearings, for hearings with large

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attendance, we request only testifiers enter the hearing room. We also ask that you please limit or eliminate your handouts. Due to COVID, COVID concerns, we are providing two options this year to testify at the committee hearing. First, you may drop off written testimony prior to the hearing. Please note that four requirements must be met to qualify to be on the committee statement. First is submission of the written testimony will only be accepted the day of the hearing between 8:30 and 9:30 a.m. in Judiciary Committee hearing room 1113. Individuals must present the written testimony in person and fill out a testifier sheet. Third, testifiers must submit at least 12 copies. And fourth, testimony must be written-- in a written statement no more than two pages single-spaced or four pages double-spaced in length. No additional handouts or letters from others may be included. This written testimony will be handed out to each member of the committee during the hearing and will be scanned into the official hearing transcript. This testimony will be included on the committee statement if all four of these conditions are met. And the second way to testify before the committee is in person. As always, in-person attendance at public hearings will have an opportunity to give verbal testimony. On the table inside the doors, you will find yellow testifier sheets. Fill out a yellow testifier sheet only if you are actually testifying before the committee. Please print legibly. Hand the yellow testifier sheet to the page as you come forward to testify. I'm about half done. There, 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. This sheet will be included as an exhibit in the official hearing record. If you are not testifying or submitting written testimony in person and would like to submit a position letter for the official record, all committees have a deadline of 12:00 noon, the last workday before a hearing. Position letters will only be accepted by way of the Judiciary Committee's email address posted on the Legislature's website or delivered to the Chair's office, my office, prior to the deadline. Keep in mind that you will-- that you may submit a letter for the record or testify at the hearing, but not both. Position letters will be included in the hearing record as exhibits. We will begin each bill hearing today with the introducer's opening statement, followed by proponents of the bill, then opponents, and finally anyone speaking in a neutral capacity. We will finish with a closing statement from the introducer if they wish to give one. We ask that you begin your testimony by giving us your first and last name and spell them for the record. If you have copies of your testimony, bring

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up at least 12 copies and give them to the page. If you are submitting testimony on someone else's behalf, you may submit it for the record, but it will not-- you will not be allowed to read it. We will be using a three-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, we ask that you wrap up your final thoughts and stop. As a matter of committee policy, we'd like to remind everyone the use of cell phones and other electronic devices is not allowed during public hearings, though senators may use them to take notes and stay in contact with staff. At this time, I'd ask everyone to look at their cell phones and make sure they're on the silent mode. And I guess your computers, too. A reminder that verbal outbursts or applause are not permitted in the hearing room. Such behavior may be cause to have you dismissed from the hearing. Since we've gone paperless this year, the Judiciary-- in the Judiciary Committee, senators will instead be using their laptops to pull up documents and follow along with each bill. That's not them messing around on Facebook, but reading things rele-- relevant to the bill before us. You may notice committee members coming and going. That has nothing to do with how they regard the importance of the bill being heard. But senators may have bills to introduce in other committees or have other meetings to attend, attend to. One last thing and if you're watching this on NET, this year, we have because of COVID, we have reduced the number of hearing days from 27 to 16. But we have the typical volume of bills. And so the committee has made the decision to allow 30 minutes for proponents and 30 minutes for opponents on each bill, in addition to the introducer's open and close. And if there is neutral testimony, we'll have some kind of limit for that as well. I don't see enough people in the room for that to be a problem in the first bill, but that will be the policy of the committee this year, born out of necessity. And with that, we'll introduce members of the committee, beginning with Senator DeBoer.

DeBOER: Hi, my name is Senator Wendy DeBoer. I represent District 10, which is all of the city of Bennington and parts of northwest Omaha.

BRANDT: Tom Brandt, District 32: Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster County.

PANSING BROOKS: Patty Pansing Brooks, Legislative District 28, right here in the heart of Lincoln. And I'm also the Vice Chair of this committee.

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MORFELD: Adam Morfeld, District 46, northeast Lincoln.

SLAMA: Julie Slama, District 1, southeast Nebraska.

McKINNEY: Terrell McKinney, District 11, north Omaha.

LATHROP: OK, assisting the committee today, are Laurie Vollertsen, our committee clerk. Who by the way, with this new process is working night and day to make, make the trains run on time here. And Josh Henningsen, one of our two legal counsel. Our committee pages are Evan Tillman and Mason Ellis, both students at UNL. And finally, ten minutes into that, we're ready for the first bill. And that brings us to Senator Lowe and LB273. Senator, welcome to the Judiciary Committee.

LOWE: After all that, am I opening or closing? I don't remember.

LATHROP: It's a-- yeah, I'm not sure if I'm on the first bill or third one. Good to have you here.

LOWE: Well, thank you. Thank you very much. Chairman Lathrop and members of the Judiciary Committee, my name is John Lowe. That's J-o-h-n L-o-w-e, and I represent the 37th District, which is made up of Kearney, Gibbon, and Shelton. Today, I am happy to introduce LB273. LB273 streamlines the process for transferring juveniles from one state-run youth rehabilitation treatment center to another state-run YRTC. This bill is very important to my district and to me. The ability to move a juvenile who is at risk to themselves, a risk to other residents at YRTC, or a risk to staff at YRTC is something we have needed for a long time. For too long, we have had issues at YRTC-Kearney with residents being assaulted by other residents and with staff being assaulted as well. There have been different attempts at addressing this problem, but those efforts ran into challenges. Some went too far in having negative consequences for the youth. And others were mere Band-Aids that were quickly ripped off. During all this time, this-- the issue of assaults and violence at YRTC-Kearney continued. However, last year, Health and Human Services tried a new effort, one that saw youth who needed more attention and help being moved from the main facility in Kearney to a facility in Lincoln. This change has had a major impact at YRTC-Kearney. Assaults on other residents went down. Assaults on staff are down as well. This change has had a major effect on the young men and women because we now have

women at YRTC-Kearney. In the past they had challenges as they are now getting the one-on-one help that they truly need. I used to receive monthly contacts from employees at the facility that were afraid to go to work. Phone calls and emails of that nature are basically nonexistent at this point. I would hear from parents who feared for their child's safety at YRTC-Kearney. These communications have also decreased to almost nothing. So that is why I'm here today asking you to support LB273. This bill simply streamlines the process that already takes place. A process that has benefited residents and staff at YRTC alike. Thank you, and I'm happy to answer any questions you may have for me.

LATHROP: OK, any questions for Senator Lowe? Senator McKinney.

McKINNEY: Do you have any numbers on how often staff are attacked at YRTC-Kearney?

LOWE: I do not have those numbers with me. I can-- you can be assured I'll get those to you if you'd like me to.

McKINNEY: OK, also--

LOWE: And those answers may be coming up behind me.

McKINNEY: OK, well, I'll wait. I'll, I'll wait till later, then. Thank you.

LOWE: OK.

McKINNEY: All right.

LOWE: Thanks.

LATHROP: OK, are you going to stay to close, John?

LOWE: I'll stay.

LATHROP: OK, perfect. Thank you. First proponent. Good morning.

LARRY W. KAHL: Good morning. Chairperson Lathrop, members of the Judiciary Committee, my name is Larry W. Kahl, L-a-r-r-y W. K-a-h-l. I am the chief operating officer for the Department of Health and Human Services. I'm here to testify this morning in support of LB273, which

recognizes that the department operates facilities that provide rehabilitation and treatment services for youth that are not licensed as mental health treatment facilities. LB273 would permit youth to receive care from the Youth Rehabilitation Treatment Centers facilities or other treatment facilities that best meet their individual needs. DHHS would like to thank Senator Lowe for sponsoring this legislation. Often, youth committed to the YRTCs have high acuity behavioral and mental health treatment needs that require more intensive attention and more specialized programming. However, under legislation enacted in 2020, the department's Office of Juvenile Services is only permitted to transfer youth from the specific YRTC where the court places them to facilities licensed as inpatient or subacute treatment facilities within seven days notice to the court. Transfers to other YRTCs or other facilities operated by the department that are not licensed as treatment facilities such as the high-acuity facility in Lincoln require a motion and a hearing. Since November 13, we have had two youth who have been transferred from YRTC-Kearney to the Lincoln Youth Facility. However, they have not occurred as timely as we would have hoped now that we have to follow a different process with motions through the court. Youth who are not receiving proper treatment can pose a risk to themselves, other youth, and staff members. These youth are at high risk for assaultive and self-harming behavior, among other behaviors that require a more structured, higher acuity of clinical care. By allowing a smoother and more timely transition for youth to a facility offering such specialized care, we can address clinical needs in real time, improve care, enhance youth's likelihood of success in the program, and speed their transition back to their home communities. In summary, LB273 would give DHHS the flexibility based on clinical acuity to place youth in its care in the most suitable facility given their individual care needs and treatment plans. We respectfully request the committee support the legislation and move it to the floor for full debate. Thank you for the opportunity to testify today and I'd be happy to answer any questions that I can.

LATHROP: Senator McKinney.

McKINNEY: In, in your statement, you said youth who are not receiving proper treatment can pose a risk to themselves, others, and other staff members. So they're not receiving proper care or the care that they need. But in this bill, it would-- they, they could be-- they could have another charge added to whatever they're in there for, for

assault on a peace officer or, or a staff member. If they're not receiving the proper care, and we're recognizing that and we understand that some of these kids are dealing with mental health and trauma, but we want to criminalize them for the trauma and the mental health that-- care that they need.

LARRY W. KAHL: Yeah, that would absolutely not be our intent. Our intent by the actions through this legislation would allow us to be able to quickly recognize if youth are decompensating or struggling with mental health or behavioral issues that would allow us to respond quickly, promptly, and appropriately to transition them to a slightly higher level of care, where the staff-to-patient ratios are more intense and where they can get their care needs met. The Youth Facility in Lincoln has additional resources that we wouldn't necessarily have available at YRTC-Kearney or other YRTCs given its proximity here in Lincoln and the access to psychiatry and psychological services that are more abundant. So our interest is not at all in criminalizing the behavior of the youth, but trying to, as quickly as possible, get them to the most appropriate clinical care to avoid that type of situation.

McKINNEY: If, if that's the case, why is it, why is-- hopefully, I'm reading this correctly, Section 28-934 needed if we're trying to get the youth the best care possible? It's under Section 1 and then it's 3-- I'm probably reading it wrong, but 28-934. Why is that needed?

PANSING BROOKS: Which line, Senator McKinney?

BRANDT: Page-- you have page number and line.

McKINNEY: Page 2 on the green sheet. Sorry.

DeBOER: Page 2, line 9.

PANSING BROOKS: Page 2, line--

DeBOER: Line 9. Is that what you're referring to?

McKINNEY: Yes. Yeah.

LARRY W. KAHL: I would say that there are a number of historical components that exist within the document that in previous times, as Senator Lowe was describing, it was necessary to be able to have

certain levels of protection for staff against assaultive behaviors. The emphasis today is focused on treatment and avoiding the types of situations that may have happened in the past, much to the testimony that Senator Lowe gave. So these these provisions exist, I believe, previously, these are not new to the bill and were preexisting. And so our efforts today are to help make that a moot point if you will.

McKINNEY: I get that. I, I guess I would probably be more understanding if they were receiving the proper care.

LARRY W. KAHL: Absolutely. And that's the whole emphasis of this, sir, is for us to be able to transition the youth to a higher level of acuity as their conditions may change. If youth decompensate, we want to be able to respond quickly and transition them to, to a higher level of care where they can receive the additional attention so that we could avoid that type of thing that you were pointing out as being egregious.

McKINNEY: All right. Thank you.

LARRY W. KAHL: Thank you.

LATHROP: I do have a couple. I, I want to get this some context, if I may. Last year we passed LB1148 and at the same time as we were passing LB1148, HHS developed the Lincoln Youth Center, whatever, whatever term you use, it's supposed to be a YRTC or at least that's the way it was pitched to the Legislature. Am I right so far?

LARRY W. KAHL: I'm with you.

LATHROP: And that facility, formerly a detention center, allows for closer scrutiny, more staff-- a better staff- to-youth ratio. And the strategy of HHS is if you got a troublemaker out in Kearney, we're going to have them go down to Lincoln where we can watch them closer. Sometimes that trouble- making tendency can be their violent tendencies and sometimes it can be a mental health problem. Am I right so far?

LARRY W. KAHL: Yeah.

LATHROP: So LB1148, which Senator Vargas brought and when we passed, essentially was we want the court involved in this process because if a juvenile court judge sentences someone to Kearney, they think

they're going to Kearney. And if-- we wanted to make sure that juvenile court judge and that proceeding had a say in whether they were transferred to Lincoln or some other facility. Do I have it right so far?

LARRY W. KAHL: That's a little before my time, but it, it would appear to be accurate. Yes, sir.

LATHROP: OK. And so what this would do would be if a judge sentences a youth to YRTC, HHS will be free to move them around from facility to facility without having a hearing first in the juvenile court that sent them to the YRTC in the first place.

LARRY W. KAHL: Yes, sir, based on a clinical appropriateness as opposed to a judicial designation.

LATHROP: But the sum and substance of what we're doing today is unwinding LB1148 and the involvement of the juvenile court and allowing the juvenile court in that process to have a say in whether moving the youth from Kearney to Lincoln is appropriate.

LARRY W. KAHL: Timeliness being one of the key issues.

LATHROP: I understand you, you view it as a timeliness, like the courts, courts slowing things down, that LB1148 process is slowing things down. But that's the substance of what we're here doing with the bill today. And Senator Lowe talked about assault. So if you have somebody that has assaultive tendencies in Kearney, you'd like to move them to Lincoln tomorrow. Right? And, and LB1148 would require some involvement of the juvenile court presently. Is that true?

LARRY W. KAHL: My actual preference would be that we're able clinically to respond appropriately, both on-site at other YRTCs, such that we could avoid acting-out behavior, although occasionally that does occur. Historically it has. But then to be able to respond clinically, taking much more of a treatment focus than more so than a corrections focus to the care that the kids receive.

LATHROP: But if-- you call it timeliness and the other perspective is we're cutting out the juvenile court to make things happen faster and, and give more discretion to HHS as to which facility a youth is placed.

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LARRY W. KAHL: Yes, not from a notification perspective, but from the wait time for a 7-day notification and then an additional perhaps as long as 30 days to--

LATHROP: I just wanted to give some context to the bill and your testimony so that people can ask questions, understanding. And let's start with Senator Pansing Brooks.

PANSING BROOKS: OK. Thank you for coming today. One of the first things that I want to say is that-- and again, this may be before your time, but we've heard a lot of different stories. At one point we were told that, quote unquote, YRTC-Lincoln was to be for people before they get out. So they weren't the kids that were having the most trouble. So basically, we've been hearing story after story. We have been hearing that this, this was necessary to allow DHHS to do what they need to do to each child. And, you know, I think Senator McKinney brings up a really good point, because if we're, if we're doing this and we've got a child that, as you say in your testimony, that you aren't able to meet their needs for you to say we're not able to meet our need-- your needs child, and yet we're going-- because you're out of control, we're going to charge you with an additional charge because they're assaultive or out of control, because you can't control them. That, that just makes no sense to me. You've admitted that you can't control them, that you aren't handling them properly. And because of that, they're acting out because they can't control themselves and yet because you can't control them appropriately, we're going to leave room for them to be charged. So number one, it was really good that he caught that, because I, I would feel much better if we said, well, they can't be charged because we can't handle them. After we get them to a point where we can handle them, then maybe they could be charged. So that's number one. Number two, HHS has won, clearly. The Legislature needs to just roll over and understand that HHS has just acquiesced to-- or that we have just acquiesced to HHS's decision to move people, close buildings, change sites at will. We've been informed after the fact. And the fact that we have heard-- and, and-- so I will-- I heard something different, Senator Lathrop. I heard that Lincoln was to be for people that were, were on their way out. It was supposed to be a, a more-- less severe place to be. And now all of a sudden, we're going to want to start maybe putting them there for treatment and, and the more severely disabled and, and disturbed children are going to be placed there. So, again, whatever you tell us, I take with a complete grain of salt. I, I don't believe

most of the stuff that comes to us from HHS, which I think is really too bad. We could have a positive, really good working relationship. And instead, it's-- you tell us what you want us to know when you want us to know it. And that part-- and, and the fact that we've heard both that it's for high risk and that it's for low risk to me is perfectly, is a perfect example of what I'm talking about. So I don't think I have a question unless you want to answer why it's changed now to more high risk at-- and, of course, we aren't calling it YRTC-Kearney yet-- or Lincoln yet, but we will and, and people are. So anyway, if you'd like-- I'm sorry this isn't your most perfect welcome, but you're-- you stepped into this role and--

LARRY W. KAHL: That I did.

PANSING BROOKS: Yeah.

LARRY W. KAHL: So if you, if, if you don't mind, I would like to respond. I think historically there may be some validity to the points that, that you've been making. I think today is a new day. In the time that I've been here, just four months since mid-September, we've implemented a Venn diagram of three key components that are essential to be able to provide high quality care for the youth. Adequate and appropriate facilities. The facility level intensity needs to match the intensity of the youth. Staffing that have been trained. Appropriate numbers of staff that have been appropriately trained. And evidence-based best practices in the programming and the structure of the programs. With those three components in place appropriately for the youth, I'm applying that evenly across all of our YRTCs from the, the lower level of acuity at Whitehall, which is a PRTF to the YRTCs at Kearney and hopefully soon to be Hastings to-- and Kearney, to the YRTC-- the Lincoln Youth Facility, which admittedly was a juvenile detention center originally. And so that environment, that facility has allowed us to be able to provide a higher level of care to youth. So if you looked at a continuum of care, the Lincoln Youth Facility would be the highest level, the most restrictive with the most resources supplied. The Kearney, Hastings YRTCs would be kind of the mid-level of care and then the lower level of care would be the Whitehall type facilities. I guess I could only apologize for the, the relationship in the past. My desire and intent and efforts to be able to bring you up-to-date, accurate communications of hope to heal and mend the relationship with the Legislature and to be as transparent as possible and honestly and earnestly, ultimately just work to meet the

needs of the kids. And that's, that's really kind of where we're coming from, is if we can just allow for that transition of youth between really only the YRTCs and the Lincoln Youth Facility. It's pretty short transition between those two to keep the kids safe, to keep the kids on target, to treat them appropriately with the most appropriate clinically trained staff and evidence-based best practices should allow us to prevent. And my goal is to prevent any-- anything that has happened, as you referenced, the mayhem has happened in the past. So far, the evidence of our efforts is, is bearing out the number of youth-to-youth incidences of activity or crime or violence has decreased dramatically. The number of youth-to-staff incidences of violence have decreased dramatically, making that older line in the legislation a moot point. The hours of confinement has dropped dramatically, and that's really one big piece we're trying to prevent by activating the Youth Facility in Lincoln and allowing youth to be able to be treated there more acutely. Because the only other option that we would have at Kearney would be to put them into confinement. And excessive confinement is abhorrent to me. There are some cases where it's necessary to keep the youth safe, but to the extent that we can drop that is our goal. A case in point, the national average for annually averaged time in confinement is 24 hours. We set the bar a little bit lower for ourselves here in the state of Nebraska, and I said I want us to be the best, the best in the country, if we can be. We set our own standard for ourselves at eight hours, we're hitting that. For the males we've been hitting 8 hours, for the females it's down to 5.5 hours, where historically it's, it's run closer to the 24 hours or more. So the efforts that we're making are making a difference, and this is from our perspective, just one more step in that process and that the progress that we're making to try to make sure that youth are most appropriately served clinically, behaviorally, so that we don't end up having the kind of situation that we had in the past with Kearney. It was a bitter lesson learned that I don't want to repeat. So that's why I come to you today, is to see if we can ask for your help, to help us help the youth.

PANSING BROOKS: Well, thank you. You've said exactly what I want to hear. So now we just have to hope that it's followed through. Thank you very much for your time.

LARRY W. KAHL: Hold me, hold me accountable.

PANSING BROOKS: OK.

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LARRY W. KAHL: I'll do my darndest.

LATHROP: Senator Brandt.

BRANDT: Thank you, Chairman Lathrop. Thank you, Mr. Kahl, for appearing today. I know there's going to be some tough questions. So you want to unwind LB1048 [SIC] and go back to the way it was. But our facilities are designed to handle these high-acuity kids on the short time it would take for a court to approve the move, are they not? I mean, if you had an individual at Kearney, for example, we have facilities there to protect them from themselves.

LARRY W. KAHL: It would be identified as the Dickson Center.

BRANDT: Yes.

LARRY W. KAHL: And, yes, it would be confinement, would be the other alternative.

BRANDT: So why do we need to remove the oversight of the courts to move these kids around? They really shouldn't be moved that much.

LARRY W. KAHL: To your point, sir, it's, it's infrequent that it occurs. Most likely the scenario would be, and sometimes, I guess telling a short story kind of helps. The most likely scenario would be a youth that they get bad news from home. Their girlfriend dumped them. They become suicidal. They want to harm themselves. We've got a couple of different options. We can either intensify the, the treatment that we surround that youth with to try to engage them, get them to talk about what's bothering them, be able to offer them the support of the staff, a number of different staff in a more high-acuity setting like Lincoln Youth, or we could put them in confinement. I think confinement is old school from my perspective and doesn't really meet the needs of the youth other than on a very short-term safety basis.

BRANDT: But the option to moving the youth is-- could, could be what we did at Geneva and make the staff move to Kearney. So the staff at Geneva has to drive, what's left, I don't know if anybody's even left there, to be quite honest, but they have to drive an hour and a half to Kearney. So if that youth needs that treatment, why not make the staff from Lincoln or Hastings or wherever go to the youth at Kearney and leave that individual there?

LARRY W. KAHL: That's certainly another option. I think that from our perspective in looking at the facilities as part of that continuum of care, the Lincoln Youth Facility, by the nature of its design, is meant to handle in a normalized daily operations a much higher level of acuity, where if we had a, a, a youth at, at Whitehall or in a much lower level of acuity, they just simply wouldn't be able to be handled there.

BRANDT: And I don't disagree with that. I think Lincoln is a very nice facility. And today you can do that. You just have to get court approval to do it. And what this bill does is it just gives you carte blanche to go back to the way that you did it before. In fact, I questioned some of the language because you've inserted about ten times in here any facility operated and utilized as a Youth Rehabilitation and Treatment Center in compliance with state law. Do we have third-party certification of our YRTCs now? We don't, do we?

LARRY W. KAHL: We-- we're certified under the American Corrections Act and under PREA, and so we have an annualized survey process where we have external folks come in and walk us through certification process. Yes, sir.

BRANDT: But I would be very concerned the way that language is. You know, if the state decided-- if DHHS decided not to do that, it'd still to be in compliance with state law without having a third- party certifier on there. So I, I would like to see language very specific to the safeguards of what we're naming. So can you today move a youth from a YRTC to a PRTF at Whitehall? Can you do that? I mean, can you go outside of the YRTC program to the PRTF program?

LARRY W. KAHL: That has not been our practice, no.

BRANDT: Would this enable you to do that?

LARRY W. KAHL: The-- as I would understand it, sir, that situation could occur if a youth had completed their, their time and their treatment at the YRTC and then were ready to be able to make a transition.

BRANDT: They would have to graduate from the YRTC. They would have to be released from the YRTC before going to-- but you could not--

LARRY W. KAHL: They'd be--

BRANDT: --whether, whether you're still sentenced to the YRTC today or we cannot move them to a PRTF program.

LARRY W. KAHL: That-- that's not been our practice and our intent at this point. And if I could just speak back again to the-- it's a timeliness issue for us. Working through the courts is a 7-day notification period and up to a 30-day additional period. For youth that are suicidal, the only alternative for them at Kearney would be confinement. And we would have to confine them on campus in that facility until this-- their clinical symptoms changed.

BRANDT: So if this youth was in Lincoln YRTC, they would be confined also. Correct?

LARRY W. KAHL: The facility by the nature of its design is a secure facility. And so it allows for more freedom of, of movement with the youth within the facility with a higher ratio of staffing and additional resources from psychology and psychiatric care that would allow them to more quickly return to more, more normalized behavior or to address the, the issues that were at hand.

BRANDT: So because the state of Nebraska leases the Lincoln facility, wouldn't it be wise to build a facility of that nature in Kearney?

LARRY W. KAHL: You bring up a good point, that would be something, I think, for us to be able to look at down the road.

BRANDT: And I guess I agree with Senator Pansing Brooks, there's been a lot of bad blood over this over the last couple of years, unfortunately, you've come in toward the end. Your statement about the best care possible four years ago, the girls in Geneva got the best care in the nation four years ago, and that's sort of what perpetrated this whole mess that we're in today. And even in the, in the bills that we passed last year, Geneva was supposed to remain open until March 31. So how many girls are at Geneva today?

LARRY W. KAHL: There are presently no females at Geneva.

BRANDT: How many staff are Geneva today?

LARRY W. KAHL: YRTC staff?

BRANDT: Yes.

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LARRY W. KAHL: There are just, just a handful. A majority of the staff in Geneva have transitioned and taken other positions with the Medicaid long-term care program still on campus, but doing different work.

BRANDT: So what is the department's plan for Geneva?

LARRY W. KAHL: It would be advisable at, at this point in time, I believe, based on the overarching Venn diagram of looking at available resources, an appropriate facility, adequately trained staff, and best practice programming, the care not continue at Geneva.

BRANDT: OK, thank you.

LARRY W. KAHL: You bet.

LATHROP: I don't want to take any more of your time, but I would like you to, if you wouldn't mind, since LB1148 passed and you were required to go through that process, can you share with the committee just off-line, give us this information. How many youth have been transferred? How many hearings have you had? Do the-- what percentage of time does the judge approve the transfer or disapprove the transfer? Just so we get some context for how frequently this is happening and, and what problems you're actually having with going through the court process. If we could shorten the court process from seven days or whatever the, whatever LB1148 provided for it to something shorter, would you be all right with that? I think you're, you're-- you should be sensing some resistance--

LARRY W. KAHL: Yes.

LATHROP: --by the committee to take the court, the juvenile court out of the process. We were here a year ago and had county attorneys telling us there are opportunities, they need opportunities to ask for a review because prosecutors have concerns and, and from time to time want to review the placement and the circumstance of a young person. And so that was one of the reasons why LB1148 was important, or at least we felt it was. I still feel it is. I like the idea of juvenile court judges who, who are appointed and who have the responsibility for ensuring that they have-- the kids are getting the rehabilitation. And because of the history, very frankly, because of the history, turning kids over to HHS and letting them decide what happens could

turn into-- and we went out-- Senator Pansing Brooks and, and Senator Brandt and I went out to Geneva and, and saw what happens when there is an oversight and we can't be everywhere. But I think it's fair for, for juvenile court judges to say, let me know what's going on. I want to know what, what is happening, what is missing? How come Kearney can't take care of this? And I, for one, value the input and the feedback from the juvenile court judges on whether you guys are doing what we expect to be done, which was not happening in Geneva. OK?

LARRY W. KAHL: Yes, sir. I will follow up with the data as you requested.

LATHROP: Yeah, if you would. And I think it would be best if you shared it with everybody on the committee, because I think we all have the-- a similar interest in it.

LARRY W. KAHL: Absolutely. I would just also like to add, if I could, I also value the juvenile justice system. I believe we have an excellent working relationship with Judge Daniels and have regular communications and, and are working well together. Again, perhaps a new day in terms of our relationships. But I would ask you to consider. If you had a psychiatric issue, where would you go for input on where would be the best place and time for you to receive care, would you go to a judge or would you go to appropriate clinical staff that could make that decision about where the youth should best be served [INAUDIBLE]?

LATHROP: So my answer to that, my answer to that, and not that you're now questioning me, but it was posed as a, as a question for our consideration. You-- your experts, your psychologists and psychiatrists can send reports to the juvenile court judge who then says, oh, looks like Kearney can't handle this young man and we need to, we need to have him sent to Lincoln for all the reasons that you've described--

LARRY W. KAHL: Sure.

LATHROP: --because of the difference in, in approaches and facilities and staff.

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LARRY W. KAHL: And, and I wouldn't say that it would be that they couldn't be handled, they could be, they could be put in confinement. Our preference is not to confine the youth.

LATHROP: I get that.

LARRY W. KAHL: Yes.

LATHROP: I get that. And we'll, we'll work with you to try to find some middle ground. But I'm not sensing that people are OK with just saying juvenile court doesn't need to be involved in it. I'm not speaking for the whole committee but-- Senator McKinney.

LARRY W. KAHL: Yes, sir.

McKINNEY: On your last point that your staff is probably more qualified to make those decisions than judges, how culturally competent are your staff in understanding the diverse backgrounds that individuals that end up in these facilities come from? What type of training do they take to make sure that, that they are?

LARRY W. KAHL: All, all staff are trained, and to the extent possible, are as culturally sensitive and alert and aware. I mean, to your point, sir, there is a, a disparity. There's a disequilibrium in terms of the Caucasian youth to the African-American youth that are engaged in the system. But our staff do receive ongoing training. All new staff are trained in terms of cultural sensitivity, and it's an ongoing issue that we monitor.

McKINNEY: What, what percentage of your staff comes from African-American, Latinx, Asian, Sudanese, and other communities?

LARRY W. KAHL: I would have to, to get that information for you. I don't have that off the top of my head.

McKINNEY: OK, thank you.

LARRY W. KAHL: Excellent. Any other questions?

LATHROP: OK, I think that's it. Thanks for being here.

LARRY W. KAHL: Absolutely.

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LATHROP: We appreciate the discussion. And, you know, I'll just make one last observation, which is it's one thing when we have somebody that we, we say, gosh, I trust this guy to do the right thing. He's doing a competent job. But we saw how quickly things can go south and Geneva is fresh in our minds. That was a disaster. And we don't know what the next administration will bring or what the next person in your position will do, whether, whether we'll try to save money, as oftentimes happens in our 24-hour facilities, and then it goes to hell. And we don't have any judge that can, that can alert us to the fact. Because, by the way, I've never had anybody here sit down and go, I'm running the place and it went to hell. You have any questions? They all come in and tell us whether it's corrections or anything else. Everything's great. We're managing it perfectly. Youth are getting the care they need and then we find out that isn't happening. So I think it's important as we make policy that we have safeguards in place for when things go south. So it's not, it's not about you today.

LARRY W. KAHL: Understand.

LATHROP: OK.

LARRY W. KAHL: Thank you, sir.

***MICHAEL CHIPMAN:** Chairman Lathrop, members of the Judiciary Committee, for the record, my name is Michael Chipman. I'm appearing today as the President of the Fraternal Order of Police lodge 88. This is the union that represents Protective Service workers in the Nebraska Department of Correctional Services and in the Department of Health and Human Services. Specifically, in the Department of Health and Human Services we represent Youth Program Specialist at the Youth Rehabilitation Treatment Centers. I am pleased to support LB273. With the large amount of violent assaults happening to our workers in the Kearney facility there needs to be tougher sanctions for the juveniles attacking our staff there. This bill makes it the same penalty as hitting a Correctional Officer. Staff should not be subject to these juveniles hitting them and there being no significant repercussion. We believe this bill will help make it safer for staff workers there. This will increase the deterrent to attack staff. I would ask you to vote yes on this bill to help give these workers the same protections that Police, Corrections and healthcare workers get.

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LATHROP: Thank you. Any other proponent testimony? Seeing none, we'll take up opponent testimony. Good morning.

SPIKE EICKHOLT: Good morning, Chairman Brashear and-- oh, excuse me, Chair-- Chairman Lathrop--

PANSING BROOKS: Wow.

SPIKE EICKHOLT: --and members of the--

LATHROP: Wow.

SPIKE EICKHOLT: --Judiciary Committee. Sorry.

PANSING BROOKS: Wow.

LATHROP: You went back a long way.

SPIKE EICKHOLT: I did go back a long way.

PANSING BROOKS: Jeez.

SPIKE EICKHOLT: Good morning, members of the committee. My name is Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t, appearing on behalf of the Nebraska Criminal Defense Attorneys Association. We are opposed to the bill. A number of our members practice in juvenile court and they flagged this bill for me. It's been a while since I practiced in juvenile court, but I'm familiar with LB1148 and the issue involved. We're opposed to the bill for the reasons that a number of the senators have asked about, and that is, it's been characterized as streamlining the transfer process. But if you look at the structure of the bill and it's kind of subtle until you look at the bill closely. In many respects, it actually reverses and undoes completely what LB1148 was meant to do. If you look on page 5 of the bill, page 5, lines 17 through 26. That's the paragraph that was added or the language that was added in LB1148 that requires notice be given to the juvenile court and to the parties in the underlying juvenile action. It requires seven-day notice before a youth is placed at the YRTCs or placed somewhere else. This bill does one important thing, and that is it, as Senator Brandt asked about, it essentially let's Health and Human Services decide what a YRTC is. In other words, we mentioned YRTC-Kearney, YRTC-Geneva, and then there's this phrase, YRTC in compliance with state law. In other words, to be determined. If that

they want to call the Lincoln facility a YRTC, if they want to call another facility or a contract entity, presumably the YRTC, they can. They don't need to give the notice. So you've expanded what it means if you pass the bill to have YRTC. This was important for the reasons Senator Lathrop just asked about. It's not just the judges having a say, it's the attorney for the child having a say. It's the prosecutor for the underlying case having a say. It's the parents of the child. It's the guardian ad litem for the child. It's all people involved in the juvenile court process having an opportunity. I would submit that the committee was pretty balanced and thoughtful in its approach into LB1148, because if you look at that section I highlighted, it just requires that seven-day notice be given. It doesn't automatically even require a hearing. If the judge wants to have a hearing, a hearing's held. If a party request a hearing, a hearing's held. If it's so important to move a child, and I submit there are situations where timeliness is important that can be listed or delineated or explained in the request that's given in the notice itself. So I would argue it not be disturbed. I would point out that because of the long recess that we had, LB1148 has only been law for a little over two months. The operative date was November 14, 2020. So we haven't really even had a chance to sort of see how that actually works. And we're already being asked to undo it or reverse it. I would urge the committee not to do that. I think it was a very good step that the committee did last year. And what you have, if you do it this way, is kind of a mimicking of the adult criminal justice system where you have the court send somebody to prison. If somebody acts out at one facility, the prison just moves them somewhere else, and that's not how it should be in the juvenile court.

LATHROP: OK, thanks, Spike. Any questions for this testifier? I see none.

SPIKE EICKHOLT: Thanks.

LATHROP: Well, wait a minute. I got one for you.

SPIKE EICKHOLT: Sure.

LATHROP: So let me, let me take HHS aside with this question for a second. If I have a young person and it was only two years ago that we had a youth going through Kearney with a, a steel pipe and trying to take out staff. I think even assaulted staff. So there are, there are

some people who are sent to Kearney who are really beyond their capacity, given that, that it's relatively open, at least compared to Lincoln, who need something more intensive. As I heard it, if that person does that and now we've got to go through a seven-day notice requirement, they're sent over to one of the other buildings. Dickson, apparently, is what it's called, where they are detained or confined or, or held there for seven days instead of sending them to Lincoln, where they might begin the process of getting care, treatment, access to psychiatrists and psychologists. So talk to me about their point of view. We're just putting this kid-- under this system we're putting this kid in Dickson for seven days, waiting for the seven days to go by, nothing happens, they've cooled their heels in confinement instead of in a, in a rehabilitated, structured environment.

SPIKE EICKHOLT: If that is an actual concern or for potential of concern and I submit, submit it might come up, then that's an exception that you want to make on page 5 in those sections, some sort of narrow exception for the safe protection, for the immediate safety of the youth and those around them, some similar narrow thing. And that I would caution even against entertaining that for the reasons that that's something they could request in the motion itself. One thing, if it's an actual felony assault, and the child's 18 or older, the child can simply be lodged in Buffalo County Jail. We know that happened in some of those instances. One thing I just want to mention, Senator Pansing Brooks did a number of bills restricting youth confinement. That's-- I would submit, in my opinion, were the credit belongs. In her bills, there are exceptions for that on those counts of confinement for those instances in which a child is a direct threat to others or self. So if you're going to have some sort of accommodation, if you will, for the department so they're not forced to keep some child who is at such a high risk of supervision or high need of supervision, I, I just caution the committee to be very narrow, because what-- I just remind what you had was people-- kids being moved at night. No one knew where they were. Judges didn't know how they ended up at certain facilities.

LATHROP: OK.

SPIKE EICKHOLT: And there's a reason that you do this and I ask [INAUDIBLE].

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LATHROP: I know there's a reason and there's some logic to what HHS is telling us today.

SPIKE EICKHOLT: Right.

LATHROP: You know, why would we make them sit for a week in, in Dickson when we could have them down in Lincoln? And I'm, I'm also a firm believer of the county-- or the judges, the juvenile court judges ought to have a, a voice and a say and, and the parents and the prosecutors and everybody else.

SPIKE EICKHOLT: Thank you.

LATHROP: Senator Pansing Brooks.

PANSING BROOKS: I, I just want to thank you for coming, Mr. Eickholt. So what I was wondering is that there could be something-- I mean, if they have to move somebody fast, I mean, there are courts that can move fast on certain motions. But I mean, I don't know if a part would be added to the bill to allow them to react quickly, but it still needs to go before the judge to get affirmed, because, again, we cannot have the courts not aware of what's going on with the kids.

SPIKE EICKHOLT: Right.

PANSING BROOKS: There have to be two different branches in charge of our kids in the state.

SPIKE EICKHOLT: I think you're right. And that might be some sort of process where it's almost like an ex parte order followed by a hearing after the fact kind of thing.

PANSING BROOKS: Yes.

SPIKE EICKHOLT: And that it could be something done.

LATHROP: OK. See now we're, we're solving the problem right here.

SPIKE EICKHOLT: That's right.

LATHROP: OK, thanks, I appreciate your input. Next opponent, if any? Anyone here to testify in a neutral capacity? Seeing none, Senator Lowe, you may close. And as you approach, for the record, we have no

position letters on this bill, but we do have written testimony submitted by Mike Chipman, C-h-i-p-m-a-n, as a proponent. He's with the FOP Lodge 88. That will be entered on the record. Thanks for introducing this bill and the discussion.

LOWE: Thanks for hearing this bill and creating discussion. I think I'm listening, I think DHHS is listening. So I think we need to move forward and we'll see what we can come up with. When I campaigned the first time around, YRTC-Kearney was a major concern of all the citizens in Kearney for a variety of reasons. Whether it was the neighbors that were scared of YRTC-Kearney, whether it was the staff at YRTC-Kearney, or whether it was the teachers. And the funny thing is, we all want YRTC-Kearney and we want to help the young men and women that are up there. We want to help them to become better, become productive citizens. Now when a, a-- the young man or woman comes up to YRTC-Kearney and they cause major problems with other youth, they may be put in Dickson for a short period of time, depending on what kind of problems they called-- caused. They may go to the jail that our sheriff takes care of. He doesn't want them there. He has adults there. He does not want the youth at YRTC coming to his jail because that's not where they belong. In the past couple years, the assaults on youth have been going up. And this year they've been going down. Programming has changed. Youth that had high acuity or problems, they're getting the help that they need now. It is a miraculous change in about six months of time. Things are going right. I think that's what this bill addresses, that we need to continue to make things going right. We need to look at LB1148 and implement those things and, and get things going on the right path and maybe tweak it even a little more. So I thank you for this time and I appreciate it.

LATHROP: Very good. Thanks, Senator Lowe. That will close our hearing on LB273 and bring us to LB89. Good morning, Senator Morfeld. You are good to open on LB89.

MORFELD: Thank you. Thank you, Chairman Lathrop or Brashear, or whoever you are this morning. In any case, members of the Judiciary Committee, for the record, my name is Adam Morfeld. That's A-d-a-m M-o-r-f as in Frank -e-l-d, representing the fighting 46th Legislative District here today to introduce LB89. Many of you that were on the committee last year will recall, this is the same exact bill I introduced last year. LB89 changes of the age of majority from 19 to 18 for healthcare decisions. It further allows youth incarcerated by

the Department of Corrections to consent for healthcare. I introduce LB89 mostly in response to University of Nebraska students who contacted me about difficulty in receiving needed healthcare in a timely manner. In cases of emergency, care can be provided. However, in cases of urgent or nonurgent issues, parents or legal guardians must be contacted for permission to treat. I heard many stories about sinus infections, broken limbs, etcetera, that were untreated for some time until their parents or legal guardians were contacted and gave consent. In one case, the student whose parents lived in Japan waited for hours for consent to treat after being hit by a car and stabilized. I introduce this also to keep in line with the change last year to consent for mental health treatment from 19 to 18. I was approached after considering this bill by those who wanted to put in statute provision for incarcerated youths to be able to consent to treatment as well. Section 43-285 grants authority to Department of Health and Human Services to consent to medical care for minors who have been committed to the care of DHHS. However, there is no corresponding statutory authority that has granted the Department of Corrections for minors committed to the care of, of, of Department of Corrections. Department of Corrections operates one facility for minors in Nebraska, the Nebraska Correctional Youth Facility in Omaha. Subsection (d) on the bottom of page 2 in LB89 would correct this oversight by allowing minors in the custody of DCS to consent to medical care. This is important because there are times that a minor in custody will need somewhat urgent medical care. And if a parent or guardian cannot be easily or timely located, important medical care might be delayed. In many cases, these youth cannot consent without their parents' or legal guardians' approval. I believe that this small change would make it easier for 18 year olds who can vote and can be drafted to make healthcare decisions for themselves. Last year, we had a bunch of students that came in and testified to the effect of this. They're not coming in and testifying now. I don't think anyway. And so if you have any questions about specific instances or things like that, I can talk to you off the mike, as well. Thank you.

LATHROP: OK. I remember this from last year, the challenge for a, a student that's coming from Scottsbluff to UNL, and if they're 18, they can't even consent to that student health without mom and dad from Scottsbluff consenting to that care.

MORFELD: Yep.

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LATHROP: That's the issue, as well as the youth confined to the Department of Corrections and their ability to consent to care. Because, again, you may have a, a young person in, in the Department of Corrections at the facility in east Omaha, they need care and now mom or dad have to be involved in consenting to that.

MORFELD: Correct. And, and some of these youth that are in the Department of Corrections, they-- there's varying levels of contact between parents. And so they have to forgo important treatment in some cases.

LATHROP: OK. Any questions for-- Senator Slama.

SLAMA: Thank you, Chair Lathrop. Thank you, Senator Morfeld, for bringing this bill. I think at its core, LB89, the provision allowing students or people 18 years of age or older to make those decisions is very helpful. Did you mention that youth in the DHHS system, the youth correctional facilities, can they already consent to medical care without their parents' consent?

MORFELD: So my understanding is, no, they can't.

SLAMA: OK.

MORFELD: And that's what this allows. But I mean, obviously it's under the supervision of DCS, too. So there's some checks and balances.

SLAMA: OK, thank you.

MORFELD: Or am I reading, are you--

SLAMA: I, I was reading slightly differently the DCS--

MORFELD: OK.

SLAMA: --versus, versus the DHHS.

MORFELD: Oh.

SLAMA: And if the youth are in the-- not the Department of Corrections, but like the YRTCs.

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MORFELD: Oh, I-- so I think-- I'll double check this after and make sure we're correct. I think that there's a statute that covers them already.

SLAMA: OK.

MORFELD: But there was an oversight and that we didn't include the DCS in Omaha. So there's, there's a little bit of oversight there.

SLAMA: Yeah, I'd be interested in seeing that when it's available, but, yeah,--

MORFELD: OK.

SLAMA: --thank you.

MORFELD: Yeah, you bet.

LATHROP: I see no other questions. I was going to ask if you want to stay around to close, but--

MORFELD: Probably not.

LATHROP: I'm not sure if we have proponents or opponents.

MORFELD: I mean, I'll stay around but I'm probably not going to close unless you guys want to hear from me again.

***MATT SCHAEFER:** Chairman Lathrop and members of the committee my name is Matt Schaefer and I am testifying today on behalf of COPIC Insurance in support of LB89. COPIC is a medical malpractice insurance carrier and specifically supports the second piece of the bill which allows minors to consent to health care decisions when the minor is committed to the Department of Correctional Services for secure care. When the legislature made significant changes to the juvenile justice system in 1996 it transferred much of the responsibility for that system to DHHS. Because juveniles are considered wards of the state, DHHS has clear authority to grant consent to health care treatments for juveniles in its care. However, there remains today one facility run by the Department of Corrections that houses juveniles. This bill would allow juveniles at that facility to consent to their own health care treatment when it is needed.

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***CATHY HEYEN:** Across the country, 47 states have adopted the age of majority to be 18. Nebraska and Alabama share the age of majority at 19 and in Mississippi you must be 21 years old to make health care decisions on your own. On behalf of Children's Hospital & Medical Center (Children's), we want to thank Senator Morfeld for proposing LB89, which seeks to change the age of majority in Nebraska to 18 years of age. Children's is the safety-net provider for all children in the state and region, treating patients from the time they are born until they transition into adulthood. Children's Physicians, our primary care clinics, have 13 offices spread across the Omaha-metro and as far West as Kearney, treating over 105,000 unique patients each year and serving as their primary care medical home. Frequently at Children's we experience college-age patients who are taking responsibility to obtain their annual flu shot, meningitis vaccine, or their annual exam and arrive to their appointment without a parent. Without a parent present to provide consent for their 18-year-old child, Children's must either obtain verbal consent from a parent over the phone or must reschedule their appointment. By modifying the age of majority, these patients will have improved access health care and therefore improved outcomes. We ask the Judiciary committee to please consider this bill to streamline access to healthcare for our patients as they transition into adulthood.

***VERONICA MILLER:** Chairman Lathrop members of the Judiciary Committee, for the record, my name is Veronica Miller. I serve as the University of Nebraska-Lincoln (UNL) Student Regent and Association of Students of the University of Nebraska (ASUN) Student Government President and am submitting my testimony in support of LB89. On behalf of the UNL student body, I want to thank Senator Morfeld for introducing this proposal to allow persons eighteen years of age to make health care decisions and persons under nineteen years of age in correctional facilities to consent to medical and mental health care. This bill is presented to you today years in the making with ASUN origins. LR171 of the 106th legislative session, referred to this committee, introduced by Senator Morfeld completed an interim study to examine the impact of lowering the age of the majority from nineteen years of age to eighteen years of age for making health care decisions. Multiple students from the University of Nebraska spoke in favor of the resolution in addition to ASUN support. During the proposal of this bill thereafter in the 106th Legislature, ASUN supported LB1036 through a unanimously supported resolution on January 29, 2020.

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Included is a unanimously passed resolution from the Senate supporting the passage of LB89. Approximately, 4,000 UNL students, or 15% of the undergraduate population, are younger than 19 years old at the start of any given academic year. The current age of majority statute prohibits these undergraduate students from receiving medical care without parent or guardian consent, consequently delaying or completely obstructing students' ability to receive healthcare services. These students face unnecessary hardship in their attempts to access proper healthcare, especially international students, students from out of state, and other students whose parents simply do not have time to give their consent during the workday. This proposed exemption to the current age of majority statute would allow eighteen-year-olds to receive health care without parent or guardian consent and in turn make their own health care decisions, similar to the existing statue (Nebraska Revised Statute section 2, 43-2101) that was amended in 2018 to lower the age of majority for mental health care decisions to eighteen years of age, with ASUN advocacy efforts. Once again, ASUN would like to thank Senator Morfeld for introducing LB89 and for his support in allowing persons eighteen years of age to make health care decisions. We would urge the judiciary Committee to support and advance this legislation to General File. Thank you for your time and consideration.

LATHROP: OK, thanks, Senator Morfeld. I appreciate the bill. Anyone here to testify in support of LB89? Anyone here to testify in opposition to LB89? Anyone here to testify in a neutral capacity on LB89? Seeing none, and Senator Morfeld having waived close, the record should reflect, however, that we have three position letters. All three of them are proponent. And in addition, we have letters that were dropped off this morning that will be part of the record and included in the record. The first being from Matt Schaefer, S-c-h-a-e-f-e-r, with COPIC, C-O-P-I-C. They are in support. COPIC is a malpractice insurance company. They are proponents of the bill. Also a proponent is Cathleen-- or pardon me, Cathy Heyen, H-e-y-e-n, Children's Hospital and Medical Center. They are proponents of the bill as well. Veronica Miller, M-i-l-l-e-r, is a proponent. She's with the Association of Students of the University of Nebraska. And finally, Meg Mikolajczyk, M-i-k-o-l-a-j-c-y-- I'm not sure, I can't read her handwriting, Planned Parenthood of North Central States as neutral testimony. That will close our hearing on LB89 and bring us to LB203. And that is Senator Pansing Brooks. Good morning.

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PANSING BROOKS: Good morning.

LATHROP: Madam Vice Chair.

PANSING BROOKS: Good morning, Chair Lathrop and members of the committee. Of course, Senator, Senator Morfeld had no testifiers just to, you know, give me a little grief on some things right before mine. But anyway, thank you, members of 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 appear before you today to introduce LB203, a bill to make it easier for adults and juveniles with criminal histories to get education and training that will help them move on from their mistakes and help Nebraska meet its workforce needs. LB203 provides that no publicly-funded college or university in Nebraska shall, as part of its student application and admission process, inquire about any criminal history or juvenile court record information regarding an applicant to such college or university, except as otherwise specifically required by state or federal law, or when such information is offered voluntarily by an application for consideration. Nebraska law already prohibits public employers from asking an applicant for employment to disclose information concerning the applicant's criminal record or history until the public employer has determined that the applicant meets the minimum employment qualifications. Fair chance hiring is a good public policy because it gives applicants the opportunity to get their foot in the door with a potential employer, rebuild their lives, and contribute to their communities. Central to those employment opportunities are the ability to obtain training and education. While, while the pre-COVID-19 numbers show that national employment rate was most recently 3.5 percent pre-COVID, the national employment rate among formerly incarcerated people was 27 percent pre-COVID, according to the National Conference of State Legislatures. About two-thirds of job postings require some level of postsecondary education, including certificates, associate degrees, bachelor's degrees, and other degrees. The U.S. Department of Labor projects that just over five million entry-level job openings annually over the next decade will require some form of postsecondary education. Formerly incarcerated adults are nearly twice as likely as the general population to have no school credentials, according to NCSL. This is all especially significant in Nebraska because of our prison overcrowding crisis and the importance of successful reentry. We know that approximately 95

percent of all state prisoners will be released from prison at some point. So we need to ensure opportunities are available for them to get the education they need to contribute to the workforce. More than 700 higher education institutions use what is referred to as the Common App, Common Application. This Common App announced in 2019 that it would stop asking people about their criminal records. But not every college or university uses the Common App so there are some institutions that are still asking that question. One of our testifiers will be expounding more on that. Perhaps one of the best examples of the opportunities that can happen when we increase access to college is the story of Shon Hopwood, a native Nebraskan who has been featured in the Nebraska Bar Association events as well as nationally. His journey took him from robbing banks in small towns in Nebraska to spending 11 years in federal prison to writing a legal petition for a fellow inmate so compelling that the U.S. Supreme Court heard the case to earning his graduate and law degrees. Today, he is an esteemed professor at the University of-- Professor of Law at Georgetown Law School. With that, I ask you to advance LB203 to General File, and I'll be happy to answer any questions you might have.

***MEG MIKOLAJCZYK:** Dear Chairperson Lathrop and members of the Judiciary Committee, my name is Meg Mikolajczyk, and I am the Deputy Director and Legal Counsel for Planned Parenthood North Central States in Nebraska. PPNCS provides, promote, and protects sexual and reproductive health care through high-quality care, education, and advocacy in Nebraska, North Dakota, South Dakota, Iowa and Minnesota. Two health centers in Nebraska and one in Council Bluffs, Iowa, provide health care services to over 8500 Nebraskans. During the 2019 fiscal year, about 18% of those patients were Nebraska minors (under 19 years of age). PPNCS supports Section 1(c) of LB89 as an important step forward in Nebraska for recognizing the bodily autonomy of young people, particularly when those same people are determined to be adults for many other purposes. Self-determination, particularly about one's health care, is central to the mission and values PPNCS is grounded upon. We thank Senator Morfeld for his work on this aspect of LB89. However, PPNCS takes an official neutral position regarding the totality of LB89 due to the language of Section 1(d) of LB89. This provision of the bill seeks to provide capacity to minors committed to state custody to consent to and decide their own medical care. Except for one specific type of health care - abortion. The inability to

access abortion care when a minor is a ward of the state is complex problem that has persisted unaddressed in Nebraska since In re Anonymous 5, and is perhaps best articulated by Justice Connelly in his dissent: The [youth in care] has no legal parents; the juvenile court terminated their parental rights. Her legal guardian, the Department - by regulation - will not give her consent. And although the district court has required her to get her foster parents' consent to obtain an abortion, their consent would be meaningless under the law because they are neither parents nor guardians. She is in a legal limbo - a quandary of the Legislature's making. When a court terminates parental rights to a minor ward, the Department makes all the medical decisions for the ward. Except one. The Department's regulations show that it defers to a ward's decision to have an abortion. So the Department effectively consents to a minor ward's decision by default. More important here, however, its regulations prohibit a caseworker from explicitly giving or withholding consent for an abortion: A female ward has the right to obtain a legal abortion. The decision to obtain an abortion is the ward's. The child's worker will provide unbiased information to the ward regarding alternatives and appropriate agencies and resources for further assistance. The worker will not encourage, discourage, or act to prevent or require the abortion. If a ward decides to have an abortion, the consent of the parent(s) or Department is not required-- as such, the [youth in care] could not obtain written notarized consent from either a parent or guardian ... it is not surprising that a health care provider or a pregnant minor would mistakenly conclude that she could obtain a court's authorization for an abortion when she does not have a parent or guardian who can give consent. But this confusion exists because the Legislature has assumed under 71-6902 that all minors will have a parent or guardian who can give consent-- that is not always true-- that the Department refuses to give or withhold consent for a ward's abortion creates jurisdictional problems under the written consent requirement-- a [youth in care] cannot "elect not to obtain" a written consent that no person or entity may legally give her And despite the State's interest in protecting a minor ward's well-being, there are at least two reasons (and probably others) that the Department would nonetheless decline to advise a ward or consent to abortion. Commentators have pointed out that state agencies frequently will not authorize an abortion for minor wards because no federal funding is available for the procedure or out of concerns that caseworkers will impose their own biases. Because the

[youth in care] never "elected" not to get the consent of a parent or a guardian to seek an abortion, the court did not have jurisdiction to entertain her request for judicial bypass under 71-6903(2). I realize that this conclusion means that none of the statutory exceptions apply and that under 71-6902, the [youth in care] is prohibited from obtaining an abortion. An absolute ban on the [youth in carers right to seek an abortion obviously raises constitutional concerns. If the purpose of Section 1(d) is to ensure a minor can consent to medical care while in state custody, but for the instance of a minor seeking an abortion, then it is clear from the Anonymous 5 case that this section perpetuates an unconstitutional bar to accessing abortion for this group of individuals. It is for this reason that PPNCS cannot fully support this piece of legislation, even though PPNCS is fully supportive of Section 1(c). PPNCS is incredibly grateful to Senator Morfeld for his work to support the bodily autonomy rights of young people in Nebraska, but we would be remiss if we did not express our concerns with the bill and the unconstitutional barriers Neb Rev Stat 71-7902 and, by reference and reinforcement, LB89 Section 1(d) perpetuate.

LATHROP: Senator Slama.

SLAMA: Thank you, Chairman Lathrop. And thank you, Senator Pansing Brooks, for bringing this bill. I just have one concern, and I think I, I brought the same concern in the last hearing when a similar piece of legislation was introduced. If a prospective student for a publicly-funded college or a university has a history of being convicted of sexual assault, would this impede the university from obtaining that information and keeping them from being in a situation, such as living in dorm rooms where there may be concerns raised there, from having access to that information since it may pose a safety risk to other students?

PANSING BROOKS: It's, it's my understanding that colleges and universities have an ability after the-- once a, a person who is one of their students signs in to be a part of their dorm, that they then ask questions and can follow up on some things like that.

SLAMA: OK, so this would just be the restriction on the front end for admissions?

PANSING BROOKS: Yes.

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SLAMA: OK, thank you.

PANSING BROOKS: It'd be on the box to get in for the application.

SLAMA: OK, thank you.

PANSING BROOKS: Thank you. Good question.

LATHROP: I had the same question. Once, once somebody's been admitted then the, the people that run the dorms can say, let us know what your criminal history is,--

PANSING BROOKS: Yeah, they could--

LATHROP: --if any.

PANSING BROOKS: I don't-- I-- somebody behind me can ask about that. But I do think that-- I have been reading in my voluminous reports that they can. You know, it is a-- it's a difficulty of the Me Too movement versus the, you know, giving people a fresh start. And so they then ask questions regarding that are part of like the-- what's the system that you have to-- the honor system, that they have to answer these questions truthfully and appropriately about--

LATHROP: OK.

PANSING BROOKS: --their past, and if there's been a concern previously.

LATHROP: OK. I do not see any other questions. Thank you for that.

PANSING BROOKS: Thank you.

LATHROP: Are you going to close, Senator Pansing Brooks?

PANSING BROOKS: I don't know.

LATHROP: OK.

PANSING BROOKS: Unless, unless we have burning questions.

LATHROP: All right. Proponent testimony. Good morning.

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ROSE GODINEZ: Good morning. Hello, my name is Rose Godinez, spelled R-o-s-e G-o-d-i-n-e-z, and I'm here to testify on behalf of the ACLU of Nebraska in favor of LB203. We thank Senator Pansing Brooks for intro-- reintroducing this legislation. One of the long-term impacts of having a criminal record is that many Nebraskans are generally deterred or find it nearly impossible to obtain a higher education. More and more higher education institutions are making this criminal record inquiry, which then has a chilling effect, often discouraging individuals from completing the application even long after they've paid their fines or completed their sentence. Studies that ask-- studies show that asking about a criminal record inquiry does nothing to protect public safety. But it does have an impact on individuals that are applying to higher education institutions. Nationally, one in every three individuals in the United States have a criminal record. And in Nebraska, as Senator Pansing Brooks, Pansing Brooks mentioned, there are several thousands of individuals coming out of our prison system and even more with misdemeanors coming out into our community every day. In addition to generally affecting those that are formerly incarcerated, applications' criminal record inquiry disproportionately affects people of color as they're overrepresented at every point of our criminal justice system, and that's due to racial profiling and student disciplinary policies. We can see that just by looking at our Nebraska's average daily prison population with whose overrepresentation of people of color hasn't changed since the last time I testified on this bill with 27 percent black, 14 percent Latinx, and 4 percent Native American compared to our overall state population of 5.2 percent black, 11.4 percent Latinx, and 1.5 percent Native American Nebraskans. Nebraska has already begun cutting the red tape on banning the box in public employment, and we can similarly do that with this bill. So for those reasons, we encourage you to move this bill on to General File. Thank you.

LATHROP: OK. I don't see any questions. Thanks for your testimony. We always appreciate hearing from you.

ROSE GODINEZ: Thank you.

LATHROP: Any other proponents? Good morning. Welcome.

JOEY ADLER: Good morning. Good morning, Chairman Lathrop and members of the Judiciary Committee. My name is Joey Adler, J-o-e-y A-d-l-e-r, and I am here on behalf of the Holland Children's Movement, a

nonpartisan, not-for-profit organization that strives to fulfill its vision for Nebraska to become the national beacon in economic security and opportunity for all children and families in support of LB203. We'd first like to say thank you, Senator Pansing Brooks, for introducing LB203. In 2019, Nebraska voters outlook, which is research on public opinion on state policy by the Holland Children's Institute, found that when asked if Nebraska state government should do more to develop our workforce from more investment and higher education to making job training and career technical and vocational training more accessible, 61 percent said that should be the focus of state government. A small minority, 34 percent said that, instead, Nebraska should continue giving more tax breaks and incentives to private sector job creators. In the latest round of research done by the Holland Children's Institute, we asked, please tell me if you think that state government in Nebraska is doing an excellent, good, just fair or poor job at providing job training and access to career technical and vocational education that is affordable. Only 40 percent of respondents gave a positive response and 53 percent gave a negative response. We believe that LB203 works to do more in helping expand access to higher education and CTEs. The Brookings Institution is a nonprofit public policy organization based in Washington, D.C., whose mission is to conduct in-depth research that leads to new ideas for solving problems facing society at the local, national, and global level. They recognize that it is difficult to find out how many individuals are involved in the corrections process that apply for higher education. But a study done at the State University of the new-- of New York System, also known as SUNY, found that nearly 3,000 applicants in a single application cycle checked a box indicating they had a prior felony conviction, which corresponds to about 3 to 4 percent of first-time undergraduates. If a similar rate holds nationwide, this would suggest that over 120,000 college applicants each year with felony convictions. Brookings also found that those applying with a felony conviction thought the process was discouraging or confus-- confusing. A study of 3,000 SUNY applicants with felony convictions found that 62 percent failed to complete the application process, compared to just 21 percent of those without a conviction. It's for these reasons we support LB203. And real quick, Senator Lathrop, Senator Slama, there are federal guidelines that require colleges to collect that information about people's convictions. The point of this is to stop the discouragement from the first step in that. So they do require to collect that information in general.

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LATHROP: Maybe you could share that, whatever the federal law is, that requires that universities before they put somebody in a dorm--

JOEY ADLER: Yeah.

LATHROP: --have to, have to check on that.

JOEY ADLER: And I don't know if it's that specific law, but I do know that there are other statistics that they have to gather for certain pieces of their funding. And so I can definitely try and find what those specifics look like and send it to the committee.

LATHROP: OK. Senator Slama.

SLAMA: Thank you. Just very briefly, you mentioned the Holland Children's Movement surveys at the beginning of your testimony. Do you have any data on the sample size?

JOEY ADLER: Yeah, I sure do.

SLAMA: Great. Could you send that to me after this? I'd appreciate it.

JOEY ADLER: I would love to, yeah. And I would be more than willing to sit down and talk with you and go through with you about the question that we ask and the sample size and answer any questions you may have about that.

SLAMA: All right. Thank you.

JOEY ADLER: Thank you.

***JULIE ERICKSON:** Our juvenile justice system should be structured to ensure all children can take the right steps to put their past behind them and move toward a better future. We all benefit from policies that hold youth accountable in age-appropriate ways and allow them the ability to grow out of and past their adolescent decisions. Voices for Children in Nebraska supports LB203 because it offers young adults the opportunity to confidently approach the college admissions process without fear that their past will hinder their future goals and allows Nebraska's universities and colleges the privilege of cultivating these students' gifts and talents. While revealing criminal history information as part of a college or university admissions process is often framed as a security issue, few studies have explored whether

this practice leads to actual reductions in on-campus crime rates. By contrast, extensive research exists supporting the hypothesis that increasing access to education reduces future criminal behavior. Individuals, including youth, who have paid their debt to society should have the chance to advance in a chosen career field, pursue intellectual or creative passions, build positive peer and mentor relationships and earn an honest living. Moreover, when they are able to do so, their prospects for lifetime income and stability improve, impacting the prosperity of neighborhoods, communities, and our state as a whole. LB203 is not without precedent in the United States. Similar bills barring public colleges and universities from inquiring about criminal history have passed in Louisiana, Maryland, and Washington, and have been introduced in Illinois. The State University of New York's network of 64 schools dropped the felony conviction question from the application. Most notably, the Common App, the undergraduate college admission application used by 800 member colleges and universities in 49 states, including Nebraska, eliminated the criminal history question in 2018. However, individual schools may still require applicants to reveal juvenile criminal history information in their supplemental materials, necessitating measures such as LB203 to ensure equitable public higher education access. Nebraska is home to several nationally and internationally recognized public colleges and universities, and LB203 will ensure that young people seeking a better future for themselves, their families and communities, can confidently apply to these programs to forge a new path. I'd like to thank Senator Pansing Brooks for bringing this bill, and the members of the committee for your time and consideration. I would urge you to advance it.

LATHROP: I don't see any other questions for you. Thanks and always good to see you, Mr. Adler. Any other, any other proponents? Anyone here to testify in opposition to LB203? Anyone here in a neutral capacity? Seeing none, Senator Pansing Brooks, do you want to close?

PANSING BROOKS: [INAUDIBLE]

LATHROP: Sure, sure. We have four position letters: two proponents, one opponent, and one neutral. And we also received testimony, written testimony this morning from Julie Erickson, E-r-i-c-k-s-o-n, Voices for Children whose testimony is as a proponent. With that, Senator Pansing Brooks, you may close.

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

PANSING BROOKS: OK. I just wanted to reconfirm on the, the, the-- so the bill gets only into the application process and the Nebraska State College System provided a perfect response. If you look at the fiscal note-- is that this year? Last-- OK, sorry. The fiscal note from last year, which I can provide to you, they said that they would just reprogram their online application to remove the question from the student application and add the question to the residence hall application to ensure safety in the residence halls. So nothing in the bill would preclude them from doing that. And I appreciate how they thought about it and it speaks to your questions.

LATHROP: Perfect.

PANSING BROOKS: So that was, that was the Nebraska State College System.

LATHROP: OK. Any questions for Senator Pansing Brooks? I see none.

PANSING BROOKS: And with that, I close. Thank you.

LATHROP: That will close our hearing on LB203 and bring us to LB354, which is my bill.

PANSING BROOKS: Oh, sorry. Good, good morning, Chair Lathrop. We will begin the hearing on LB354. Welcome.

LATHROP: Welcome. Thank you, Vice Chair Pansing Brooks and members of the Judiciary Committee. My name is Steve Lathrop, L-a-t-h-r-o-p. I'm the state senator from District 12 here today to introduce LB354. This bill is pretty straightforward and it simply requires county and district court judges to issue a decision on a motion to transfer jurisdiction of a minor to juvenile court within 30 days. Currently, a motion to transfer jurisdiction to juvenile court can sit for months before a decision is issued. By this time, it is possible for the window of opportunity to benefit from juvenile court services has passed because the case regards a young person under 19 years of age. In such cases, time is especially of the essence. However, in the event a judge determines the case could best be handled in juvenile court, it is in the interest of the accused and the public that the transfer be made in a timely fashion so the youth involved can benefit from the services and structure provided by our juvenile court. This bill would provide the same 30-day time frame on motions to transfer a

case from juvenile court to adult court that they must meet under Nebraska statute 43-274, subparagraph (5). And when a, when a young person is charged with a crime, eventually the juvenile court or the district court has to take up whether that youth should be handled in the juvenile court or should this matter be taken up as a criminal, criminal matter in the district court. That decision process, and there is a process set out in statute, involves whether there is time and whether a juvenile will benefit from rehabilitation or do they need to be punished criminally. When a decision on a motion to transfer isn't made in a timely fashion, the window of opportunity for a youth to benefit from rehabilitation gets smaller. And as it gets smaller, the likelihood that they will stay in criminal court increases and their opportunity to move to juvenile court and succeed in a motion to transfer is diminished. All because a court heard a motion and then sat on it for six or eight months as the student got closer and closer to adulthood. This bill, I think, is supported by both prosecutors and defense lawyers as important in the administration of the process of making decisions on whether a youth ought to be transferred to juvenile court or, or be tried in adult court. With that, I would encourage your support of LB354. And I'm happy to answer any questions you may have.

PANSING BROOKS: Thank you, Chairman Lathrop. Anybody have any questions? OK, I see no questions. Do we have people behind you?

LATHROP: I think so.

PANSING BROOKS: Yeah, OK, so-- and do you want to close or--

LATHROP: Likely not. But we will see--

PANSING BROOKS: OK.

LATHROP: --if there's something I need to respond to.

PANSING BROOKS: OK.

LATHROP: OK, thank you.

PANSING BROOKS: Thank you. Now we'll have proponents. Welcome.

MARK HANNA: Good morning, everyone. Good morning, Judiciary Committee. My name is Mark Hanna, M-a-r-k H-a-n-n-a. I am a deputy county

attorney in Douglas County. We are here supporting LB354. The deputy-- the Douglas County Attorney's Office supports this bill and we find this to be extremely important. So when we have juveniles in district court, defense counsel will file a motion to transfer those types of cases to juvenile court. These types of cases are some of the more serious cases, because as of right now, only II Class-- IIA felonies and above can start in district court. So these are the youth who are engaging in very serious activities and when those motions to transfer are heard by district court judges, sometimes they are sat on. And I practiced in juvenile court for several years. And I have been one of the attorneys who's handled some of the cases that's come from district court to juvenile court. And some of the things that we found is it's very difficult as a prosecutor to help rehabilitate juveniles who have engaged in some serious activities when we have such a short amount of time. So what this bill does is it has district court judges having to do their orders to transfer to juvenile court within 30 days. And that makes a big difference, because if we have an individual who is 17 and a half years old, by the time they get to juvenile court, by the time we get them adjudicated, that leaves us with little to no time to engage in rehabilitative services. And, and, and that's an issue because at that age, we have issues getting them into group homes. We have issues with getting them into different shelter placements. We have issues with getting treatment started because, as we all know, juvenile courts, we try to get different evaluations done. By the time we get the evaluation set up, get it scheduled, get it completed, get it offered to the court, get the treatment ordered, by the time the juvenile starts a treatment, when they're transferred at 17 or 18 years old, there's virtually not much left that can be done. And with that, I would ask this committee to support LB354. And if anyone has any questions, I'm willing to answer.

PANSING BROOKS: Thank you. Yes, Senator McKinney.

McKINNEY: Thank you. Thank you for your testimony. I guess my question is, what is the-- if-- you may not be aware, but what is the process of like a judge making this decision on the motion? Because I've had friends and I know individuals personally that, you know, were 17, caught a charge and we're, we're held and, and a decision wasn't made until they-- not even 17-- well, they were held until they became considered an adult. And I guess my, my skepticism is it's coming from, you're, you're a deputy prosecutor and that's my skepticism. What-- one, what is-- are you aware the, the decision-- the, the

thought process behind a judge's decision on this and what are the pros and cons of this? Because from my, my perspective, it's always been used against the defendant from the prosecutor. So what do you see as a pro and what is a con?

MARK HANNA: OK, so you asked me two questions. I'll start with the first one. What is the process? And the process is laid out in statute. And I actually have the statute with me. I just need one moment. It is statute 29-1816. So when an individual is in district court or county court, they get arraigned, they have 30 days after their arraignment to file the motion to transfer. Once that motion to transfer is filed within that 30 days, the court has to schedule the hearing within 15 days. So it has to be relatively fast. So once the hearing is heard within 15 days, the court has to take into consideration 15 different factors. And that's laid out in 43-276. And I can briefly go over some of the factors, if the committee would like. But the court would then enter into a balancing test where they have to weigh-- we have all these factors. We have on one hand how we protect society, and the other hand, how we rehabilitate a juvenile. So what the court would have to do with those 15 factors is balance them each. In this particular case, and it has to look at a case-by-case situation, is the risk to society low enough where we can rehabilitate the juvenile and society be OK. Or on the other hand, considering these 15 factors, is the risk to society too great and that we can't risk having the individual go to juvenile court. Hopefully, that answers your first question. The second one, I believe, you asked me was what are the pros and cons of this bill? And frankly, I see all pros and I don't see any cons. Yes, I'm a county attorney, but my goal and I speak for the Douglas County Attorney's Office, our goal is safety, community safety. We represent the state. We are here for the public, whether it be in county court, district court, or juvenile court. So these are the type of hearings that are very important. We're talking about individuals who have been charged with Class IIA or above felonies. If the motion to transfer is affirmed in district court, as a prosecutor in juvenile court, I want as much time as possible as I can to try and help rehabilitate this juvenile, whether it be working with juvenile probation, having the one-on-one conversations with the judge, getting the evaluations done so we know what type of treatment and the level of treatment is necessary is extremely important. Yes, I'm a prosecutor, but this bill essentially really helps everyone. And I understand you have some

skepticism about me being here from my position. But what this bill does is it makes judges rule faster. And what that ultimately means is they either have to go through their district court process in a faster time period or they get sent to district court right away.

McKINNEY: OK, thank you. I'm just-- one more question. Can you fully evaluate an individual's mental health and family history and all of those factors in 30 days properly?

MARK HANNA: So I'm not a judge, but that's why we have judges and that's what their role is to do. So when we have these hearings, the state, my office will present certain evidence to the court, the evidence that we have, and then the defense attorney will present evidence to the court on the evidence that they have about the mental health or the education piece. And it's up for the judge to then decide what they're going to do. Now whether or not the judge has the ability to come up with these decisions within 30 days, I think they can. Because as of, as of this point, the law right now, when we transfer cases from juvenile court to district court, those judges have 30 days and we have district court judges who should be held to the same standard because they're hearing the same exact factors. There really is no difference between these two transfer hearings.

McKINNEY: All right. Thank you.

MARK HANNA: Thank you.

PANSING BROOKS: Are there any further questions? I guess, I have one. What, what about just starting all cases in juvenile court? And then that way, I mean, it's within the jurisdiction and--

MARK HANNA: So that's a very good question. I actually think there's a bill that I'll be proposing later this afternoon that goes to that.

PANSING BROOKS: And that's-- it's mine.

MARK HANNA: I apologize for that. And I'm glad you asked me because I like the idea. I like the fact that we are helping juveniles. But starting it in juvenile court does not make any difference in terms of time frame. There's no difference between when it starts in district court and when it starts in juvenile court as to how fast the case will be heard or how fast the judge will rule. Because both courts, they have a certain time period of filing. They have a certain time

period of being heard. And the problem that I see, the real issue that I believe your bill addresses is the time period that juveniles are spending incarcerated, waiting for these motions to be heard. And we can, no matter which court it's in, if there's an appeal, this-- no matter what court it is, it halts the case. So we're waiting for that appeal. Not only that, but in juvenile court and district court there is that certain 15- or 10-day requirement where the court has to hear the motion. The state cannot ask for a continuance. That is the juvenile's right. The state is not the one continuing those hearings and pushing it out. Unfortunately, it's on the defense side and the juvenile side, who does that. And I believe they do it so they can work on their case because that is a relatively short period of time. That's-- that can't be changed in whichever court. And I actually think that having all these cases start in juvenile court would be even more detrimental. And I think that because of several reasons. So right now, your bill talks about all felonies starting in juvenile court. Most felonies already do start in juvenile court. The ones that we're really talking about are the Class IIAs or above. Those are the very serious crimes. So when they start in juvenile court, there's a statute that says that if the state wants to file a motion to transfer to district court, we have to do it the same time as when we put-- charge the juvenile court, file the petition. And I don't know if the committee is aware, but the process is I'll come to work early in the morning. I'll see the charges of who was charged last night. I have to get the charges done as fast as possible to make sure they appear for the detention hearing that afternoon. And that means I have to fill out my paperwork, it has to be typed up, has to be filed to the court, and it has to be given to defense counsel. And part of the issue is that's such a fast period of time where that does not give the state on these very serious crimes the ability to reach out to defense, to make proper considerations as to whether or not we should file this transfer motion if it all starts in juvenile court. And that would be extremely detrimental. I also believe that we have to think about the messages being sent. So as a prosecutor, I have been in juvenile court for about three years. I heard the jail calls. I hear what the juveniles are saying. They know the system, they know the game. They know-- they are very smart people. And part of the thing that I'm nervous about is if that bill goes forward is what message are we saying where we have the extreme crimes, the Class IIAs or above starting in juvenile court? What does that tell society? And I think that what that does is it, it shifts the balance and the message of we

are not considering community safety. And that's very concerning for me.

PANSING BROOKS: OK, thank you. I, I will just say that as you've gone on and testified against my bill right now.

MARK HANNA: Which I apologize for, I know this wasn't the time.

PANSING BROOKS: But, but anyway, the point is what we're saying to the community is we trust juvenile judges, that they're bright enough to understand that if a county attorney makes a, a plea to move it to adult court, they, number one, are educated in children and, and have been working in juvenile court for long enough to determine that that should be moved to adult court or not, or that they have the capacity to handle it. It's not because they're going to deal with them less strongly. So, anyway, thank you for-- I do like your idea of making sure that the courts react more quickly. I disagree firmly with your other statement.

MARK HANNA: Understood. Thank you.

PANSING BROOKS: Anybody else have anything else to say? Nope, OK. Thank you for coming today.

MARK HANNA: Thank you for your time.

PANSING BROOKS: Yeah, Mr. Hanna. Any other proponents? Mr. Eickholt, thank you for coming.

SPIKE EICKHOLT: Thank you, Vice Chairwoman-- Vice Chairperson Senator Pansing Brooks. My name is Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t, appearing on behalf of the Nebraska Criminal Defense Attorneys Association in support of LB354. I was in another committee and I came back and then I heard the question and answer part and I thought it was another bill that I was here on. As far as LB354, though, I would-- I thank Senator Lathrop for introducing this. A number of our members brought this issue to me, and actually I didn't realize it was a, a thing, if you will, but it was a number of my members brought this to the last session after a bill introduction was done. Otherwise, I would of asked someone to introduce it last year. But what this would do is pretty simple, but it's important, and that is if there's a request to transfer a case to juvenile court, the judge has to make a decision within 30 days of the hearing. The factors that

the courts are to consider are the same. All the case law then interprets those factors is undisturbed. And this is really just for judicial efficiency. And I think as a practical matter, most of the judges are going to be able to live with this because there's just a, a few instances in which a judge doesn't render a decision right away and that's really to no one's benefit. And I think it's consistent with that immediate right to appeal that both the state and the prosecutor and the defense attorneys have in the event of an adverse ruling for the question of transferring it to juvenile court. So I'd urge the committee to advance this bill and maybe I'll just take the opportunity to speak to Senator Pansing Brooks's bill to respond to what the prosecutor said when he was testifying against your bill, when he's testifying in support of this bill. What I think I heard him say was the serious cases shouldn't start in juvenile court because then the state has to request they get transferred to adult court. We're talking about children. Even if they're accused of serious things, they should be treated like children in the court system. And I don't think the inconvenience of the state should be a factor necessarily. I think the first factor should be the best interest of the child. If it's a serious case, like Senator Pansing Brooks's said, that the juvenile court can make that decision. Everything the prosecutor wants to argue about that, the seriousness of the case or the level of a charge can be argued. Your bill doesn't do anything to limit that. And that's just one response I would give. But back to this bill, I'd urge the committee to support.

PANSING BROOKS: Thank you, Mr. Eickholt. Anybody have questions for Mr. Eickholt? OK, thank you for--

SPIKE EICKHOLT: Thanks.

***MICHELLE WEBER:** Chairman Lathrop and members of the Judiciary Committee: My name is Michelle Weber, and I am testifying on behalf of the Nebraska County Attorneys Association in support of LB354. We appreciate efforts to encourage courts to issue orders as soon as practicable following a transfer hearing to ensure the timely and fair administration of justice.

PANSING BROOKS: --coming today. I see no other proponents or opponents. We do have-- let's see, we have position letters. We don't, we don't have any position letters either proponents, opponents, or neutral. And as far as the testifier sheets that were dropped off,

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Michelle Weber from the Nebraska County Attorneys Association dropped off testimony in favor of LB354. And with that, would you like to close, Senator Lathrop?

LATHROP: I, I think I will, just so that maybe I can address Senator McKinney's concern. Every once in a while we do something around here where the defense lawyers and the prosecutors agree. We will have many bills as we go along where there is differences. We'll see one this afternoon. The, the huge advantage in this, and if I can just maybe do this by example, and this would be an extreme example, but if a 17-year-old person or a 16 year old got caught stealing a car and they're charged with theft, then having that decision made, if a, if a judge sat on that, had a hearing on a motion to transfer and sat on it for two years, then they would look at it and say, well, he's so old, he may not benefit from juvenile court. Let's keep him in adult court. So a quick decision leaves more time for rehabilitation and improves the chances that a case will be transferred to juvenile court. And prosecutors like it because if a case is going to juvenile court, they want that to happen as soon as they can so that the young person has as much rehabilitation as they can possibly cram in before they age out of the juvenile court system. So it really gets to and it's not widespread, but there are some judges that get these things. And it's particularly problematic when somebody's 18 or 17 and a half and a judge sits on a motion to transfer for nine months and then says, well, he's so close to adulthood we'll leave him in adult court. So this really is sort of a win-win type of a bill. And getting a timely decision, I think helps the young person. It helps the prosecutor, and, and society, as a whole, benefits by getting the young person more rehabilitation. So with that, I'm happy to answer any questions, otherwise I would encourage your support of the bill.

PANSING BROOKS: Any further questions? Thank you for bringing the bill, Senator Lathrop.

LATHROP: OK.

PANSING BROOKS: That closes the hearing on LB354, and it also ends, ends our hearing for this morning.

LATHROP: That's true.

PANSING BROOKS: We'll see everybody at 1:30.

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[BREAK]

LATHROP: Hi, Terrell. You ready? Good afternoon. You'll notice that I don't have my committee fully assembled. That's because they know it takes me ten minutes to read everything I'm about to read. So I'm going to start that while my committee filters in here. Good afternoon and welcome to the Judiciary Committee. My name is Steve Lathrop. I'm the state senator from District 12 and I'm also the Chair of the Judiciary Committee. Committee hearings are an important part of the legislative process. Public hearings provide an opportunity for legislators to receive input from Nebraskans. This important process, like so much of our daily lives, is complicated by COVID. To allow for input during the pandemic, we have some new options for those wishing to be heard. I would encourage you to strongly consider taking advantage of additional methods of sharing your thoughts and opinions. For a complete detail on the four options available, go to the Legislature's website at nebraskalegislature.gov. We will be following COVID-19 procedures this session for the safety of our committee members, staff, pages, and the public. We ask those attending our hearings to abide by the following procedures. Due to social distancing requirements, seating in the hearing room is limited. We ask that you enter the hearing room only when it is necessary for you to attend the bill hearing in progress. The bills will be taken up in the order posted outside the hearing room. This list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room. We request that you wear a face mask while in the hearing room. Testifiers may remove their face covering during testimony to assist the committee and transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front of the table and chair between testifiers. When public hearings reach seating capacity or near capacity, the entrance will be monitored by the Sergeant at Arms who will allow people to enter the hearing room based on seating availability. Persons waiting to hear-- pardon me, waiting to enter a hearing room are asked to observe social distancing and wear a face covering while waiting in the hallway or outside of the building. The Legislature does not have the availability of an overflow room because of the HVAC renovations, which may attract many testifiers and observers. For hearings with large attendance, we request only testifiers enter the hearing room. We also ask that you please limit or eliminate handouts.

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Due to COVID concerns, we're providing two options this year for testifying at committee hearings. First, and this is the equivalent of testifying in person, this first option, brand new. First, you may drop off written testimony prior to the hearing. Please note that four requirements must be met to qualify for your testimony to be included in our committee statement. Number one, submission of written testimony will only be accepted the day of the hearing between 8:30 a.m. and 9:30 a.m. in the Judiciary Committee hearing room here in Room 1113. Number two, individuals must present their written testimony in person and fill out a testifier sheet. Number three, the testifier must submit at least 12 copies. And number four, testimony must be written-- a written statement, no more than two pages single-spaced or four pages double-spaced in length. No additional handouts or letters from others may be included. This written testimony will be handed out to each member of the committee during the hearing and will be scanned into the official hearing transcript. This testimony will be included on the committee statement if all four of these requirements are met. And, of course, the second opportunity to present testimony is in person. As always, persons attending public hearings will have an opportunity to give verbal testimony. On the table inside the doors, you will find yellow testifier sheets. If you intend to testify, fill one of the yellow testifier sheets out if you're actually going to testify before the committee. Please print legibly. When you testify, hand the yellow testifier sheet to the page as you come forward to testify. There are also white sheets on the table if you do not wish to testify but would like to record your position on a bill. This sheet will be included as an exhibit in the official hearing record. If you are not testifying or submitting written testimony in person and would like to submit a position letter for the official record, all committees have a deadline of 12 noon, the last workday before the hearing. Position letters will only be accepted via the Judiciary Committee's email address posted on the Legislature's website or delivered to the Chair's office, that's my office, prior to the deadline. Keep in mind that you may submit a letter for the record or testify at the hearing, but not both. Position letters will be included in the hearing record as exhibits. We will begin each bill hearing today with the introducer's opening statement, followed by proponents of the bill, then opponents, and finally, anyone wishing to speak in the neutral capacity. We will finish with a closing statement by the introducer if they wish to give one. We ask that you begin your testimony by giving us your first and

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last name and spell them for the record. If you have any copies of your testimony, bring at least 12 with you and give them to the page. If you are submitting testimony on someone else's behalf, you may submit it for the record, but you will not be allowed to read it. We will be using a three-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 light comes, the red light comes on, we ask that you stop your testimony. As a matter of committee policy, I would like to remind everyone that the use of cell phones and other electronic devices is not allowed during public hearings, though you may use them-- pardon me, though senators may use them to take notes or stay in contact with staff. At this time, I'd ask everyone to look at their cell phones and make sure they are in the silent mode. A reminder that verbal outbursts or applause are not permitted in the hearing room. Such behavior may be cause for you to be asked to leave the hearing. Since we've gone paperless, paperless this year in the Judiciary Committee, senators will be using their laptops to pull up documents and follow along with each bill. They're not being rude when they're on their laptop. That's also part of where we get information on the bill under consideration. You may notice committee members coming and going. That has nothing to do with how they regard the importance of the bill before the committee. But senators may have other bills to introduce in other committees or other meetings to attend to. One last thing, because we have a typical number of bills for a long session, but 11 fewer days to hear the bills, we have as a committee elected to have bills heard with 30 minutes for testimony for proponents and 30 minutes for opponents. That may mean, depending upon the amount of questions or the number of people that attend, that not everybody will have an opportunity to testify. So if someone's already said what you came here to say, maybe you want to fill out one of the sheets just so that everybody has an opportunity to be heard. And with that, I'll have the members of the committee introduce themselves, beginning with Senator DeBoer.

DeBOER: Hi, my name is Senator Wendy DeBoer. I represent District 10, which is all of Bennington and parts of northwest Omaha.

BRANDT: I'm Senator Tom Brandt. I represent District 32: Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster County.

PANSING BROOKS: Hi, Patty Pansing Brooks, Legislative District 28, right here in the heart of Lincoln. And I'm Vice Chair of Judiciary.

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MORFELD: Adam Morfeld, District 46, northeast Lincoln.

McKINNEY: Terrell McKinney, represent District 11, north Omaha.

LATHROP: Assisting the committee today are Laurie Vollertsen, our committee clerk, and Josh Henningsen, one of our two legal counsel. Our committee pages this afternoon are Ashton Krebs and Samuel Sweeney, both students at UNL. They're the folks in the black vests that you will hand your testifier sheet to. And they'll also be cleaning off the table in between testifiers. And with that, we're ready for our first bill of the morning or afternoon. And that would be LB357 and Senator Hunt. Welcome, Senator Hunt.

HUNT: Thank you. Thank you, Chairman Lathrop and members of the Judiciary Committee. My name is Senator Megan Hunt, M-e-g-a-n H-u-n-t, and I'm here today to present LB357. This bill provides youth in the foster care system and in our Youth Rehabilitation and Treatment Centers with a list of rights related to services, connections to family, and transition planning based on input from former foster youth. This bill also guarantees that youth in the state care are informed of their rights at regular intervals and that they know what to do if they feel those rights have been violated. In 2019, I introduced LR127 at the request of youth advocates and former foster youth to explore opportunities to clarify rights for Nebraska youth in state custody. After three listening sessions with over 50 current and former foster youth in Fremont, Lincoln, and Omaha, it became clear that youth involved in the welfare system did not know about the rights they had when they were in state custody. That study informed my LB941 in 2020, which was drafted with input from youth advocates. This year's bill, LB357, is the product of further input and collaboration among stakeholders to improve upon the work we did for the previous bill and to remove opposition. Over 20 advocates with experience in Nebraska's foster care systems shared their input in the creation of this Youth in Care Bill of Rights. Currently, the Nebraska Department of Health and Human Services is federally required to provide youth with notice of certain rights by the Strengthening Families Act, and this is codified in agency regulations. However, youth input and input from those who advocate for foster youth has indicated that the existing notice given and the rights therein are inadequate. None of the youth in my listening sessions indicated that they remembered having received notice of their rights when they entered the system, and I don't mean most of them didn't know their

rights. I don't mean a lot of them weren't aware that they had rights under the system. I mean that zero of them knew about this requirement. Current statute states that youth are informed of their rights by DHHS during their first 72 hours in care. The kids I spoke to told me that they are-- if they're only informed of their rights during the initial removal, the trauma of the moment prevents them from retaining and processing the information. And that makes a lot of sense. So what's basically happening in practice is that when youth are removed from their home or from their, you know, primary caretaker and they're placed in foster care, they're placed at a YRTC, that's when they're notified of these rights. But it's such a traumatic time that a lot of them don't really remember it or they-- zero of them that I even spoke to remembered it ever happening. Young people say that they want these conversations to occur, both initially when they are-- when the removal happens and then consistently throughout the process afterwards that they're periodically reminded of their rights as they move through the foster system. As an overview, the bill does three main things. First, it ensures that youth in care are given notice of their rights, including an expanded list of rights as suggested by former system-involved youth. Second, it requires that youth are informed when they first enter the foster system and at regular intervals by their caseworker. And three, that they are aware of how to file a complaint through the grievance process if they believe their rights have been violated. All of the kids I talked to in our listening session said that this would have made a huge difference for them. They shared stories of abuse, of mistreatment, and they really confirmed that they didn't even know what they could have done about it. And hopefully this process will take some of that confusion away. This year's LB357 incorporates feedback from Nebraska Children's Commission Strengthening Families Act, Community and Family Voice's Subcommittee, Nebraska Appleseed's Child Welfare Program, DHHS, and former system-involved youth. The amendment I have distributed, AM54, incorporates additional feedback from the department, the County Attorneys Association, and the Nebraska Court Improvement Project. I know that the department cares deeply about this issue and they have worked closely with me and my staff to come to a compromise and common understanding about the purpose of this bill to make sure that youth are aware of what their rights are and what they can do if something goes wrong while they are in state care. The changes contained in this amendment strengthen the bill from the courts and the county attorneys' perspectives. And with it, the

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department has agreed not to take a position on the bill. When a system removes you from your home or puts you in an unfamiliar place, there's an inherent distrust of that system and it's essential that we are doing everything we can as a state to ease these kinds of transitions. The least we can do is make sure that the youth know that they do have these rights. Making sure these rights are explained up front can help alleviate mistrust and reassure these kids that we do care about their development and well-being. It's also really important that they know where to turn if they have a complaint, if they are being mistreated, if they are going through something that needs to be reported. This bill would strengthen young people's knowledge and power to advocate for themselves and seek support when their rights are not being met. Over the course of working on this subject from my LR in 2019, when I first met all of these system-involved youth that were so inspiring to me and so helpful in crafting the bill, to last year's bill, when we were, of course, interrupted by the pandemic, to this year's bill and the new amendment that removes opposition. We have worked diligently with all stakeholders to clarify language and remove opposition as much as possible. So I appreciate all the time that stakeholders have taken to inform the bill, and I believe it's now in a place where it's polished and ready for passage. I'd be happy to answer any questions.

LATHROP: I do not see any questions at the front end of this. You'll be here to close, though?

HUNT: Yes, thank you.

LATHROP: OK, very good. Thank you, Senator Hunt. We will take proponent testimony. So if you came here in support of LB357, you may approach.

SARAH HELVEY: Good afternoon, Senator Lathrop and members of the Judiciary Committee. My name is Sarah Helvey, S-a-r-a-h, last name H-e-l-v-e-y, and I'm a staff attorney and director of the Child Welfare Program in Nebraska Appleseed. A key priority of our Child Welfare Program at Appleseed is working with those who are most impacted by the foster care system and ensuring that their voices are not left out. As Senator Hunt indicated, LB357 was directly informed by young people with foster care experience who provided input and advocated that Nebraska have a more comprehensive bill of rights to help them navigate the system. We support LB357 because we believe it

will be an important tool for youth involved in foster care to be heard, respected, and cared for. I want to talk a little bit about the history of the effort. Senator Hunt outlined the great involvement of young people, beginning with the federal Preventing Sex Trafficking and Strengthening Families Act. Then in 2016, the Nebraska Strengthening Families Act was passed by the Legislature after much input from young people, foster parents, and other stakeholders. Both the state and federal SFA requires youth ages 14 and older in foster family homes and childcare institutions to be notified of their rights with respect to education, healthcare, visitation, court participation, and accessing documents. That's required to be explained and signed by youth upon their entry to foster care and, additionally, at court hearings. But as Senator Hunt indicated through the process of the Strengthening Families Act and LR127, we continue to hear from young people that even with these existing requirements, they were not aware of their rights or they did not see the bill of rights document or know how to file a grievance or what to do if their rights were being infringed. And so due to that, that input is what brings us here today with LB357. Most of these rights are already existing rights under state and federal law. They fall into the categories of constitutional rights, rights around services and care, rights pertaining to equity of youth, rights for those who are-- young people who are pregnant and parenting, and the rights specific to youth and their foster care cases. To highlight one issue that we hear regularly from many young people, they share that they were not placed, when they were placed in care, they were not notified of their right to be placed with their sibling whenever possible. That's already established in state and federal law, but doesn't, doesn't always happen. And so if they had been aware of that, they might have been better able to advocate for themselves. Finally, LB357, in addition to giving them notice of their rights, gives them an opportunity to speak with their guardian ad litem and file a grievance when those rights are not being met. And we think that that's a really critical piece, not just informing them, but making sure that young people know what to do when they feel their rights are being infringed. And with that, we ask for your support of LB357. And I am happy to answer any questions the committee may have.

LATHROP: I see no questions. Thank you for your testimony, being here today. Next proponent. Good afternoon.

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JACOB McKIRDY: Good afternoon, I'm Jacob McKirdy, J-a-c-o-b M-c-K-i-r-d-y. Hi, Senators, my name is Jacob McKirdy. First, I would like to talk to you about my experience in foster care. Secondly, I would like to talk to you about how I was impacted as a youth in foster care. And lastly, I would like to talk to you about the change I would like to see in the foster care system. First, I would like to talk to you about my experience in the foster care. When I was five, I went into the state custody due to my dad's actions. I was placed with a couple of families, but the home that changed my life forever was horrible. I remember my first day that I was there, I was made to eat only one bowl of cereal for breakfast when all the other kids got pancakes for breakfast. All because I had an argument with my foster parents. Things progressed from there to abuse, mental and physically. I was constantly hit by the other kid-- kids, except for my two sisters, Kami and Kaitlyn. From there I was hit with pool sticks to my head by the foster parents. My foster dad tried to molest me when I had to put cream on my butt due to diaper rash. I then stepped on a barbed wire fence with shoes on. I told the foster parents, but they said, Oh well, you will live. That was the worst-- that was the day that messed my whole life up. Secondly, I would like to talk to you about how I was impacted as a youth in foster care. When I was six, I had surgery on my foot at Children's Hospital because of the infection in my foot, due to stepping on the barbed wire fence when I was five or when I was five. When I was under for surgery, I had a blood clot that went to my brain. When I was seven, I had two strokes. Fast forward to October 4-- 14, 2010, I went into foster care for the second time at age 10. I was so scared. As a result of the system, I went to 50 different foster homes and other placements. I would-- went to 3 different states and was hospitalized 31 different times. And lastly, I would like to talk to you about the change I would like to see in the foster care system. One thing I never got as a foster kid was a forever home or even a safe place to go. I found out that when I was in the system, I was just another paycheck. The foster parents made $8,000 every month because I was an at-risk youth. All I wanted was a home and parents I could love. The thing I would like to see change in the overall care of each kid in the system. If the caseworkers spent one minute to actually spend time to get to know the kids, it would make a difference. For me, all I wanted was just to be listened to for one hour a month. That is why I support bill, LB357, and the Youth in Care Bill of Rights. Help me help others find their voice by passing the bill. I'm open to any questions. Thank you.

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LATHROP: All right, thank you. I do not see-- oh, Senator Pansing Brooks has a question for you.

PANSING BROOKS: I just want to thank you, Mr. McKirdy, for coming forward and, and telling about your exper-- your horrible experience. And I'm sorry. And I know the others on this panel, on this panel are also sorry that you endured all that. And we will work to try to do what we can. But thank you for your courage today.

JACOB McKIRDY: Thank you.

LATHROP: OK, thank you.

JACOB McKIRDY: Thank you.

LATHROP: Next proponent.

LAURA OPFER: Good afternoon, Senator Lathrop and committee members. My name is--

LATHROP: Can you, can you hang on for just one second?

LAURA OPFER: Sure.

LATHROP: How many people are going to testify on this bill? Anyone? Proponent, opponent? OK, we just want to know so we can call the next senator. If you could let Senator Wayne know. OK, you may proceed. Thank you.

LAURA OPFER: Good afternoon, Senator Lathrop and committee members. My name is Laura Opfer, L-a-u-r-a O-p-f-e-r, and I'm the policy analyst for the Nebraska Children's Commission, or Commission. On behalf of the Commission, I'm testifying in support of LB357. The Commission was created in 2012 following an extensive LR and HHS Committee investigation of the Nebraska child welfare and juvenile justice systems. It was created to provide a permanent leadership forum for the collaboration of child welfare and juvenile justice. The Strengthening Families Act, or SFA committee, is one of five statutory committees which fall under the umbrella of the Commission. The Commission provides three branch leadership and community resource expertise to support transparent policy change at the state level. The Commission also provides staffing support to the SFA committee to help fulfill its statutory duties. The SFA committee identified three

priorities to guide its work. Continue to monitor the implementation of the federal Strengthening Families Act, which has been mentioned earlier today. Promote normalcy as a foundation to prevent trafficking, address disproportionate impacts on minorities, and support the successful transition to adulthood, and as well as coordinate implementation with other policy making bodies. The collaboration of expert resources, young adults, state and community representatives serving on the SFA committee and the Commission have led to many significant improvements in the system. Through subcommittee work, strengthening family youth rights has been a priority of the committee since 2016, with the implementation of the Nebraska Strengthening Families Act. The Strengthening Families Act, the Nebraska Strengthening Families Act established basic rights for youth in foster care. These protections are essential to emphasizing the importance of youth voice and engagement. LB357 builds on the progress made towards normalcy for youth in Nebraska by providing a multidisciplinary system to ensure youth rights are protected and their voices are heard. Two key components I want to touch on today that will create success for the Youth Bill of Rights, are youth engagement and collaboration among professionals. When we take time to build relationships with youth and explain the process, we increase engagement. When youth are engaged and informed, we strengthen their self-efficacy and cultivate their trust. They have a seat at the table where discussions are made and are a member of the team, instead of being subject to team discussions. According to an Annie E. Casey report focused on partnering with young people, when young people are authentically engaged, they should feel heard, respected, valued, trusted, appreciated, safe, and comfortable. In another report, the foundation concluded that youth-adult partnerships were universally reported as successful. In addition to youth-- in addition, youth empowerment, agency, and voices were seen as successes benefiting both young people as they transition, and policy and practice. Youth voice and engagement, along with the collaboration of stakeholders, will be key to the long-term success of strengthening youth rights in Nebraska. Implementation must be thoughtfully carried out with youth and system partners at the table. The SFA committee and Commission are committed to providing ongoing support to youth rights in Nebraska. Looks like I'm out of time.

LATHROP: OK. Any questions for Miss Opfer? I don't see any. Thanks for being here.

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LAURA OPFER: Thank you.

***JULIE ERICKSON:** Children and youth are entitled to the Constitutional and statutory rights that all Nebraskans enjoy, and these rights should not be unduly abrogated by foster care or juvenile justice placement. Mere involvement in a state child-serving system should not cut off a child from his or her rights, but all too often, it does. This may happen, in part, because children and youth are not even aware of the scope of their rights, to what extent system involvement should or should not affect them, or how to assert them. Voices for Children supports LB357 because creating a bill of rights for youth in care would provide crucial information to young people who may be unaware or uncertain of the rights and freedoms to which they are entitled, even in state custody. It will ensure that youth in care know their rights and are empowered to advocate for them. I particularly want to laud the youth advocates who collaborated on this bill and Senator Hunt for including juvenile justice youth; it would be easier, I think, to have left this as a foster care bill of rights and write off justice-involved youth as undeserving or having waived their rights by virtue of their choices. This just isn't the case, or what we should stand for in Nebraska. And though all too frequently, foster care youth and juvenile justice youth are one and the same population, there is some fairly simple clean-up we can do to carefully specify which entity is responsible in which type of case jurisdiction, as there may be certain protections that attach in child welfare cases which are less applicable in juvenile justice, or vice versa. I will add that apart from the moral value of ensuring children involved in our government systems understand and can access their rights, there is also a pragmatic reason to support this legislation for both foster care and juvenile justice youth: research shows that youth perception of fairness in a justice process is correlated with better outcomes. When youth understand processes and perceive they are being treated fairly, they are more likely to respond positively. If every youth in our child welfare and juvenile justice system experienced this with their case manager or probation officer - enumeration and honoring of their rights - it could have a tremendous, positive impact on the way all those youth perceive and participate with their court cases moving forward. Most importantly, I want to emphasize that this bill came out of recommendations from the Nebraska Children's Commission's Strengthening Families Act subcommittee, but I believe that this draft has been the work of youth advocates with

lived experience of these systems, and we are here to support them as they share their expertise. Thank you to Senator Hunt for listening and bringing this legislation, and the Committee for your time and attention. I would urge you to advance LB357.

***KORBY GILBERTSON:** Chairman Lathrop and members of the Judiciary Committee, my name is Korby Gilbertson and I am testifying today on behalf of Boys Town in support of LB357. Keeping children safe is priority number one for any organization that works with children. Agencies that provide services to children, especially those who are troubled or at risk, must create a "culture of safety" where everyone - employees, volunteers and others who are involved with kids - knows how to prevent situations that could harm or jeopardize the well-being of youth and ensure they are protected by having safety systems in place. With more than a century of experience caring for children and through extensive research, Boys Town has learned that certain core elements are essential in creating a culture of safety. These core elements must be embedded in the very fabric of an organization and cover both proactive and preventive measures as well as reactive measures. They ultimately serve as a foundation for best practices in keeping children safe in any environment where adults are responsible for their care. That is why Boys Town supports the creation of the Nebraska Youth in Care Bill of Rights. These rights will help protect and keep youth safe. Safety should always be the top priority. The language outlined in the bill aligns with Boys Town's safety systems has in place and that focus on youth rights from the moment a youth sets foot in their care until the time they are successfully discharged and reunited back home or to independent living. Boys Town believes everyone is entitled to certain rights that protect them and promote their safety and happiness. The creation of the Nebraska Youth in Care Bill of Rights will help serve as a foundation for best practices in keeping children safe in any environment where adults are responsible for their care or management. Having such rights in place ensures that all operations are connected and provided with consistency. Boys Town relies on the four systems of training, supervision, evaluation, and administration. This is a way in which we can all be proactive to prevent harmful incidents, create effective policies and practices for reporting and every effort to keep children safe is critical and worthwhile. Boys Town hopes the Committee will view this legislation in a favorable manner and see fit to advance it to the full Legislature for further debate.

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***ABBI SWATSWORTH:** Thank you, Senators of the Judicial Committee for the opportunity to provide written testimony as a part of the committee record. My name is Abbi Swatsworth. I am the Executive Director of OutNebraska - a statewide nonprofit working to empower and celebrate Lesbian, Gay, Bisexual, Transgender and Queer/Questioning (LGBTQ) Nebraskans. OutNebraska supports LB357. Data on the sexual orientation and gender identity of foster youth is limited because there is currently no clear mandate to track this information. The research that is available, however, has consistently shown that LGBTQ youth are over-represented among the foster care population. A 2019 study found 30.4 percent of youth in foster care identify as LGBTQ and 5 percent as transgender, compared to 11.2 percent and 1.17 percent of youth in the general population. Many of these LGBTQ youth live at the intersection of multiple identities and thus experience multiple forms of discrimination including on the basis of race, class, disability, sexual orientation and gender identity. Experiences of bias and discrimination come from interactions with foster parents, case workers, and group home staff as well as policy and structural barriers preventing LGBTQ youth from receiving the services they need. Research shows that LGBTQ youth are more than twice as likely as their nonLGBTQ peers to report being treated poorly by the foster care and juvenile justice systems. As a result, LGBTQ youth are more likely to suffer from consistent harassment and abuse in foster care, juvenile justice settings and homeless shelters. LGBTQ youth enter foster care for many of the same reasons as other youth - because they are unsafe, abused or neglected or their parents are unable to care for them. However, many LGBTQ youth enter foster care after experiencing ejection from their family home because of their gender identity, gender expression or sexual orientation. Following entry into the system, LGBTQ youth are likely to face a higher number of family placements and a higher likelihood of placement in a group setting. I know that people would like to believe that young people are not being rejected by their families in Nebraska. I know firsthand that they are. Since the expansion of our mission to serve the whole state, I've responded to a string of heartbreaking phone calls seeking resources for youth who have been pushed out of their homes. Last year I worked with a case manager regarding a transgender youth already in the foster system. The case manager was desperately seeking a placement because foster family after foster family refused to accept this young transgender person. This kind of discrimination causes real harm. Imagine the trauma of feeling that no one - not your original family,

not a single foster family - wants to give you a home. If we are truly a state that cares about the wellbeing of children and youth, we must be a state that cares for all young people. Every child and youth who is unable to live with their parents should be entitled to a safe, loving and affirming placement, no matter the young person's sexual orientation, gender identity or gender expression. It is important that young people in out of home placements understand the rights they have while engaged in the system. LB357 would help these youth by ensuring that they are more clearly educated about their rights. I respectfully urge you to protect Nebraska's young people by advancing LB357 to General File.

***MARION MINER:** Chairman Lathrop and Members of the Judiciary Committee, good afternoon. My name is Marion Miner (M-A-R-I-O-N M-I-N-E-R). I am the Associate Director for Pro-Life & Family Policy at the Nebraska Catholic Conference. The Nebraska Catholic Conference advocates for the public policy interests of the Catholic Church and advances the Gospel of Life through engaging, educating, and empowering public officials, Catholic laity, and the general public. The Conference opposes LB357 because, while it purports to codify a number of rights that already exist under federal and state law, it makes additions that are vague, confusing, not in the best interest of a child in foster care, and not in the best interest of the child's biological and foster families. LB357 instructs the state to ensure the child is permitted to attend religious services of his choice, to be balanced with the countervailing rights of the biological family. It is not clear what this means, or how the state or the foster family is to resolve a situation in which these rights collide. References to the 1st and 14th Amendments to the U.S. Constitution fail to add clarity. In addition, what it means for the state to ensure that "each child is free from discrimination on the basis of-- gender identity or sexual orientation" is unclear. To the extent that involves inquiring into a foster family's religious beliefs to ascertain the family's position on questions of sexual orientation and gender identity, and how that bears on their eligibility to participate in the foster program, the bill raises questions about conflicts with both the Free Exercise and Establishment clauses of the 1st Amendment. Next, the requirement that the state ensure each child has access to and information on their right to consent to various forms of medical intervention, to be "balanced with the countervailing rights of the biological parents" may in many cases unnecessarily pit the child

against the family, and raises questions regarding medical intervention the family considers immoral or unnecessary. This would include but certainly not be limited to contraception and abortion. These are only some of the concerns the Conference has with this bill. The foregoing is a short summary of its most pressing shortcomings from our perspective. We ask that you indefinitely postpone LB357.

LATHROP: Thanks for your testimony. Any other proponents? Anyone here in opposition? Anyone here in a neutral capacity? With that, we will have Senator Hunt. She waives close. And before we close the hearing, the record should reflect that we have position letters from ten: nine proponents, one opponent. And we also have written testimony that was received this morning from Abbi Swatsworth, S-w-a-t-s-w-o-r-t-h, a proponent from OutNebraska; Korby Gilbertson is a proponent representing Boys Town; Julie Erickson, also a proponent, provided written testimony for Voices for Children; and Marion Miner is an opponent from the Nebraska Catholic Conference. With that, we will close our hearing on LB357. And that will bring us to LB330 and Senator Wayne. Welcome, Senator Wayne.

WAYNE: Good afternoon, sir.

LATHROP: You are free to open.

WAYNE: Good afternoon, Chairman Lathrop and members of the Judiciary Committee. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13, which is north Omaha and northeast Douglas County. Before I get into my testimony, I just want to say that this morning we have been in contact and negotiating an amendment. I will go through my testimony and then I will kind of tell you what the amendment and where I think this bill will go. And I think it will complement the following bill introduced by Senator Pansing Brooks later today. And I'll explain how the amendment, I think, will work together. But first, LB30-- 330 will raise the age limit for access to juvenile court to 21. That was the original intent of this bill. We originally started talking this morning and last night and last week to the County Attorneys Association, OPD, numerous law enforcement agencies, FOP and OPA. And where I would like to take this bill is to a point where we leave everything the same as far as how you get into juvenile court. But we want to extend the jurisdiction on the back end and that'll be the amendment. We tried to get it drafted ahead of time. But if you know anything about the

juvenile code, it's hard to draft sometimes. So I haven't got the draft that I wanted for you. But so those who are testifying in opposition, at least some of them, will probably acknowledge that we're in conversations. And where we want to go is on the back end. And let me explain what I mean by that. So currently you file a motion to transfer. If it goes to juvenile, oftentimes judges will not grant a juvenile transfer because the kid is already 17, maybe 18. And that means you only have a year or maybe two years left in the juvenile system. What the amendment will do will transfer that or allow that jurisdiction to be extended to 21. There is talk about farther than 21. But the point of it is, is we want to try to get more kids in the juvenile court to provide rehabilitation services versus punishment. The handout that I provided you is a, a cool hand out in a sense, and this was part of another bill in another state to raise it to 21. But whether it's this bill or whether it's Senator Pansing Brooks's bill, I think it's incumbent for especially nonpracticing lawyers to understand the difference between adult court and juvenile court and this poster does a really good job of, of explaining that. So, again, that is the intent of the bill-- or the amendment that I'm trying to bring and how that will complement Senator Pansing Brooks's bill is that if a judge knows a juvenile will have longer time for rehabilitation services than that 16, 17 year old, I think judges will allow them to stay in there a little bit longer. But I do want to just talk a little bit about, primarily for my staff purposes who did all the research to read into at least the opening of what all the research they did into this because I think it is important. Classifying older teenagers as adults for criminal and jurisdiction purposes goes against what science knows for the last, least four decades, and critical parts of the brain obviously are not involved in decision making, or not fully made until they are developed at the age of 25. Neurologically speaking, a 20 year old has much more in common than a 15 year old or a 25 year old than a 25 year old does. Psychological, psychological, psychological experts and other experts across the field of brain science know this as a certainty. Teenagers overuse parts of the brain that have emotional components, whereas adults use the prefrontal cortex, the part of the brain that is more rational and aware of long-term consequences. This is primarily the distinctions of why 19 or 20 year olds, as a matter of science, are not fully developed as a 26 or a 27 year old. Knowing that, I don't think we can continue to allow over 200,000 minors across the state to be prosecuted as adults. Many of the laws restricting access to

juvenile courts at the age of 17 and 18 actually were dated back in the 1800's. Let's put that in perspective. Back in the 1800's is when we decided as a body that this was a good idea. And I want to call to this committee's attention, just last year, on a vote of almost 49-0, we decided that we wouldn't allow minors to smoke until they were 21. We said as a body, the ability to buy alcohol and use-- or buy tobacco and use tobacco wasn't enough-- they didn't have the proper decision-making processes to do it. But yet to commit a crime, we're OK to say that 18 and-- 18 to 21 that they're adults at that age. It's a disconnect for this Legislature to say they can't buy tobacco or possess tobacco but we're going to charge them as a crime if they're 20. Just is a disconnect to me. But here's some interesting statistics. Minors serving sentences in adult prisons are five times more likely to be sexually assaulted, nine times more likely to commit suicide than the rest of the general population. What is equally shocking is the rate that minors end up back in prison after have serving time with adults as opposed to being rehabilitated. Minors being charged as adult are 34, 34 times more likely to end up back in prison than their counterparts. That's 34 more times likely. So, again, I think this is an overall bad policy, but I recognize where I am politically and I recognize where this body is politically. And moving the entire jurisdiction to 21 is probably not attainable this year. But what is obtainable this year is to extend the back end of the juvenile jurisdiction to allow that an 18 year old, and what my amendment will say is either by the state's motion or the defendant's motion so the state can have a say in this, go in front of a judge and ask for an extension of probation is what they call in juvenile, you're not, you're not sentenced to jail, you're sentenced to rehabilitative probation, will be extended to at least 21. Again, we're working on the exact number, but my goal is to make sure we have more 16 to 17 and 18 year olds being transferred to juvenile court where they can get the services that are needed to make sure that they can turn their lives around and be productive citizens. So that will be the amendment that I will share with the committee. We have been working on it for the last couple of days. The issue was just getting it drafted the way I wanted to, to present it to the public. And that just has to do with the complexity of juvenile law and all the miss-- different parts you have to change. And if you think about how complex it is, all I was changing in this bill was from 18 to 21 and it's 47 pages. That's how complex this is. And it shouldn't be that way. But we'll try to simplify it. So with that, I look forward to working with

this committee and all the individuals who are in favor and opposed to the original idea of moving the entire bill or moving the entire jurisdiction to 21, to coming with some kind of compromise to at least get the back end so that these youngsters can get the rehabilitation services that they need. And with that, I'll answer any questions.

LATHROP: Senator Brandt.

BRANDT: Thank you, Chairman Lathrop. Thank you, Senator Wayne, for bringing this bill. How many states have 21?

WAYNE: Currently, only Vermont does. There are numerous proposals. Well, are you talking about the entry level or are you talking about the back end level?

BRANDT: I'm, I'm talking about what you're proposing.

WAYNE: The original bill, currently Vermont does. And there are multiple legislatures who are doing this, California, Colorado, Alabama, who are also going through the same conversation we're having. But on the back end of probation until 21, multiple states, over 25 states. In fact, many of them have them up till 23 or 24 depending upon the crime. And in fact, California, if you are deemed not capable of making a decision, you can go-- as far as being a young juvenile, you can go as far as probation all the way to 25. So on the back end, there's multiple states who do this.

BRANDT: So what happens to an individual whose probation-- do they just end at 21 or do they become-- go into adult probation after 21?

WAYNE: No. So that's interesting. Currently, our juvenile law is at 19, you're done. So whether you satisfy, whether you complete the program or not, when you turn 19, you age out. So you're turned loose with no current supervision. That would also be the same at 21. But we're hoping to at least extend that probation or that supervision for those additional two years. We will not interact between adult court and juvenile court if that's-- we won't transfer them over to adult court. Once they're in juvenile, they'll stay in juvenile court jurisdiction.

BRANDT: So then, you know, YRTCs, could these individuals-- could we put 21-year-old individuals into a YRTC?

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WAYNE: Technically, according to the federal statutes, we would not be able to house them if they were considered inmates or prisoners. What was was interesting, and I think Chairman Lathrop would find this kind of humorous, DHHS talked about in the fiscal note how it would cost substantial money to build a new system for-- or new housing units for those who are 19 and above due to some federal statutes. What was interesting, Senator Lathrop, is the Department of Corrections didn't give me a credit for those same people who would no longer be in the prison system. So I got a note from the DHHS, but the Department of Corrections didn't tell me that we would have less prisoners, like DHHS said, we would have more. So there is a disconnect there. But, yes, we would have to have new facilities.

BRANDT: So there was a fiscal note?

WAYNE: There wasn't a dollar amount. They said they couldn't determine because they would have to build a new housing unit for those who are older. And my immediate response and my office contacted the office of the prison system to find out if they were to counterbalance that, saying that there, there would be a decrease, but they did not do that.

BRANDT: OK, thank you.

WAYNE: Thank you.

LATHROP: That is familiar, but I don't see any other questions. Are you going to stay to close?

WAYNE: Yes, sir. Thank you.

LATHROP: OK, very good. We will next have proponent testimony. If you're here in support of LB330, you may come forward.

JENNIFER HOULDEN: Good afternoon.

LATHROP: Good afternoon.

JENNIFER HOULDEN: I'm Jennifer Houlden, it's J-e-n-n-i-f-e-r. I'm the chief deputy of juvenile court for the Lancaster County Public Defender's Office. I'm here on behalf of my office as well as the Nebraska Criminal Defense Attorneys Association to support LB330. I think what's important when conceptualizing the goal of LB330 is to

acknowledge that it's not asking any of us to change our minds about how our system should work. The existence of the juvenile code already acknowledges the policy underlying LB330, which is, we treat young people differently than we treat adults. We don't send six year olds to jail when they hit their brother, and we don't allow stupid decisions resulting from immaturity or incapacity to forever prejudice a young person. What LB330 seeks to do is to acknowledge that at this time we know more about adolescent brain development and social maturity than we did when we initially drew the line at 18 or 19. It's not asking us to now consider whether we think young people deserve to be treated differently. We already know that. What is important to recognize is that, as the Senator said, all of the science demonstrates that the age of 18 is an absolutely inadequate point to stop considering the limitations of neurological development of humans. All these issues, decision making, risk balancing, what seems like staggering self-involvement that exists in 19 and 20 year olds are well-known to parents and the science supports it. And I think we need to look at whether or not our community is best served by ensuring that we acknowledge it and work with it. There are a lot of questions around how the system would work. Would the jurisdiction interact with the adult system? There's a variety of approaches. With the amendment, that certainly allows for one of the major issues in my support of this bill, is that what I hear from prosecutors, county attorneys, district court judges in a criminal case is that there's not enough time. So certainly I would be open to, and I think everyone at the Nebraska Criminal Defense Attorneys Association is open to discussing ways to make the juvenile code work better. But what is important is that our system already acknowledges this need. We just need to determine whether-- where we draw the line reflects actual updated science. Thank you.

LATHROP: Very good. I do not see any questions, but thank you for your--

JENNIFER HOULDEN: Thank you.

***SPIKE EICKHOLT:** Members of the Committee: The ACLU of Nebraska submits this letter in support of LB330 and we request this letter be included as part of the public hearing record and that our position of support of this bill be included in the Committee Statement. For over 50 years in Nebraska, the ACLU has worked in courts, legislatures, and communities to protect the constitutional and individual rights of all

people. With a nationwide network of offices and millions of members and supporters, we take up the toughest civil liberties fights. Beyond one person, party, or side - we the people dare to create a more perfect union. LB330 raises the age of juvenile court jurisdiction for youth from age 19 to 21. This is an appropriate change and would rightly provide for rehabilitative oversight for youth offenders for a longer period of time. This would allow the juvenile court process to meaningfully work and rehabilitate offenders at an important and critical time in their lives. The bill would also empower the juvenile courts to have extended jurisdiction over offenders to ensure that such youths complete any rehabilitative services. This bill is consistent with many recent reforms this Committee and the Legislature has made regarding the juvenile code, the interplay between the adult and juvenile justice systems, and changes to the juvenile court system. We urge the Committee to advance it. We pledge our assistance and cooperation in helping this Committee, and the body, in advancing this bill from Committee.

LATHROP: --testimony. We appreciate having you here. Next proponent of LB330. Seeing no one come forward, any opponents to LB330? Good afternoon.

STEPHANIE BEASLEY: Good afternoon, Chairperson Lathrop and members of the Judiciary Committee. My name is Stephanie Beasley, S-t-e-p-h-a-n-i-e B-e-a-s-l-e-y, and I'm the director for the Division of Children and Family Services with the Department of Health and Human Services. I'm here to testify in opposition to LB330, which will raise the jurisdictional age limit from-- for juvenile court to 21 for many youth. LB330, as written, allows the juvenile court to maintain jurisdiction over youth and young adults who have an abuse or neglect case until 21 if they are also under the juvenile court's jurisdiction for a juvenile justice case. If young adults remain in the care and custody of the department until age 21, this would increase CFS caseload sizes and require additional CFS staff in order to manage the increased caseload sizes. As of July 1, 2020, there were 170 youth who were duly adjudicated under the age of 19 years old. Nebraska is one of two states that currently sets the age of majority at 19 years, at which point the youth CFS case would close. If enacted, LB330 would extend case management services to young adults who are duly adjudicated through age 21. The fiscal impacts would include increased daily foster care rates and administrative costs as a result of young adults requiring case management services through CFS. There would

also be costs for any contracted services for these young adults, potentially until age 21. Additionally, CFS staff provide case management services may encounter barriers gaining access to medical or educational records of young adults that have reached the age of majority. The Nebraska Juvenile Code currently defines a juvenile as a person under the age of 18. This means that once a person turns 18 years old, a juvenile petition under the provisions relating to abuse or neglect cannot be-- get initiated. When an abuse or neglect case starts prior to the youth turning 18, CFS can continue to be involved until the youth is reunified, permanency is established, or they age out of the system at age 19. LB330 would raise the age for filing abuse or neglect cases by one year. Currently, young adults who have abuse or neglect cases open at the age of 19 are able to enter into a voluntary extended foster care program called Bridge to Independence. If LB330 is enacted, young adults eligible for extended case management services would be unable to enter into the voluntary extended foster care program due to receiving extended CFS case management services unless jurisdiction is terminated by the court prior to age 21. At this time, we don't know how many juvenile court petitions would be filed for individuals who are over 18 years of age. Finally, the Division has concerns about locating placement for young adults who are 19 or 20 years old. Currently, foster homes are licensed to accept youth up to the age of 18 for placement. Placement of older young adults in homes with children could present challenges regarding separations and supervision for licensing. In summary, LB330 would raise the age for filing new abuse and neglect petitions. And my time is up.

LATHROP: OK.

STEPHANIE BEASLEY: Thank you, Senator.

LATHROP: Well, let's see if there's questions. Can I ask a couple just to see if I understand? Currently, if a, a youth is involved in some criminal activity, they can only get transferred if they're under 18 by the time a decision is made to move them.

STEPHANIE BEASLEY: So the filing for, for the child under an abuse or neglect case has to occur under the age of 18. This would raise that age. So from 18-- we can keep them until they're 19 years of age in care and they age out at 19, but they cannot file that abuse or neglect case from 18 to 19. Does that help?

LATHROP: It does. So if a youth is involved in criminal activity, their case is transferred to juvenile court and they're now receiving some type of rehabilitation services and they reach 19, does juvenile court or can juvenile court hold on to them at all or are they just aged out, done?

STEPHANIE BEASLEY: From CFS, they age out at 19.

LATHROP: Regardless of where they're at in the process? They could be halfway through alcohol and substance abuse treatment and at 19, we're done.

STEPHANIE BEASLEY: They would reach the age of majority and would age out of care.

LATHROP: Would we be doing a service to youth in this state if we kept them, those that have committed an offense and they're being-- they're on probation for one reason or another and kept them to age 21?

STEPHANIE BEASLEY: You know, I think that's difficult for me to answer of the youth that were in care. There were about 170, I think, as of July. I can't tell you what the service array was for those 170 youth in July. For our B2I program, we continue to provide case management services and other supportive transition services for kids who age out of foster care at 19 until the age of 21, we have the Bridge to Independence program and they can continue to receive supportive services.

LATHROP: So by supportive services, does that include drug and alcohol treatment, those kind of things, or are we going by and making sure they're getting food stamps or not living under a bridge?

STEPHANIE BEASLEY: Our team would help them navigate services. I can find out for you how many kids in the Bridge to Independence program are also receiving mental health or addictive disease services.

LATHROP: OK, navigating, navigating sounds like you're pointing them in the direction like that's where the treatment can be received, but not getting them into the treatment or paying for it.

STEPHANIE BEASLEY: I can get the answer for the payment, I'm not sure how those payments-- how those services would be paid for if we would be using the regional services. But I can tell you the case managers

would be helping them navigate access to that. So they wouldn't just be pointing them in that direction. They would be saying, here's, here's who you should call. Let's talk this through and get you into services. But I can--

LATHROP: OK. Senator Wayne testified that he is going to offer an amendment basically saying this only applies to the back end. Right? So you still have to be a certain age, under, under 19 or under 18, under 18 to get into juvenile court. But if they need to hang on to you to complete some type of rehabilitation, they can hang on to you to 21. Do you still have an objection to that?

STEPHANIE BEASLEY: The issue for-- one of the issues for us is foster care license, license our foster homes to keep kids until they're age 18. So the current provision for placement in foster care for these children would be prohibitive.

LATHROP: But what, what if they're, they're there because they committed a criminal offense, not because they're parents, you know, aren't being responsible, but because they committed a criminal offense, they're, they're in juvenile court and they're on probation and Senator Wayne's bill would have them continue to age 21 if appropriate or necessary?

STEPHANIE BEASLEY: The impact would remain on caseloads. There, there continues to be a fiscal impact both on administrative to ensure that caseloads are able to be covered with staff and then service array.

LATHROP: So I'll ask a question, perhaps Senator Wayne would ask if he had the opportunity, which is, isn't there a corresponding savings? Because probation, adult probation is not following somebody going through whatever rehabilitation or whatever version of probation that would be appropriate. It's either happening in the adult system or in the juvenile system, is it not?

STEPHANIE BEASLEY: I am 100 percent following--

LATHROP: OK.

STEPHANIE BEASLEY: --[INAUDIBLE]. Yes.

LATHROP: I think I've asked the questions I need to and I-- Senator Brandt.

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

BRANDT: Thank you, Chairman Lathrop. I just need a point of clarification. You said that your foster care providers are licensed to age 18.

STEPHANIE BEASLEY: Homes, yes.

BRANDT: OK, but the age of majority in Nebraska is 19. Do you mean they're licensed to 18, 11 months and 30 days?

STEPHANIE BEASLEY: Yes.

BRANDT: OK.

STEPHANIE BEASLEY: Yes.

BRANDT: All right. Thank you.

STEPHANIE BEASLEY: Thank you, Senator.

LATHROP: OK, I think that's it. Thank you for being here today, answering the questions.

STEPHANIE BEASLEY: Thank you.

LATHROP: Any other opponents? Good afternoon.

LARRY W. KAHL: Good afternoon, Chairperson Lathrop, members of the Judiciary Committee. My name is Larry W. Kahl, L-a-r-r-y W. K-a-h-l, and I am the chief operating officer for the Department of Health and Human Services. I'm here to testify in opposition to LB330, which would raise the jurisdictional age for many youth in juvenile court from 19 to the current-- the current age of majority to 21 years of age. The Youth Rehabilitation and Treatment Centers, or YRTCs, currently provide services for Nebraska youth from 14 through 18 years of age. These centers are accredited for purposes of the Prison Rape Elimination Act through the American Correctional Association under juvenile standards. The addition of 19 and 20 year olds would mean that DHHS would need to establish separate housing units, treatment facilities, and supportive occupational facilities for this young adult population. To ensure sight and sound separation from youth under the age of 19, DHHS would need to separate-- would need separate buildings or potentially separate campuses for the young adult population. DHHS would also have to provide additional separate living

spaces for the men and women. Likewise, DHHS would need to staff those facilities or campuses. This could include a whole new complement of staffing from the facility administrator to line staff to meet the needs of this young adult population. The fiscal impact of new buildings and possibly new campuses, along with additional staffing, licensure, equipment, utilities would be significant. In summary, LB330 would have significant financial and programmatic impact, requiring changes to the treatment process, staffing, and facility for Youth Rehabilitation and Treatment Centers. We respectfully oppose this legislation and request the committee not advance at this time. Thank you for the opportunity to testify today and I'd be happy to answer your questions.

LATHROP: OK. I do not see any questions at this time. Thanks.

LARRY W. KAHL: Thank you, sir.

LATHROP: Any one else here in opposition? Good afternoon.

MARK HANNA: Good afternoon, Chair Lathrop. Good afternoon, Judiciary Committee. My name is Mark Hanna, M-a-r-k H-a-n-n-a. You heard me speak earlier this morning today. For this particular bill, I'm testifying on behalf of the Nebraska County Attorneys Association. Today we are opposing this bill as written. It's my understanding there was an amendment or going to be an amendment. And we are very open in talking with Senator Wayne about his amendment and going forward. So just to be clear, we are opposed as written, but we are open to having further discussions with Mr. Wayne. Just a few things I'd like to note about this particular bill as to why we're opposing this as written is something that is of great concern, is practicality. So what happens when we have an individual or a juvenile between the ages of 19 and 21 in juvenile court? What type of services are available for these individuals? A few months ago, I had a case that was transferred up from district court to juvenile court, 17 and a half years old. We had the recommendation-- well, a little over, almost 18, we had a recommendation for PRTF. There were no-- for a PRTF, that is a psychiatric unit for juveniles. There were none that were willing to take this juvenile because of his age. I'm sure I drove juvenile probation crazy, trying to find different ways to getting him in, calling different agencies and we-- there was just nothing in Nebraska or out of state that we can do. And in terms of going to out of state, a lot of times in juvenile court, some things

that we have seen beneficial is sending different juveniles to out-of-state group homes or shelters. That would not be available for this age group pursuant to the-- one of the interstate compact acts that Nebraska partakes in. So my question is practically what can be done? And there are a few things, I will admit, we can do evaluations and then they can do treatment and therapy. But what happens when they don't do it? When their probation is revoked, we will have nothing. There's nothing to go back to. And my fear with this bill, is all we're going to have is young adults on the streets who have unsatisfactorily completed their probation. And so it's going to be on the record, they did not complete their probation and there was nothing more we can do. There's been mention of what other states do. Other states do have the age group that goes further to 21 or 23. But then those jurisdictions, and I apologize, I don't have the exact states today, they extend to adult probation, not just juvenile, and then there's potentially incarceration if they do not complete their probation. And I think that's one of the reasons why we are so willing to talk with Justin-- Mr. Wayne, and to go forward on his amendment. The other concerns is to-- specifically, Mr. Wayne, discussed motions to transfer and how this relates. The motions to transfer, I don't think that it'll make any difference. Because the reality is when we're looking-- I apologize, it looks like I've run out of time. Can I finish my thought?

LATHROP: Yeah.

MARK HANNA: When it comes to motions of transfer, it's not a matter of how long they can stay in juvenile court, it's a matter of what services can the state provide to help rehabilitate these individuals. And if there are no services, then they should not be in juvenile court.

LATHROP: OK. Oh, Senator McKinney.

McKINNEY: All right. Thank you for your testimony. I guess my question is, would it be better to wait-- to, to allow these individuals to go to adult court and in, in some cases end up in prison, which adds to our prison overcrowding problem, or help them in the front-- on the front end and get them the services that they need? I'm been sitting here listening to you and others, and it just seems like the system has some type of refusal to update itself. We update everything else in the world except for systems that negatively affect individuals

from, from my community and other communities across the state. And I'm just wondering, do you think it's better to not assist kids these kids, send them through the system, then some years down the line, need to build another prison because we've got an overcrowding problem or update the system and help these kids on the front end?

MARK HANNA: Thank you for that question, and I think that's an excellent question. I'm going to start off by saying I love juvenile court. I think what they do is absolutely fantastic. I've spent three years there and I fully support it. But to answer your question, I do think we need more services. And that's why in Douglas County, we have a young adult court and that young adult court is for this age group that we're talking about and that's in district court. And I do think what we need to look into and think about is we've heard a lot of buzzwords, services. What are these services that we can give these individuals in juvenile court? Frankly, I don't believe there's anything that will help this age group with these-- with rehabilitation in juvenile court. That's why a lot of states have young adult court. In Douglas County, specifically, we also have one that I think is extremely beneficial for this age group. So I do agree with you, Senator. We should be working on different types of services and improving. My worry is, let's not go backwards, let's go forwards.

McKINNEY: Thank you.

LATHROP: OK.

MARK HANNA: Thank you.

LATHROP: Thank you for being here. Appreciate your testimony. Anyone else in opposition? Can I see by a show of hands anybody else here to testify on this bill? OK, so, oh, you're the next test-- introducer. All right. Good afternoon and welcome.

STEVE CERVENY: Good afternoon, Senator. My name is Steve Cerveny, C-e-r-v-e-n-y. I am a captain with the Omaha Police Department, 505 South 15th Street, Omaha, Nebraska, 68102. Chairman Lathrop, Senators of the Judiciary Committee, I'd like to thank you for all the work that you do for the people of Nebraska and thank you for the opportunity to speak with you today. The Omaha Police Department understands this proposal has good intentions, but we do oppose the bill due to several concerns. We believe this proposal would place

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unintended pressure on the juvenile justice system. We've been advised that this bill would include violent youth adult offenders who are 19 and 20 years old. The Omaha Police Department is supportive of rehabilitation for all. Recently, we have enacted our restorative justice program that allows nonviolent offenders to restore their record of lesser offenses through meaningful interaction, dialogue, and community service. But we believe this bill could take away precious resource program opportunities desperately needed to help rehabilitate younger children by introducing numerous 19- and 20-year-old young adult offenders into the juvenile justice system. The Omaha Police Department has concerns that there is not sufficient infrastructure in place to accommodate the increased caseload of young adult offenders. And we would inquire as to whether or not there's been a completed survey or study to determine if the current juvenile justice system can handle the increase in caseloads. In 2020, in Omaha alone, there were nearly 1,800 of 19 and 20 year olds that were arrested, resulting in over 3,400 charges. Charges such as murder, rape, robbery, carjackings, assault, burglary, auto theft, arson and more. We believe this bill would make it difficult for law enforcement to investigate crimes committed by 19 and 20 year olds if they were subject to juvenile offender laws and, as a result, public safety could be jeopardized. For the safety of the public regarding violent offenders and the ability of young juvenile offenders to receive the valuable resources they need for rehabilitation and not compete with young adults for those resources, we oppose this bill. Thank you.

LATHROP: Thank you. Senator Brandt has a question for you.

BRANDT: Thank you, Chairman Lathrop. Thank you, Captain Cerveny, for, for your service and for being here today.

STEVE CERVENY: Thank you.

BRANDT: Of those 1,800, are those all felonies?

STEVE CERVENY: No, they are not.

BRANDT: So what's the breakdown?

STEVE CERVENY: I, I, I have numbers and I can forward those to you. I don't know them off the top of my head.

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BRANDT: But I mean, are we talking 50 percent misdemeanors, 50 percent felonies, 10 percent felonies, 90 percent misdemeanors. I mean, there's a difference. Yeah, there's 1,800 arrests, but--

STEVE CERVENY: Sure.

BRANDT: --I would agree there's some of these people that, that I wouldn't want to see in juvenile, but there's probably some that qualify.

STEVE CERVENY: These, these offenses are a range. And I'd have to research the breakdown for you and I can forward that information to you. But they do, they do involve numerous types of offenses from misdemeanors to [INAUDIBLE].

BRANDT: If you could forward it to the entire committee,--

STEVE CERVENY: Absolutely.

BRANDT: --it would be appreciated. Thank you.

STEVE CERVENY: I'd be happy to do that. Thank you.

LATHROP: I see no other questions. Thank you.

STEVE CERVENY: Thank you, sir.

***MICHAEL CHIPMAN:** Chairman Lathrop, members of the Judiciary Committee, for the record, my name is Michael Chipman. I'm appearing today as the President of the Fraternal Order of Police lodge 88. This is the union that represents Protective Service workers in the Nebraska Department of Correctional Services and in the Department of Health and Human Services. Specifically, in the Department of Health and Human Services we represent Youth Program Specialist at the Youth Rehabilitation Treatment Centers. I am against LB330. This bill aims to make all crimes committed by someone who is 21 or under go to Juvenile court. This would include violent assaults against our staff at the Youth Rehabilitation and Treatment Center as well as the Nebraska Correctional Youth Facility. It is a too common of occurrence that a staff member will be assaulted and injured. A 20-year-old is not a juvenile. If a 20-year-old attacks a staff member they should be tried as an adult. This will make individuals in our system between 19-20 even more likely to assault staff if the repercussions are

lessened. I would ask you to vote no on this bill as it put our lives in further danger.

LATHROP: Anyone else here in opposition? Anyone here to testify in a neutral capacity? Seeing none, Senator Wayne, you may close. And as you approach, for the record, we have five position letters, two in opposition, and two proponents. We also have written testimony that was provided to us this morning, in opposition, a Michael Chipman with FOP 88, and in support or a proponent is Spike Eickholt, he's here every day, ACLU of Nebraska. He's got poor penmanship. We'll talk about that since apparently he's going to testify this afternoon. Senator, Wayne.

WAYNE: Thank you. First, let me say, Mark Hanna, who was the prosecutor up here, is one of the fairest county prosecutors in juvenile court in Omaha that I've ever worked with. And so I just want you guys to know that because it isn't often that they come down and testify, particularly individuals who sometimes look like me. And I don't want you to think that it's, it's always a negative relationship between defense counsels and prosecutors. So I think he is an upstanding person who does the job very well. I, I do want to mention that as it relates to services, the market will, will, will fill that gap. They did it already in young adult court. They do provide services in young adult court. So it is a very similar thing. I just want to vent for a second then I will be done. I am going to propose a bill next year to not let agencies testify for in favor of a bill. I don't think it's their role. There is a basic fundamental principle of government 101 that says you have three separate branches of government. And the executive branch is supposed to enforce the law and we are supposed to dictate and make the law. Taking a position on a bill for whatever reason, I think violates that true principle. They want to talk about technical problems with the bill, that is fine. But to be for or against the bill when it's their duty to uphold the law is a fundamental problem that I've watched for four years. And I think I will do a bill on that. And even if it's state-- or staff cannot get paid to be here, we-- I will introduce a bill on that next year. We got to stop that because it does a disservice and builds a, a disservice or builds distrust in the community about the fulfillment of the law. We saw that with Medicaid expansion. And that's part of the problem by having Omaha police testify against or for a bill, it builds a disservice in the community that myself and Senator McKinney represent. And we have to stop that. I do want to thank the

individuals who I worked with this morning who were in opposition and many of them sent letters but did not come down and testify because we are trying to come to an agreement on extending the back end of this law. I did have an amendment that came down while I was sitting here, but it wasn't ready the way I wanted it. So I just told everybody that we'll keep working on it. I will meet with Bill Drafting and I do think there is a compromise to get this bill across the line to make sure we can extend the back end of juvenile services to those individuals who need it so we can have more people without a record who doesn't have that label of felony as a juvenile for the rest of their life. And with that, I'll answer any questions.

LATHROP: I don't see any other questions, but thanks for bringing the bill forward today.

WAYNE: Thank you.

LATHROP: That will close our hearing on LB330 and bring us to the Senator Pansing Brooks's part of the agenda today, LB307. Welcome, Madam Vice Chair.

PANSING BROOKS: Thank you, Sir Chair. OK. Thank you, Chair Lathrop 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 am here today to introduce LB307 because the constitutional right to an attorney is one of the most basic rights of our legal system. Unfortunately, Nebraska isn't currently fulfilling its constitutional responsibility to ensure this right for those in our juvenile justice system. Close followers of the Legislature may be aware that I've worked to rectify this problem every year since I have been a senator. The only real opposition I have faced is previously from a few judges in rural portions of our state. This interim, we had a major breakthrough that I'm really proud of on our differences. I sat down with Judge-- Judge Kent Turnbull from Nebraska's 11th District in North Platte, who provided information to lead-- to the lead voice of opposition to my previous bills. The end result is LB307, the bill you see before you today, a bill that was written in-- in entire-- in basically mostly written by Judge Turnbull with significant contributions from Judge Larry Gendler from Sarpy County. LB307 takes a different approach to the problem of counsel for juveniles, yet it still achieves much of my intent. LB307 creates provisions for the waiver of counsel for

juveniles. It establishes that a court shall not accept a juvenile's waiver of the right to counsel unless the county attorney or city attorney on record waives any possible preadjudication or postadjudication placements of the juvenile outside of the juvenile's home. It further establishes that if the court accepts the way-- the juvenile's waiver of counsel, the court order and any probation order shall affirmatively show that the juvenile cannot be removed from the home or detained outside the home by the court on the specific adjudicated petition as filed once the county attorney has waived the right to place the juvenile in detention. This bill also includes other provisions for the waiver of the right to counsel. Additionally, LB307 provides that on or before July 1,2022, the Supreme Court shall provide by court rule a process to ensure that juveniles are provided with the opportunity to couns-- to consult with counsel, to assist the juvenile in making the decision to waive counsel. I have full faith in the Supreme Court's rule-making process to ensure this legislative intent is met. This bill is important to me because the right to counsel is one of the most basic rights in our legal system. More than 50 years ago, the United States Supreme Court extended the right to counsel for juveniles in In re Gault. The court stated that youth need the guiding hand of counsel to navigate the legal system. Writing for the majority, Justice Fortas famously wrote, quote, Under the Constitution, the condition of being a boy does not justify a kangaroo court, unquote. Despite this ruling, there remind-- remains a wide gap in juvenile access to counsel across our state. In fact, it is known that kids in Nebraska get justice by geography due to the lack of robust access to counsel. This is especially problematic because under the juvenile justice system, a court has the entire panoply of dispositional options available, including detention and/or out-of-home placement for any matter. That's different than the adult system. They have the entire panoply of dispositional options available for any, any matter. In this way, the juvenile court is different. A child may be taken out of their home for something even as insignificant as a minor in possession if the facts surrounding that child's case so warrant. It is important to note that if the charge is small enough, the county attorney has the discretion to refer the case to diversion without going through the court at all. Such a decision is far less costly to the county and infringes less on the juvenile's rights. In 2008 the Legislature, recognizing that Nebraska's juvenile indigent defense system was in need of serious attention, commissioned a $250,000 study of the system. That, oh,

sorry, yeah, $250,000. That study used assessment watch procedures in court. They found that in some parts of the state, 60 to 75 percent of the youth waive their right to counsel, and that youth are encouraged to do so by a combination of individual and systemic factors. That's why I brought LB307, because these kids do not even begin to have a grasp of our legal system and the rights they have, because, of course, they are kids. Now I'm going to ask for your indulgence because I'm going to read some portions of the letters submitted by both Judge Turnbull and Judge Gendler so you will have a better understanding of the thought processes that went through-- that we went through for this compromise. Judge Turnbull said in this in part: In the past, many rural judges, myself included, have expressed concerns over past legislation that mandated the appointment of counsel for juveniles in all-- on all cases when a juvenile between the ages of 14 and 17 wanted to waive their rights to an attorney. This opposition was due to a healthy disagreement on many fronts, constitutional and otherwise, including the unavailability of attorneys, services, or diversion programming, along with the time and distance to travel to court by parents and child. However, the time for a practical solution is before us, and I believe LB307 accommodates many of the legitimate concerns raised by Senator Pansing Brooks with deference to the unique issues facing greater Nebraska and rural courts. However, the time, excuse me, this bill will contin-- will still allow a juvenile between the ages of 14 and 17 to waive their right to an attorney if the prosecutor, county or city, agrees to waive the right to request the juvenile be removed from the home. If the prosecutor will not agree, then counsel must be appointed. If the prosecutor will not agree, then counsel must be appointed. This protects the juvenile's right to waive counsel and at the same time guards against the state and the court taking a minor out of the home once counsel is waived. Moreover, once a juvenile expresses a desire to waive an attorney, the prosecutor has the option to waive or not waive their right to seek the child's removal from the home, thus preserving a certain degree of control over their case and the expenditure or nonexpenditure of county funds for court-appointed counsel. This concept is not new. In adult court, it is not uncommon on low-level criminal offenses with first-time offenders for the prosecutor to ask the court to waive jail time, thus avoiding the costs of court-appointed counsel. In other words, the defendant cannot face incarceration without counsel. This bill simply applies that principle to juvenile court. Further, the bill addresses future areas

of concern by the mandatory appointment of counsel when admissions are made in juvenile court that can be used against the child, the juvenile in adult court, along with promoting a court rule to ensure ongoing solutions for access to counsel in rural Nebraska. And it goes on and then, sincerely, Kent Turnbull. And I'm going to read just two quick paragraphs from Judge Gendler as well, please. He says in part: In the past, many county judges have opposed court-appointed counsel for some youth, not because they wish to ignore due process or impose immediate, draconian consequences. In some jurisdictions, there are not available attorneys. Many jurisdictions lack diversion programs, resulting in increased filing on those cases that would otherwise be heard in the metropolitan area courts. And the length of travel makes repeated court hearings impractical. This proposal, as suggested by Judge Kent Turnbull, helps to eliminate many concerns of those who have advocated for the immediate appointment of counsel. It also provides for an opportunity of confidential communication between a youth offender and a lawyer to ensure that rights and concerning collateral issues are addressed. A system can be crafted that would not require an attorney to enter appearance and yet provide a meaningful consultation. Many of these youth face unrelated-- face issues unrelated to the allegations yet relevant to their circumstances. These issues include bullying at school, abuse at home, and pregnancy. And he goes on and sincerely, Lawrence D. Gendler. So with that, I just wanted to get-- I want to thank Judge Turnbull and Judge Gendler for their brilliant compromise and all the work they were willing to do and also all the child advocates who have worked to bring about this bill. And I ask the Judiciary Committee to take swift action to move this bill out of committee this session. And with that, I'm happy to answer any questions you may have. Thank you.

LATHROP: Senator Slama.

SLAMA: Thank you, Senator Lathrop. Senator Pansing Brooks, thank you very much for working over the interim to get a compromise put together. I know we've had some pretty spirited conversations about this, but I just had one question. One of my biggest concerns with this type of legislation in years past is that example of rural county, a high school party being busted and several dozen students getting minor in possession charges in that case, spreading the county's resources very thin when it comes to attorneys. With this compromise, if the prosecutors waive the right to remove the child

from the home for something minor like an MIP, the juvenile could waive their right to an attorney. Is that correct?

PANSING BROOKS: Oh, they can still always waive-- the juvenile has the right to waive counsel at any time.

SLAMA: OK.

PANSING BROOKS: But it has to be knowing. So they have to be able to know what they're waiving for. So are you saying if they-- if the-- if the county attorneys want to go ahead and prosecute them and take them out of home, if they weren't going to take them out of home, they don't have to meet with anybody. But if they're going to--

SLAMA: OK.

PANSING BROOKS: --go out of home, they have to have some conference ahead of time so the juvenile understands what is happening to them.

SLAMA: OK, thank you.

PANSING BROOKS: Yeah, thank you. Did I answer that question?

SLAMA: Yes, you did.

PANSING BROOKS: OK.

LATHROP: So I have a question for you. Just as a matter of historical background, this has been traditionally, did we do it like a pilot so that in Omaha and in Lincoln you can get counsel?

PANSING BROOKS: No. What's happened is that in Lincoln and Omaha, I passed a bill in my first or second year here to-- that required that Lincoln and Omaha have counsel 100 percent of the time. Lincoln, it's Lancaster, Sarpy and Douglas. It was part of a sort of an agreement among the people in the body. Already Omaha was providing counsel 100 percent of the time. Lincoln was at 63 percent. And so right now what we have is 14 to 18, 14-year-olds and below cannot waive counsel across the state. That was another bill we had. So if you're 14 or under, you cannot waive counsel. Now, 14 and above, 14- to 18-year-old in the western part of the state do not get automatic discussions with [INAUDIBLE].

LATHROP: And this would change that.

PANSING BROOKS: Yes.

LATHROP: And you've met withering resistance from our friends out in western Nebraska.

PANSING BROOKS: From the judges, yes.

LATHROP: This would basically say, well, we found a middle ground.

PANSING BROOKS: Yes.

LATHROP: If you're not going to try to take them out of home at any point in time,--

PANSING BROOKS: Yes.

LATHROP: --then we don't have to worry about it. No counsel.

PANSING BROOKS: Right.

LATHROP: They just deal with it, put them on probation, whatever.

PANSING BROOKS: And if they--

LATHROP: What percentage-- so can you-- do you have any way of telling us are we just talking about it now a handful of kids? Or was this a big group under your old bill and now we've narrowed it down to just a few?

PANSING BROOKS: It's a smaller group with 14- to 18-year-olds. I think others will have the numbers. I know--

LATHROP: OK.

PANSING BROOKS: -- Voices for Children has.

LATHROP: I just wondered. I know that it was problematic. I've already had a rural senator talk to me about it. Anticipating that, I just wanted some perspective on whether we've gone from all-- the original bill would have been thousands of court appointments for-- for these young people down to dozens a year, whatever the numbers are.

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PANSING BROOKS: Yeah, it's a-- it's a significant change. And last year I brought the bill for right to counsel, which the county attorneys did not oppose. And they are coming to oppose today, I think. And we had, because of the cost differential, we added the indigent-- indigent juvenile defense fund to help those counties out. With this kind of bill, you know, the-- they're supposed to be appointing counsel any time they get sent out of home anyway. And so-- some of the arguments are, well, if-- if a minor in possession comes in and we aren't going to charge or take them out, send them out of the home for that, what if we find out later we want to send them out of home? Well, by that point, you're going to charge them with something else and then you can make sure that you get that kid counsel for whatever that ancillary crime or that additional crime is.

LATHROP: OK.

PANSING BROOKS: So I think it's a way to save money. I have also brought next the-- the bill for Indigent Defense Fund because counties are wanting some help and you'll hear good stories about the work that's being done. But that's all.

LATHROP: OK. I think you answered my question.

PANSING BROOKS: OK, thank you.

LATHROP: Thanks, Senator Pansing Brooks. We will have testimony from proponents.

JENNIFER HOULDEN: Good afternoon again.

LATHROP: Good afternoon.

JENNIFER HOULDEN: I'm Jennifer Houlden, J-e-n-n-i-f-e-r H-o-u-l-d-e-n. I'm the chief deputy at the Lancaster County Public Defender's Office for the juvenile division, here in that capacity, as well as on behalf of the Nebraska Criminal Defense Attorneys Association to support LB307. The juvenile court is a court of rehabilitation with an obligation to determine the best interests of the children who are subjects of the case. This is a very different animal than other criminal and civil courts where the law is the framework, but the positions of the parties largely dictate the options of the court and the outcome, establishing a rule to ensure that any waiver of counsel that is done after the juvenile-- that is done only after the juvenile

has been provided legal advice is more than warranted to allow the court to reasonably accept that waiver. And requiring the state to waive seeking an out-of-home placement if they don't want the court to appoint counsel for the juvenile is an appropriate limitation. Do not overlook the gravity of removing a child from the home where the home is safe. There are many people in this room and in your body that have technically violated a law as an adolescent drinking a beer before 21, trespassing at a park, that did not have to worry about being removed from their parents' home. Do not overlook the gravity of that and do not let any opponent of this bill tell you that that is not a very, very serious consequence to be taken seriously. Requiring the state to waive that or to not seek out-of-home placement is perfectly reasonable. If the state wants to preserve that option, they don't need to waive their right to pursue it. Where the best interests of the child is at stake, there are situations that the juvenile court cannot adequately assess the best interests of the juvenile without an attorney. There are limited categories in LB307. They are very limited. They are not that common. I practice full time in juvenile court. This is not the bulk of the cases. This is a limited set of cases. And that narrowly tailored list is exactly where counsel must assist the juvenile court. I represent children in juvenile court charged with law violations and as a full-time job, it is difficult to get the information I need to provide the court. The juvenile court must address the best interests of the juvenile. It's not possible for the juvenile to represent themselves when issues such as detention, out-of-home placement, or permanent criminal collateral consequences or convictions are at stake. They are experiencing issues: mental health distress, family distress, immaturity, interfering with their ability to even respond directly to a question. Children cannot represent themselves adequately in court when they are facing those limited set of circumstances outlined in LB307. It's narrowly tailored. It's appropriately directed to the most acute cases. And Senator Slama, your question is exactly right. If they're not seeking out-of-home placement, if there's 12 of them, if they want to waive their counsel, get put on a short term of probation, LB307 permits that. And it is an excellent compromise to allow the juvenile court to ensure that when it matters, it has the information it needs, counsel if necessary, for that. Thank you.

***JULIE ERICKSON:** Every child is entitled to due process and equal protection under the law. Voices for Children in Nebraska supports

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LB307, because it will ensure youth across our entire state have meaningful access to one of the great protections of the American justice system: the constitutional right to counsel. This constitutional imperative is especially important for children, who may by their age fail to fully understand the grave nature of their actions, the complicated legal proceedings against them, and the potentially life-altering outcomes. Juvenile court may sometimes be perceived as "kiddie court" or diversionary in nature, but in fact, in every single case, juvenile court judges have a wider range of options available to them than criminal court judges. Though this usually means a lower reliance on the traditionally punitive response of incarceration, it also means that a charge as "small" as minor in possession can, in the juvenile court, open the door to confinement, removal from the family home to a group home program, being placed on probation for an indefinite number of years, forced psychological or psychiatric treatment, or even commitment to the Youth Rehabilitation and Treatment Centers. In that regard, there is no "small" charge in the juvenile court. Furthermore, after the trial phase, juvenile courts are relatively unbound by the rules of evidence and have wide latitude to make decisions on treatment, placement, and even incarceration on what would in criminal court be considered hearsay evidence. A psychiatrist can make a written recommendation for psychotropic medication or for the youth to be placed in inpatient care and the court may order it. A probation officer may tell the judge that the youth needs to be picked up by sheriffs and confined in a jail-like detention facility until further notice for safety, without a sentence setting a determinate length of that incarceration. Both of those examples are permissible if the court finds they are in the best interests of that youth, but would you want to face such a proceeding without a lawyer to assist you and protect your rights? Would you allow your own child to do so? LB307 establishes that a court shall not accept a juvenile's waiver of the right to counsel unless the county attorney or city attorney, on the record, waives any possible pre-adjudication or post-adjudication placements of the juvenile outside of the juvenile's home. Additionally, LB307 provides that on or before July 1, 2022, the Supreme Court shall provide, by court rule, a process to ensure that juveniles are provided the opportunity to consult with counsel to assist the juvenile in making the decision to waive counsel. Every youth facing a proceeding in which the government can take their liberty, remove them from home and family, put them on medication, or commit them to a psychiatric

institution, boot camp, or YRTC should have a lawyer to ensure their rights are protected and they understand what is happening and why. LB307 would put right our statute, providing every child equal protection under the law, and I urge you to support it. Voices for Children in Nebraska would like to thank Senator Pansing Brooks for bringing this important legislation, and as always, this committee for your time and consideration.

***SPIKE EICKHOLT:** Members of the Committee: The ACLU of Nebraska submits this letter in support of LB307 and we request this letter be included as part of the public hearing record and that our position of support of this bill be included in the Committee Statement. For over 50 years in Nebraska, the ACLU has worked in courts, legislatures, and communities to protect the constitutional and individual rights of all people. With a nationwide network of offices and millions of members and supporters, we take up the toughest civil liberties fights. Beyond one person, party, or side, we the people dare to create a more perfect union. Constitutional Right to Appointed Counsel LB307 corrects a current imbalance where juveniles in some parts of the state are provided with counsel at the time a juvenile petition (charge) is filed, while some juveniles must survive the early stages of prosecution without the protection of counsel. The right to counsel is a fundamental constitutional right, and discrimination regarding fundamental constitutional rights triggers strict scrutiny. See, e.g., Washington v. Glucksburg, 521 US 702 (1997); Dunn v. Blumstein, 405 US 330 (1972); City of Dallas v. Stanglin, 490 US 19 (1989). In summary, the law is clear: juveniles are entitled to counsel. Juvenile Defendants and the Right to Counsel in the landmark case of Gideon v. Wainwright, the United States Supreme Court recognized that the law required appointment of counsel for defendants facing serious charges. In In re Gault, the Supreme Court extended that right to counsel to juvenile court. Indeed, due process "is the primary and indispensable foundation of individual freedom" and "the procedural rules which have been fashioned from the generality of due process are out best instruments for the distillation and evaluation of essential facts from the conflicting-- data that life and our adversary methods present." In re Gault, 387 U.S. 1,20 (1967). The recognized developmental differences between a juvenile and an adult offender have been discussed extensively by this committee-in light of the impulsivity and susceptibility to coercion, juveniles need an attorney standing by their side as soon as possible. A growing body of research

indicates that juveniles lack the appreciation and decision-making abilities of adults and the decision to waive counsel can be devastating to a litigant in any sort of case, particularly in criminal cases. LB307 contains protections for juveniles by presuming the appointment of counsel for juvenile unless important safeguards to ensure that children actually understand and appreciate the waiver of counsel. Appointment and waiver of counsel for juvenile defendants should be treated differently than adult defendants. After all, we do not allow children to vote, drive, consume alcohol, enter into most binding contracts, or do many other things that adults do, so why would we condone them navigating the court system themselves? This bill limits instances in which courts may not allow youth to waive counsel and, in those instances in which a child defendant does waive counsel, the bill requires the court find that such a waiver is made intelligently, voluntarily and understandingly. We pledge our assistance and cooperation in helping this committee, and the body, in advancing this bill from committee.

LATHROP: OK. I do not see any questions, but thanks for being here. Next proponent. Anyone here in opposition? Good afternoon.

BRI McLARTY: Good afternoon. Good afternoon, members of the committee. My name is Bri McLarty. That's B-r-i M-c-L-a-r-t-y. I'm a deputy county attorney in Dodge County, which is Fremont, Nebraska, and I practice exclus-- exclusively juvenile law. I'm here on behalf of the Nebraska County Attorneys Association. So to really start, the main issue that the county attorneys have is we don't want to be part of that process, a process of whether or not the juvenile gets an attorney. Having the county attorneys sign or not sign a document that purports to be about the possibility of future services and rehabilitation, but is actually about the right to counsel, should not be a role in juvenile court system. That is more appropriately left to the judges. And that's the main issue we have with this case, is we don't want to be part of that conversation and part of that-- that solution or I guess conversation. We are supportive of the provision in subsection (4) that directs the judicial branch to create the court rules and process to talk about how a juvenile can either consult with an attorney and knowingly make that waiver. We're in support of that. We do agree with Senator Pansing Brooks and Judge Gendler that that is the appropriate avenue to do that. One, they're more familiar with what judicial resources are available in each judicial district. They can talk about a more statewide approach. So we are very supportive of

that part of the bill. It's the subsection (3) that we really do have a problem with. And I know it's difficult to talk about because juvenile court is so varied with each case. And the issue we have is in waiving services postadjudication, there is a brief time between an adjudication where a juvenile is adjudicated on their petition and then disposition. And disposition is where we actually look at what services are going to be implemented. There's been a huge push in the juvenile court system to really use evidence-based evaluations and approaches for making those probation terms. The Juvenile Probation Office does what's called a predisposition investigation. It looks at risk factors from coping skills, peer relations, family dynamics to really look at what's going on with this kid and how can we help. And we craft those probation orders and services based off of that. We're really trying to move away from that kitchen sink approach of throwing everything at the kid and hoping it works, really narrowing that. But the problem is we don't know what that evaluation says until disposition, which is after we've already waived out-of-home placement. Now, you're right. This is going to make-- this is going to impact a small amount of cases. But there are cases that this will negatively impact. I had a truancy case. He came in as truancy. On the face of that, that might have been a situation where I would have waived and said I can't imagine this going to out-of-home placement. But the reason he was having truancy is we found out later through services that he was injecting meth between his fingers. He needed inpatient residential treatment. And that's an out-of-home service I would have had to waive that I would not have available and I would have to file a new petition on him just to have that be available. So there are some realistic consequences. Out-of-home placement is not just detention. It's psychiatric residential treatment. It is inpatient treatment. It's respite care for parents and kids that are in intensive services like intensive family preservation or MST that need respite and a weekend away where the kid stays with the grandparent. Those are out-of-home placements that we work every day in a juvenile court system to do. I do have some numbers, if you'd like them, about what specifically in Dodge County. I can only talk to my county, but that's kind of what we're having issue with is, one, we don't want to be the gatekeepers to a juvenile having the right to an attorney. And by waiving out-of-home placement, we're setting ourselves up to have to adjudicate on a felony or a higher charge later down the road that could delay services and delay efficiency

within our court system. And I'd be happy to answer any questions. And I apologize. I talk very fast.

LATHROP: I do want to ask some questions.

BRI McLARTY: Yes.

LATHROP: First of all, are you here on behalf of the County Attorneys Association or simply Dodge County?

BRI McLARTY: Sorry, the County Attorneys Association, but I can only answer numbers to Dodge.

LATHROP: OK. So it seems to me that as I consider how this would be implemented, if you have a leaner, they ought to go through and have an opportunity to talk to a lawyer. If they're-- if you bust a beer party and a bunch of 15-year-old kids get caught up in it, you probably know at the front end that that's a group that you're, you know, you're going to put them on probation or whatever, whatever might be done. I get the-- I get the concern that you would end up being in some ways a gatekeeper. But the reality is it's not a problem being the gatekeeper if you err on the side of having them or providing them with an opportunity to talk to a lawyer before they waive that right.

BRI McLARTY: And we--

LATHROP: Would you agree with that?

BRI McLARTY: I would agree that the person to make that determination is the judge as the independent arbiter.

LATHROP: Can you get a little closer to the mike?

BRI McLARTY: Oh, sorry. The County Attorneys Association position is that's something for the judge to determine. That's not something that the county attorney should. I mean, we do use our discretion when it comes to things like juvenile diversion programs. Sorry.

LATHROP: Really, really struggling to hear.

BRI McLARTY: I'm sorry. So the County Attorneys' position is that that's not our position and our role in the juvenile justice system.

That that determination about whether a consultation should happen is up to the judge. We should not be a part of that conversation. That's between the judge and the juvenile to make that determination. And I think in subsection (4) that provides the Supreme Court the ability to really look at and then direct everyone involved in the juvenile justice system, the judge, the prosecutor and the defense counsel, about what would be an appropriate way.

LATHROP: So let me ask another question. In county court, you have people that come through that are charged with things that may carry up to a $100 fine and a week in jail, right?

BRI McLARTY: Yes, that's, yeah.

LATHROP: Do we do that-- do we engage in that process or do we appoint legal-- the public defender or a lawyer for everybody that might face up to seven days in jail?

BRI McLARTY: And this is where I think it's not fair to make an analogous comparison between adult and juvenile court, because if I'm charging an MIP, I'm not looking at the statute to say, oh, six months probation or seven days jail. That's not on the table for me. As a juvenile county attorney, I have to look at what rehabilitative services could be offered through juvenile probation. So to say waiving out-of-home placement and saying that that's similar to saying-- saying waiving jail time, it's not analogous. It's not on the table when we're talking about preadjudication.

LATHROP: OK. Then I got another question for you. Were you-- would you be OK if we made the requirement that juveniles have a right to counsel under all circumstances in juvenile court?

BRI McLARTY: No.

LATHROP: Do the county attorneys think that's a good idea?

BRI McLARTY: No. I did my homework, and last year in LB231, the County Attorneys Association did a letter of opposition, but listed two very specific oppositions. One was the $1 fee which we're always going to talk about how much that's going to cost the county money.

LATHROP: No, we'll-- we'll take it out of your county budget. Don't worry about that.

BRI McLARTY: I'm sure my boss will love that. And then the other one was the efficiency argument that it could slow things down. But I think subsection (4) answers that question. If the Supreme Court can look at that balance between speedy adjudication and efficiency with what an actual judicial resources there are and come to that solution, then that takes the other opposition that the county attorneys had about LB231 off the table. I think we're always going to be a little irked about paying more money. But if you guys order it, we'll pay it.

LATHROP: So you'd rather have last year's bill with a couple of changes than this year's bill where that right can be waived, if you would simply take a look in advance and say, yeah, we're not going to ask for any kind of out-of-home placement.

BRI McLARTY: I would say I'd have to, one, obviously, I don't represent every single county attorney right this second. But I would say how it's structured, we would most likely prefer that because we're not part of that conversation. We're not having to inject ourselves into that juvenile's right to counsel. And then I guess there's a distinction to be made between right to counsel of appointment, but then also right to consultation for a waiver. I think those are two different conversations that you have with an attorney, whether or not you're going to waive the attorney in the long term versus whether you want to retain counsel in general.

LATHROP: Yeah, but that conversation is going to go something like this. Listen, the county attorney could waive this and tell us right now that he or she doesn't want to take you out of home, but she's unwilling to do that. So do you want to waive counsel? And they're probably going to go, no, not if I might end up in a-- in a YRTC.

BRI McLARTY: And that's-- that's under LB307. If we're looking at how it is right now, the right to consult with someone about waiver of counsel, if you're worried about them not understanding fully what's possible in juvenile court, that's a different conversation. That's, OK, here's what this looks like. Here's what the juvenile court process looks like, explaining everything from there's a predisposition investigation. Then you have disposition. Here's how an attorney can help you throughout this entire process. That's a different conversation than waive your counsel or admit in my distinction.

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LATHROP: OK. Are you the point person on this for the county attorneys when Senator Pansing Brooks wants to work something out?

BRI McLARTY: Yes, I have worked--

LATHROP: OK.

BRI McLARTY: --with Senator Pansing Brooks in the past. I would love the opportunity to work with her again.

LATHROP: OK.

BRI McLARTY: So yes.

LATHROP: All right, if she wants to work something out.

BRI McLARTY: I might be in trouble so.

LATHROP: Thank you.

BRI McLARTY: Thank you.

LATHROP: Any other questions? I see none.

BRI McLARTY: Thank you.

LATHROP: Thanks for being here today.

BRI McLARTY: Thank you.

LATHROP: Anyone else here in opposition? Good afternoon.

ELAINE MENZEL: Good afternoon, Senator Lathrop or Chairman Lathrop and members of the Judiciary Committee. For the record, my name is Elaine Menzel, E-l-a-i-n-e M-e-n-z-e-l, here on behalf of the Nebraska Association of County Officials. We've been involved in this discussion through the years, through the legislation that Senator Pansing Brooks has brought forward. Through the years, we've modified our position, given different components within the legislation as the senator indicated. Previously, there have been the second piece of the bill that I'll be later testifying on. And so just to give a preview, we will be able to support that one. But this year for the LB307, we did defer to the county attorneys' representative on our legislative committee. And as Miss McLarty indicated, would definitely be willing

to work with Senator Pansing Brooks on proceeding to address their concerns. And I-- if there-- if there are any questions, I'd be glad to attempt to answer them.

LATHROP: OK. I see none at this time. I, maybe I have one. I assume you'd rather have the LB307 version than full scale you've got to pay for a lawyer for every juvenile.

ELAINE MENZEL: Yes. Well--

LATHROP: You represent the county officials and the county boards.

ELAINE MENZEL: If we went back to last year, it did have the LB308 component within it and we were in a neutral position last year.

LATHROP: OK.

ELAINE MENZEL: I can tell you that.

LATHROP: OK, very good. Thank you.

ELAINE MENZEL: Thanks.

LATHROP: Anyone else here in opposition? Anyone here in a neutral capacity? Seeing none, Senator Pansing Brooks, you may close. We have another letter from Spike Eickholt as a proponent of this bill, and Julie Erickson is a proponent for Voices for Children; Spike representing the ACLU of Nebraska. And in addition, we have four letters, position letters have been received of all four proponents of the bill. Senator Pansing Brooks.

PANSING BROOKS: We would have had more testifiers had we not been in COVID time. So we're trying to limit the number of people coming to these hearings. So anyway, you know, you can understand the frustration that I feel. Again, you know, it's we have a bill coming up, but of course, the counties are going to support, which is good, that gets money to the counties for indigent defense. But meanwhile, we're not providing indigent defense and we are not providing justice across our state. And, you know, the county attorneys are willing to come in and-- and throw the book at every single thing that goes on: increased penalties, increased felonies, don't readjust anything, no cuts of mandatory minimums. And then the minute we try to help on something and make sure that kids are going to be OK and safe, they're

like, oh, we shouldn't have anything to do with this. This isn't about us. This is about the judges. And clearly, the judges don't believe that's so because the people that are charging are the county attorneys. The judges aren't-- aren't starting the whole case and saying, well, I guess we ought to charge this kid with h'm, maybe-- maybe an MIP. No, the county attorneys come in, they decide what they're going to charge and to say now, oh, we just don't know what might really happen at the end is-- is not-- it is clearly disingenuous. So I'm always willing to work with people. I've worked with the judges who've been very opposed to this for so long. We've gotten what I think is a really good solution. And so I'm willing to work with people. You know, I got this call recently from the county attorney's office saying that they're opposed to it. And I know that times are quick in COVID. I'm happy to-- to talk to anybody and work in any way we can. This actually does save the counties money. So I find that surprising, too, that they feel a need to come oppose it.

LATHROP: OK.

PANSING BROOKS: Thank you. That's all I have to say right now.

LATHROP: Very good. That will close our hearing on LB307 and bring us to LB308, also the Vice Chair of the committee.

PANSING BROOKS: Yes. OK, thank you, Chair, Chair Lathrop and fellow members of the Judiciary Committee. For the record, I'm 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 LB308 to create the Juvenile Indigent Defense Fund. The Juvenile Indigent Defense Fund establishes a program to provide legal services to juveniles in juvenile court, provide resources to assist counties-- pregnant pause, in fulfilling their obligation to provide for effective assistance of legal counsel for indigent juveniles, and pay the costs of administering the Juvenile Indigent Defense Grant Program. Under this bill, the program shall be administered by the Commission on Public Advocacy. The bill also establishes that the program shall be funded through a fee of $1, which shall be assessed as costs for each case filed in each county court, separate juvenile court, and district court, including appeals to such courts, and for each appeal. I would like to note that most of the elements of this bill were originally included in last biennium's LB231. My bill on right to counsel for juveniles. I've taken the right to counsel

portion out of this bill and you heard it previously and hereby solely am creating the Juvenile Indigent Defense Fund. Under the compromise reached in LB307 this year, the previous bill that you just heard on right to counsel, we do not need a funding mechanism. We do not need a funding mechanism. However, I thought the proposal to establish this fund, this Juvenile Indigent Defense Fund, was still a good one and would help counties with the extraordinary costs of juvenile defense. So I decided to bring this separate bill to establish the fund. It makes sense because we already provide indigent assistance as it relates to adults through the Commission on Public Advocacy. Why wouldn't we also provide the same opportunity for juveniles? We know many counties struggle with these costs, so it serves their interest as well as the child's. We know that we have some of the lowest court costs in the country, so this will generate a small fee which can easily be absorbed by those using the court system. We generate about $300,000 for every dollar in court fees, so LB308, this bill would provide a significant but manageable grant program for indigent juveniles. With that, I will close on LB308 and ask the Judiciary Committee to advance this bill to General File. Thank you.

LATHROP: OK. Any questions for Senator Pansing Brooks? Senator Brandt?

BRANDT: Thank you, Chairman Lathrop. Real quick, this funding mechanism, is this-- so this is a $1 charge on all these cases. Does that go into a central fund or is that by county? What I'm saying is, like Jefferson County, they just use the money they generate in their county, or does this go into one central fund and all 93 counties pull out of the central fund?

PANSING BROOKS: That's a good question. People behind me will answer that. But I, I think that the Commission on Public Advocacy has all of their-- for the adults, I think they're all together in one pot, but it could be separated by county. I'm not sure.

BRANDT: All right. Thank you.

PANSING BROOKS: I mean, they have people apply just for extraordinary cases.

LATHROP: OK, we will take proponent testimony.

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ELAINE MENZEL: Good afternoon again, Senator Chairman-- or Chairman Lathrop and members of the Judiciary Committee. For the record, my name is Elaine Menzel, E-l-a-i-n-e M-e-n-z-e-l, here on behalf of the Nebraska Association of County Officials today in support of LB308. As Senator Pansing Brooks indicated that this is a Public Advocacy Commission that the counties use for adult provisions. It was established in 1995 and it was primarily established to provide relief to property taxpayers by providing some relief for purposes of providing indigent defense. I believe I can answer Senator Brandt's question. I don't know the funding mechanism to the full extent by any means, but it goes in a pot of money that goes to the Advo-- Public Advocacy Commission and then it's distributed to the county in the event they apply for it and ask for that service. So any county, including Douglas or Lancaster, is eligible to utilize those services. The services do differ in terms of certainly the larger populated counties have their own public defenders and that type of thing. But I-- for the reasons that we supported it in 1995, the creation of, this would be a good additional avenue for delivery of services to juvenile defense. So with that, I'll leave it available for questions if you have any.

LATHROP: I do not see any questions, but thanks for being here once again.

ELAINE MENZEL: Thank you.

***SHIELA CAIN:** Chairman Lathrop and members of the Judiciary Committee, my name is Shiela Cain, my first name is spelled S-H-I-E-L-A and my last name C-A-I-N. I serve on the Board of Directors for the Nebraska Collector's Association, also known as the NCA, and appear before you today in opposition of LB308. The NCA membership makes up some of the largest users of civil county court in this state, which is where collection lawsuits are primarily filed. LB308 proposes a new fee that would ultimately increase the cost of filing a lawsuit by $1.00. Please understand that the NCA does not oppose the purpose behind these funds nor takes a position on the need for funding. Rather, the NCA opposes LB308 only because it increases filing fees for all lawsuits. The Judicial system is not meant to be a user fee-based service. Increasing fees limits access to the courts and put a burden on the average citizen as well as those who can least afford it. As you know, court costs are often taxed to the consumer in a collection action. These fees put a burden on citizens who are already struggling

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to make ends meet. This burden extends from the consumer all the way through the businesses who are trying to recover money already owed to them. Main street business will have to pay more initially and will be affected at the time of repayment as well. These burdens are not intended by our Judicial system. Also, we have observed an increasing trend in proposing court cost legislation in efforts to fund new programs or remedy existing funding deficits, leaving the NCA concerned with the never-ending demand for increased fees. Our concern is evident this session by the fact that four different bills have been proposed to increase filing fees. In addition to LB308, LB24, LB150 and LB352 have been introduced and collectively these bills contain six different increases to court costs. If all the bills pass as written, court costs would increase by $9.50 in 2021 and a total of $16.50 by 2025. Considering that the current filing fee in civil county court cases is $46, these increases are enormous. The 2021 total fee increase is more than 20% of the current costs and by 2025 it would be more than a 36% increase. Such significant increases are not sustainable by users and would ultimately prohibit access to the courts. The NCA truly believes that our Legislature needs to look at the issue of increasing courts costs on a big picture scale and take into consideration the funding needs of all fee recipients as well as what is best for the users of the Courts. It is imperative that our Legislature manage these fees as a whole, rather than only considering the need for each requested fee individually. In looking at the bigger picture, the legislature should ask itself several questions. At what amount does the filing fee become prohibitive to the users of the Court? Which fees are more important than or in more need than the other fees? Are there other funding sources for some or all of these fees? Do all filing fees need increased or only fees in cases that have a direct connection to the cause? All of these questions must be answered before increasing court costs. Fee increases, as insignificant as they may seem in considering them individually, can quickly become detrimental if not managed on a large scale. Again, the NCA opposes LB308 because of its increase to court costs and we ask this committee to do the same. Thank you for your consideration.

***SPIKE EICKHOLT:** Members of the Committee: The NCDAA submits this letter in opposition to LB308 and we request this letter be included as part of the public hearing record and that our position in opposition to this bill be included in the committee statement. Our position in opposition to this bill is very nan-ow. We solely and

simply oppose the funding mechanism proposed in this bill, namely that of a court fee. As a matter of record, we support the intent of this bill and the companion bill, LB307, and we are proud to have supported Senator Pansing Brooks in recent session to ensure that all youth have the meaningful right to counsel. This bill, along with several other bills this session, proposes to increase court fees. While this fee increase is modest, a consideration of all pending court fees shows a troubling trend to impose user fees as additional costs onto those who are prosecuted in our court system. The costs of maintenance of the court system and related programs should not be borne by those who are subjected to it. We would respectfully suggest that any funding necessary for the cost of funding juvenile defense be used with cun-ent court fees (by diverting existing dedicated funds), or by state general funds.

***SPIKE EICKHOLT:** Members of the Committee: The ACLU of Nebraska submits this letter in opposition to LB308 and we request this letter be included as pmi of the public hearing record and that our position in opposition to this bill be included in the Committee Statement. For over 50 years in Nebraska, the ACLU has worked in courts, legislatures, and communities to protect the constitutional and individual rights of all people. With a nationwide network of offices and millions of members and supporters, we take up the toughest civil liberties fights. Beyond one person, party, or side - we the people dare to create a more perfect union. Our position in opposition to this bill is very narrow. We simply oppose the funding mechanism proposed in this bill-that of a court fee-and we do not oppose the intent of the bill. As a matter of record, we support the intent of this bill and the companion bill, LB307, and we are proud to have supported Senator Pansing Brooks in ensuring that all youth have the meaningful right to counsel. This bill, along with several other bills this session, proposes to increase court fees. We see court fees as a user fee for those people who are processed through, or prosecuted in, the court system. This fee increase, while admittedly minimal, would pass the cost of this bill in a manner that disadvantages the poor and impacts people of color disproportionately. We would respectfully suggest that any funding necessary for the cost of funding juvenile defense be used with current court fees (by diverting existing dedicated funds), or by state general funds.

LATHROP: Next proponent. Anyone here in opposition that cares to testify in person? Seeing none, anyone in the neutral capacity. OK,

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Senator Pansing Brooks to close. LB308 has six position letters. Six of those are proponents. None of them are in opposition. We have three letters or three written testimony provided. The first by Spike Eickholt, representing the ACLU of Nebraska in opposition. A second one from Spike Eickholt, representing the Nebraska Criminal Defense Attorneys Association. And in opposition as well, Shiela Cain, C-a-i-n, Nebraska Collectors Association. With that, Senator Pansing Brooks, you may close on LB308.

PANSING BROOKS: OK, thank you. LB201? Wait a minute.

LATHROP: LB308.

PANSING BROOKS: LB308. This one's LB201.

LATHROP: This is a close.

PANSING BROOKS: Oh, closing. I'm sorry. OK. I, I waive closing. I'm sorry.

LATHROP: That's OK.

PANSING BROOKS: I'm sorry.

LATHROP: You have a lot going on today.

PANSING BROOKS: I do. Sorry. OK, I waived.

LATHROP: She waives-- Senator Pansing Brooks waives close on LB308. And that will bring us to the final bill of the day LB201, also to be introduced by Senator Pansing Brooks.

PANSING BROOKS: Thank you. Thank you, Chair Lathrop and fellow members of the Judiciary Committee. For the record, I'm Patty Pansing Brooks, P-a-t-t-y P-a-n-s-i-n-g B-r-o-o-k-s, representing District 28 here in the heart of Lincoln. I'm here today to introduce LB201 which makes changes to the court of jurisdiction by providing that juvenile court shall have exclusive original jurisdiction. These cases may still be transferred to county court or district court as provided in current statute. This is an important change as we seek to keep more kids out of the adult courts who often end up there automatically and too often unnecessarily. Currently, the county or district court holds original jurisdiction for 14 to 18 year olds for various felony type

classifications. The juvenile court holds original jurisdiction for others. LB201 would simplify the process and start all juvenile cases in juvenile court, where the judge will have the discretion to determine whether the circumstances of the case warrant transfer to adult court. The best-- this best practice falls in line with other juvenile justice reforms that have had enormous positive impacts on our state in recent years. Just last week, Chief Justice Mike Heavican, in his State of the Judiciary address, lauded this progress in juvenile justice and presented data that clearly illustrates it. Since fiscal year 2017-18, we saved $22 million because of probation's work and returned it to the General Fund. The number of detained youth has been reduced by 18 percent this past year. And most importantly, recidivism rates for juvenile probation have also improved over the years from a high of 29 percent in 2010 to 24 percent in 2018 to its current rate of 19 percent in 2020. It's clear that a thoughtful and smart approach works. The juvenile justice system is a rehabilitative one, while the adult system is punishment driven. Given those differences, the juvenile court should have the original jurisdiction in order to first decide whether cases warrant transfer to the adult court system. In some cases, it will be clearly apparent that they do not warrant-- or that they do warrant transfer and in those cases the judges will simply make that determination. Starting cases in juvenile court will serve as a safety valve for kids and allow faster access to rehabilitation. Prompt judicial response is important as data clearly shows that a person's brain isn't fully developed until the age of 26. The U.S. Supreme Court has recognized that kids must be treated differently than adults, even in adult court. Several court cases since 2005 have limited life without parole sentences on juveniles, including Miller vs. Alabama in 2012. You'll be receiving testimony today regarding racial disparities among those charged in adult court. As is the case with most aspects in our society, there are racial disparities in these numbers. Children of color are far more likely to be charged in adult court. So LB201 would address this disparity by ensuring all children begin at the same place when they enter our court system. I am aware that County Attorneys Association opposes this bill. They will argue that many of these kids are simply bad kids. They will point out the most egregious cases. But in making that argument, they really prove my point. If the cases are so obviously bad, the judge won't hesitate to transfer them to adult court. Do we trust the judges or not? After the prosecutor carrying the burden of proof makes the obvious case, it will be moved. But what about the 14

year old with drug problems? Shouldn't that kid have an opportunity to start in juvenile court and get quicker access to the rehabilitative services that come with it? The harm embedded and inherent in our current policy all go in one direction against those Nebraska kids who can and should be rehabilitated as quickly and as appropriately as possible. And in closing, I ask you to advance LB201 to General File. Happy to answer any questions.

LATHROP: I do not see any questions at this time.

PANSING BROOKS: Thank you.

LATHROP: Thanks, Senator Pansing Brooks. We will take proponent testimony at this time. Good afternoon once again.

JENNIFER HOULDEN: Good afternoon, I'm Jennifer Houlden, J-e-n-n-i-f-e-r H-o-u-l-d-e-n. I'm the chief deputy of the Juvenile Division of the Lancaster County Public Defender's Office. I'm here on behalf of my office and the Nebraska Criminal Defense Attorneys Association to support LB201. The juvenile court should clearly have original jurisdiction over all juvenile cases. All juveniles in Nebraska deserve meaningful consideration of their potential for rehabilitation before they are subjected to the criminal justice system, which does have a punitive impact and an agenda by design. And although it is sometimes appropriate, it does traumatize the individuals and families subjected to it. I've had this job for about a year and a half. Previously, I was a full-time criminal defense attorney at the Public Defender's Office in felonies and misdemeanors. And I cannot underestimate the amount of time, attention, learning, education it has taken me to get up to speed to even be basically competent to deal with the issues in juvenile court. The juvenile court judges are the experts about a child's potential for rehabilitation through the juvenile court system. They are indisputably best placed to assess that and they should decide it. It is the most important issue when considering transfer. And although district court judges, county court judges are absolutely interested in evaluating that to the best of their ability, they are not the experts. It is impossible for them to have mastered their core competencies of their trial courts and also the experts. The juvenile court judges are the experts. And that's what the essence of this bill does, is moves the decision making to the people best positioned to make that decision. It would also not affect a landslide of serious

criminal cases that should be adjudicated in criminal court being retained in juvenile court. The transfer provisions clearly allow for serious cases of any type to be transferred, and it just ensures that the person making that decision is aware of what is actually possible and what is actually happening in juvenile court. It is worth noting that juvenile court judges regularly transfer cases to criminal court. There is, in fact, a judge that we are not aware of has ever retained a criminal-- a case in juvenile court when asked to transfer it. This is not in any sort of partisan agenda. Juvenile court judges do transfer serious criminal cases all of the time. And looking at the current ability of county and district courts to use the juvenile code, and I don't-- it's surprising to some people, criminal judges have the ability to use the juvenile code in dispositional orders in criminal cases. They never do. It's because it's not what criminal courts do. I think that that demonstrates that the criminal courts are not the appropriate decision maker when the issue is can a juvenile be rehabilitated through juvenile systems? LB201 simply allows the experts in the field to make the decision when the question is what can the juvenile rehabilitative system do for this child? And there will absolutely be fair play in cases. And thank you.

LATHROP: OK. Any questions?

JENNIFER HOULDEN: Thank you.

LATHROP: Can I-- pardon me, can I ask you a couple?

JENNIFER HOULDEN: Yeah.

LATHROP: Just as a matter of background. So currently, if a case starts out in district court, and let's say it's a, a shooting case or a serious first-degree assault. If that starts out in district court, defense counsel makes a motion to transfer to juvenile court, who has the burden of proof to move it to juvenile court or--

JENNIFER HOULDEN: The state-- it's, it's a very long and complex statute, but the state has the burden basically assessed through about 18 different factors to show that the juvenile basically cannot be assisted by the services in juvenile court.

LATHROP: So whether this starts out in district court and it's a motion to transfer to juvenile or a juvenile court proceeding with a

motion to transfer to district court and adult trial court, the, the burden of proof remains on the county attorney to establish this belongs in district court and not juvenile court.

JENNIFER HOULDEN: Essentially, essentially.

LATHROP: Does this affect what the detention of the juvenile in the meantime? So if a juvenile is charged with an adult crime in adult court and let's say, again, it's a first-degree assault, serious offense, that, that youth would remain in, in my case, the Douglas County, County Jail?

JENNIFER HOULDEN: So the detention is determined by the age of the juvenile and not of the type of charge. Eighteen year olds with adult charges and no other juvenile would go if they turned-- were at the juvenile detention center, turned 18, they could go to county jail. But an adult charge on a 17 year old is at the juvenile detention center.

LATHROP: OK, that was my question. This doesn't change where they're detained,--

JENNIFER HOULDEN: No.

LATHROP: --how they're detained. They'll, if they're juveniles, they'll be in the juvenile detention. If they're adults will be in adult county jail pending some disposition.

JENNIFER HOULDEN: Yes.

LATHROP: At the end of the day, and I, I was around when Senator Ashford was chairing this committee and we-- Senator Ashford, had many of the felonies start out in juvenile court, but not all of them. The rationale at that point was that these are the very most serious cases and they should be adult-- start out in adult court. What's going to be the practical consequence? Are we going to have more cases kept in juvenile court that are-- so just by way of background, the lesser felonies--

JENNIFER HOULDEN: Sure.

LATHROP: --I say lesser, still, still serious criminal activity, but the lesser felonies start out in juvenile court and the prosecutor can

transfer them down to district court or attempt to. Those cases that involve the more serious things that currently start out in district court, will-- if this law passes or if this bill passes, are we going to see more cases held in juvenile court or you think, are we just kind of rearranging the chairs or--

JENNIFER HOULDEN: But we're going to--

LATHROP: --is there going to be a practical effect of having more cases disposed of and retained in juvenile court?

JENNIFER HOULDEN: It would be my hope that there is a marginal increase in the referral to juvenile court. That's because of my belief that there are cases retained in district court that could have been adequately rehabilitated through juvenile court. So I don't think it's just a switching of jobs. But the juvenile court-- what we do in a juvenile transfer hearing is we show up in district court and we put on evidence to educate the judge of all the things that they need to know about what juvenile court can do. I've been gone from juvenile court from-- for 10 years. It is an entirely different animal. I had no idea what was being accomplished in the juvenile justice system in Nebraska at this time when I got this job. I was a felony attorney for six years. I thought we were still doing what we did. It is phenomenal what juvenile justice is doing. Juvenile probation in the state of Nebraska is engaged and in progressive social science best practices, evidence-based practices. Why the juvenile court judge needs to decide is because what we're doing is we're asking for a nonexpert who does criminal law to become educated in the 40 minutes that I'm given and to decide is this the one kid who did a-- who, let's say, did a serious crime? Does this kid have the potential to be rehabilitated? That's the kid that needs to be retained in juvenile court, because that's the kid who goes through the prison system and stays in a criminal offending pattern. We have to catch the small group of exceptions. That is the most important thing in my opinion about LB201 is making sure that someone who knows what is possible in juvenile court, that we're grabbing those kids because those kids can be diverted out of the criminal justice system permanently. And so missing those one or two, because the district court just didn't really understand what juvenile probation could do, that's the ill that I think LB201 solves.

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LATHROP: So the other side of that argument, I suppose, is that once, as we heard earlier today in testimony, once the kid-- once that youth reaches 19, even, even if they haven't been amenable to the rehabilitation that was provided to them, we're done with them. That it could have been a long sentence in criminal court. Maybe they're 17, they do a couple of years of rehabilitation, don't succeed. They age out and we can't grab them back and go, well, we were wrong about that so we should punish you if you're not going to do the rehabilitation.

JENNIFER HOULDEN: Well,--

LATHROP: They're just free at that point.

JENNIFER HOULDEN: --there's a beautiful sort of synergy of many bills here that working together could really reformulate the option to work with kids after that. So what I will say is that that case, that case of the kid who should be incarcerated for years beyond 19, that kid doesn't get transferred. That, that kid doesn't stay in juvenile court. He gets transferred. So I think that that, you know, nothing's perfect and everyone's going to disagree. But that's the purpose of having the juvenile court do it. And if the juvenile court's going to say, son, we can't help you, you're 17 and a half and you shot someone, I'm not convinced that even the best juvenile rehabilitation plan can intervene on your conduct. That case gets transferred to juvenile court-- to criminal court.

LATHROP: But isn't that the current system, you, you shot somebody, so you're going to start out in district court and not juvenile court?

JENNIFER HOULDEN: It's not a good system if the district court does not understand what is possible in juvenile probation.

LATHROP: OK. OK. I always like to get both sides out there, particularly when the introducer can't ask questions. But thank you so much--

JENNIFER HOULDEN: Thank you.

LATHROP: --for your testimony and your answering my questions. Good afternoon.

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KIM HAWEKOTTE: Good afternoon, Chairperson Lathrop and members of the Judiciary Committee. I'm Kim Hawekotte, K-i-m H-a-w-e-k-o-t-t-e, and I am the deputy Douglas County administrator over all of our juvenile reform efforts. And we are here, and I'm here on behalf of our Douglas County Board on behalf of LB201. I'm, I'm going to cover a couple of different areas today as, as we go through that, because, of course, as you guys know from, from previously hearing me testify, I love data. And we have to talk about some of the data and what these youth are really looking like that we are talking about and trying to solve. So first, I have written in my written testimony what Douglas County is all doing in our juvenile justice reform efforts that are so important as an entire system to work on. But first, let's talk about my youth that are currently in detention. When I look at our youth that are currently in detention, over the last 10 years, Douglas County has decreased their detention numbers from 180 youth per day, we're down, now down to 60, 65 youth. That is very much due to the hard work that each of you have done in passing relevant statutes, making sure we're getting the right kids in detention. Currently, two-thirds of all the youth that I have in the detention facility in Douglas County are charged with felonies. But when we look at some of the data in Douglas County, what we have seen is a huge increase in our youth that are charged in the criminal justice system. For instance, we know that in 2017, there were 46 youth charged as adults. By 2018, that number had jumped to 93 and by 2-- and then in 2020, it has continued to go up to 103. So we know that number has tripled in the last three years of our youth charged as adults. When it comes to our youth that are in our detention facility, I have kids anywhere ranging from 13 to 17 years of age. Eighty-five percent of them are male, 85 percent of them are youth of color. And I don't know about any of you, but I live in Omaha and Omaha is not 85 percent youth of color. Fifty percent of the kids that I have in detention today are charged in the adult system. So out of the 60 to 65 youth I have there, at least 30 to 35 of them-- is it OK if I continue?

LATHROP: Yes, that's just a one-minute warning.

KIM HAWEKOTTE: OK, because I have a lot of data, too. But then one of the data you will notice on your document, we pulled out and looked at 74 youth that were charged in Douglas County in our adult criminal system and what happened to those youth. So when we looked at that study, 11 percent of them were under the age of 16 years of age and charged as an adult. Eighty-nine percent of them were 16 and 17 years

of age. Eighty-nine percent of them were youth of color. Ninety-three percent of them were male. Sixty percent of those youth that were charged as adults remained in our adult criminal system, which means that 40 percent went to the juvenile system on motions to transfer. Seventy percent of the youth that remained in adult court were black. I'm just putting that out there. And 57 percent were Hispanic. So we need to take a look at the racial disproportionality. You guys, next question I know you'll ask is what were they charged with? When we looked at the charges, the main charges were robbery and weapon use or weapon possession. We had one youth in that time period that was charged with, with first-degree murder. Also, the last thing that we looked at in that study is what were these youth ended up being sentenced for in the adult system? Average sentence for these youth was five to nine years. They served two years in the adult prison system. So when you think about it logically, what could we have done-- may I continue, what could we have done if we would have been within the juvenile court system or done some type of taking Senator Wayne's bill for a certain youth that jurisdiction could continue to 21? How much better would it be for those youth to be rehabilitated in a system along with the accountability instead of doing just the straight accountability? I'm not going to go through it, but if you look on page three and four of my testimony that I give a lot of the reasons of the national research as to why we need to change our system. Forty-five states have waiver provisions. We're the only one that let's it go to adult court. Those 45 states start their waiver procision-- provisions within our juvenile court system, those are the courts of expertise, it then gets waived to adult court if the need is arisen. So let's talk about who has the expertise. But in my testimony, I do talk about the study out there that youth charged as adults are not predictive of future violence. I talk about the fact that there's a lot of research out there that when you charge youth as adults, you nearly double their rate of recidivism than if they stayed within the juvenile system.

LATHROP: I'm going to have to, I'm going to have-- I'm sure there's going to be questions.

KIM HAWEKOTTE: Right.

LATHROP: And I don't want to set a precedence that--

KIM HAWEKOTTE: Right.

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LATHROP: --I'm going to regret--

KIM HAWEKOTTE: You do.

LATHROP: --because the--

KIM HAWEKOTTE: Thank you. And it's all in there in the written testimony. So it's there along with the study that we did that's attached to the back of it.

LATHROP: OK. Questions? Wow, I thought there'd be a bunch of questions. Senator McKinney.

McKINNEY: Thank you. Thank you for your testimony. I guess my question is, what are the long-term benefits of not putting youth into-- through-- what are, what are the long, what are the long-term benefits for our state to not put youth through the adult system so early?

KIM HAWEKOTTE: When you are talking the adult system, I, I really agree with the individual that testified previously that the court that has the expertise to determine whether that youth has the ability to be rehabilitated is our juvenile courts. They're the experts on it. They're the ones that should be making the decision. If you are, are more the individual that wants to talk about the cost. Let's start talking about the costs. For every youth that sits in detention, it cost over $100,000 per year. When you think about it, how much rehabilitative services could we provide treatment for that youth at $100,000 per year? So we have to look at it that way. You have to look at the benefit for the youth. They won't have an adult felony charge on their record for the rest of their life. You also have to look at public safety. And there's research that I've shown in, in here that shows public safety does not increase by charging all these kids as adults. In fact, it has done the opposite in many states. So logically, the best place to start is in juvenile court. Let them make the determination and provide the services. And if needed, increase the age to 21 on the more severe crimes so that you have the longer time to work with the youth to rehabilitate the youth until age 21.

McKINNEY: Thank you.

KIM HAWEKOTTE: Did that answer your question?

McKINNEY: Yeah, it did.

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LATHROP: I got a few questions for you. Let me start with a-- with one that I have an interest in, which was my bill today. You are the expert on all these-- all things statistical, it sounds like. What's the average time right now between a motion to transfer and a decision made in the district court?

KIM HAWEKOTTE: So with those 74 youth that we looked at that were charged in the adult system in, in Douglas County, we looked at time periods from when that charge was initially filed against the youth as to when a decision on the motion to transfer occurred. For those youth that stayed in the adult system, it was 211 days just for that court process to go. For those that got transferred to juvenile court, the average was 120 days. And I'm talking average here because most of them ran anywhere from 120 to 365 days. So it's a long time period.

LATHROP: OK.

KIM HAWEKOTTE: So that gets to your LB354, Senator.

LATHROP: Yeah, and you-- by the way, you told me in the hallway that you had information so that's why I'm taking advantage of, of having you here. I do have a, a, a question about or a concern. When you say that it's, it's good to see fewer youth in detention, I think everybody here would agree that's significant improvement. Right? You're down to 66 from well over 100. You also said that there are more young people charged as adults than it was historically the case. Does that correspond with the crime-- crimes committed by that same-- in other words, are we, are we getting more judges charging or keeping kids in adult court as a percentage of all kids charged? Or does the number of youth, the increase in young people charged as adults, correspond to the number of serious crimes committed by young people?

KIM HAWEKOTTE: When you look at the data from the Omaha Police Department, not necessarily. Because most of our youth crime as a county and as a city has been going down. Now what, what-- most-- a lot of that data shows, Senator, is that we have a small pocket of kids that are doing the most serious crimes, not that we have an explosion of crime going on by more and more youth. So the key becomes as a system to really concentrate on those youth that are doing the most serious crimes out there on the street, not to widen the net and throw all the youth in with regards to that. The main difference, too, when you are talking about youth charged in the adult system, when you

look at it from a detention standpoint that impacts detention numbers, is their average length of stay is running six to nine months. When I look at my youth in detention on our probation system, it's 45 days. So you are talking a lot of difference in time that impacts your detention numbers based upon length of stay and what court.

LATHROP: Why are they in detention that long?

KIM HAWEKOTTE: Because the adult system does not have the alternatives to detention that we have developed for juvenile court. When it comes to juvenile court, we can get youth out on, on an alternative, whether it's in a shelter, whether it's home on an electronic monitor, whether it is in-home family support services. We can get youth out with these stability services put in place to stabilize the youth. When they are in the adult court system, none of those alternatives are available. The only thing that judges do, and I do have data on that that's in your packet, too, is set bail. And a lot of these youth's bail are set at $10,000 to $100,000. And I don't know too many, 14, 15, 16 year olds that have that money sitting around to get bailed out.

LATHROP: You also, you also gave us some statistics on the number of youth of color who are being charged as an adult. Have you compared-- that's particularly consequential if, if there is a disparity between a Caucasian and a person of color for the same offense. Are you seeing that?

KIM HAWEKOTTE: Some, yes. You know, and it's mentioned in here, there was an-- the center-- CDC did an interesting study looking at the population across the country with regards to youth and guns, because we all know that's a major concern that all of us have, are youth with guns on the street. And so what they found based upon race is 10 percent of black youth have guns, 6.5 percent of Latino youth have guns, 10 percent of white kids have guns. So when you look at some of that, why, why is it so disproportionate with regards to being in detention? I think a lot of it has to do with-- I listened to a seminar yesterday that, that really struck home with me. We can talk about individual trauma of youth and putting youth in detention is trauma. But there's a lot of research now coming out about community trauma, being raised in a certain community and the trauma that it has on our youth and their more susceptibility to get involved in crimes. So that didn't directly answer your question, I don't know if I can,

but being I'm now blessed with having a data administrator, we can sure look at some of that data and see what we can pull for you.

LATHROP: OK, well, I appreciate all the work Douglas County is doing to try to transform the way they handle youth charged with criminal activity and-- Senator McKinney.

McKINNEY: I'm not sure-- are you aware of-- not aware-- could you tell me how difficult it is for youth to overcome being charged as an adult when it comes to seeking employment, housing, and, and education as, as they try to progress in life?

KIM HAWEKOTTE: It has a tremendous impact, especially if you're 16 and 17 years old and you're sent to prison for two years and you're out when you're 20, 21. A lot of them do not even have a high school education. They try to complete it in the correctional facility. It's going to be on the record the rest of your life as a felony. It's going to impact your employment. It impacts your education. In the juvenile system, a lot of the records do get sealed once they, they reach legal age so that it doesn't impair them that as much.

McKINNEY: How do you think that affects a community as a whole?

KIM HAWEKOTTE: That was the seminar I was listening to yesterday about the community trauma and how impactful that is on the entire community, because that's where the youth live. That's where the youth see, that's what they're used to and that's what they learn to expect. And that is not the way we want things to go. So, yes, I think it does.

McKINNEY: OK, because when you say 70 percent of the individuals charged as adults are African- American, to me, I think long term and think about the future. And if, and if that's the case, five, ten years down the line, my community is going to be negatively affected for a long time if we don't do something now. Would you, would you say that's correct?

KIM HAWEKOTTE: I would not disagree with your statement, Senator.

McKINNEY: All right, thank you.

DeBOER: Any other questions? Senator Slama.

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SLAMA: Thank you, Senator DeBoer. And thank you very much for coming to testify today. I, I think we can all agree the movements we've been able to make to avoid detention for juveniles have been positive. I, I just wanted to take a moment to get a clear understanding of what LB201 would mean in practical terms. So am I correct-- I've got some resources up here. Is it correct that under Nebraska law, we already give original jurisdiction in the juvenile courts to anybody 17 and under who commits a misdemeanor or even low-level felonies? Is that what we already do under current statute?

KIM HAWEKOTTE: Correct.

SLAMA: OK, so this would expand this to giving original jurisdiction to any crime committed by a juvenile in the state of Nebraska, is that correct?

KIM HAWEKOTTE: Correct.

SLAMA: OK, so we would be giving original jurisdiction in juvenile courts to someone that is accused of committing a serious felony, like killing a cop as an 18 year old, is that correct?

KIM HAWEKOTTE: Not at 18, no. They'd have to be under the age of 18. But if they were, say-- let's say they were 17, Senator.

SLAMA: OK, so 17 year old. OK.

KIM HAWEKOTTE: Yes, it would start there. There could be a motion to then transfer to district court based upon the crime. And under LB201, and then I agree with the previous testifier that's going to end up in the adult court, but that it would start originally in juvenile court and then be--

SLAMA: Sure. So, so what are the real implications for this case starting out in juvenile court with that youth, even if it's a crime where, you know, right off the bat this is getting transferred up to adult court, is, is there differences in where or how the juvenile is held in that anticipation of being in juvenile court until the transfer?

KIM HAWEKOTTE: No, it would not be any difference as to where the youth was held. I do believe that the length of stay in detention will decrease because the, the-- your transfer hearings will shorten.

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Instead of being the 211 days in district court, it will go down because under current statutes in juvenile court, it's a very fast 30-, 45-day time period they need to make those decisions. So I think that will, will happen with regards to that end. I'm going to give you an example of a case in, in Douglas County. It was a 14 year old that was charged as an adult for robbery with the use. He sat in detention over a year and at the end of that year, he then got transferred to juvenile court. So we have to think about as a system, what did we do to that 14 year old for that year? That's-- there's a big difference, as we all know, developing between the 14 year old and that 17 year old. So I think that has to be taken into consideration.

SLAMA: Sure. But as LB201 is written, it seems to be more or less a catchall for 17 and under.

KIM HAWEKOTTE: Sixteen and 17 year olds could be transferred to district court.

SLAMA: Could be, yes, but we're still giving that original jurisdiction to--

KIM HAWEKOTTE: To juvenile.

SLAMA: --juvenile courts. OK, thank you. I, I really do appreciate your insight on this. Thank you.

KIM HAWEKOTTE: Thank you.

LATHROP: OK.

KIM HAWEKOTTE: Thank you.

***SPIKE EICKHOLT:** Members of the Committee: The ACLU of Nebraska submits this letter in support of LB201 and we request this letter be included as part of the public hearing record and that our position of support of this bill be included in the Committee Statement. For over 50 years in Nebraska, the ACLU has worked in courts, legislatures, and communities to protect the constitutional and individual rights of all people. With a nationwide network of offices and millions of members and supporters, we take up the toughest civil liberties fights. Beyond one person, party, or side-- we the people dare to create a more perfect union. This bill rightly requires that all cases charging children with crimes begin in juvenile court before being transferred

to adult court. This is a simple, yet very important change. Children should be regarded as children in the court system. Even if they are accused of serious crimes, and even if these cases are likely to be transferred to adult court, we owe it to youth to hold them to a different procedural standard in the court system. Children are not miniature adults and should be treated differently. The recognized developmental differences between a juvenile and an adult offender have been discussed extensively by this Committee-in light of the impulsivity and a lack of appreciation for the criminal code justify allowing the youth to be initially charged in juvenile court rather than adult court. A growing body of research indicates that juveniles lack the appreciation and decision-making abilities of adults and initial decisions in a case can be devastating to a litigant in any sort of case, particularly in criminal cases. It is important to note that this bill does not change any of the standards or factors that courts are to consider when determining whether a criminal case should be transferred to adult court. The bill also does not change or limit the ability of either party-including the prosecution-to argue which court should have jurisdiction. Most importantly, the bill does not limit or restrict in any way the authority of the prosecutor to charge any crime that it feels it can prove. We pledge our assistance and cooperation in helping this Committee, and the body, in advancing this bill from committee.

***JULIE ERICKSON:** All children deserve society's protection to grow into healthy, productive adults. Even children who commit serious offenses are still children, and we should respond to youth behavior in a thoughtful and effective way that preserves community safety, contributes to Nebraska's future prosperity, and gives both children and communities the protection they need. We support LB201 because providing for original juvenile court jurisdiction for all juvenile cases, will ensure that youth will receive access to age-appropriate, evidence-based juvenile justice measures. Voices for Children supports the juvenile court as the appropriate point of origin for all cases when the individual charged is under 18. In 2014, the Legislature passed LB464 into law, requiring that nearly all cases in which minors age 17 and younger are charged begin in juvenile, rather than adult criminal court. This bill was based on years of research showing that charging minors as adults does not reduce violence or other antisocial behavior but is more likely to encourage it. Exposing minors to criminal charges and incarceration leads to increased recidivism,

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increased risk of prison rape, suicide, and other dangers, and infringes on parental rights and responsibilities to hold youth accountable and support their development into law-abiding citizens. Starting January 1, 2015, all misdemeanor cases against 16-year-olds, felony cases against those under 14, and Class IV & IIIA felonies were required to be filed in juvenile court first ("exclusive original jurisdiction in juvenile court"). In January 2017, all misdemeanors against 17-year-olds also must be filed in juvenile court. The data show that LB464 has been hugely successful: the number of minors charged in criminal court has dropped from nearly 2,000 in 2013 to just 204 in 2019. Over the same period, the number of juvenile arrests in our state has continued to fall, from 10,534 in arrests in 2013 to 8,931 in 2019. LB201 is an appropriate next step, extending juvenile court jurisdiction to all, as opposed to nearly all, cases. This change would ensure that all youth, no matter the charge, have a fair chance to receive access to age-appropriate justice procedures and rehabilitative services while protecting them from the dangers of adult prison. Moreover, the bill provides for a fair balance, by retaining transfer authority in the cases which currently have concurrent original jurisdiction between juvenile and county or district court. County attorneys can still file a motion requesting a judge to transfer a case out of the juvenile court and into the criminal court if they feel the circumstances are severe enough to necessitate a criminal court transfer. Facing the aftermath of an offense is never easy, especially when the severity of such offense stands in such stark contrast to the social definition and expectations we have for children. Still, we have a duty to remember that children are children and teens are teens, even those who commit the gravest acts, and they are entitled to age-appropriate treatment under the law. For these reasons, Voices for Children in Nebraska supports LB201. I'd like to thank Senator Pansing Brooks for bringing this bill, and the members of the committee for your time and consideration. I would respectfully urge you to advance it.

***ANNE HOBBES:** Dear Senator Pansing-Brooks and the Judiciary Committee: My name is Dr. Anne Hobbs and I am the Director of the Juvenile Justice Institute at the University of Nebraska at Omaha. I am writing today in support of LB201. Since 2013, the Nebraska Legislature has acted in concert with the national trends of creating a rehabilitative juvenile justice system for youth in Nebraska. The significant changes have been grounded in research and evidence supporting the treatment

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of youth in a developmentally appropriate way reduces recidivism, increases public safety and has a long-term positive effect on a youth's well being into adulthood. LB201 would implement a much-needed change in statute to continue to support an evidence based juvenile justice system in Nebraska. The most recent report by the National Policy Institute and Campaign for Youth Justice entitled, The Child Not the Charge: Transfer Laws Are Not Advancing Public Safety" {The Child, Not the Charge (campaignforyouthjustice.org)) details the national trend of reducing youth charged in adult court as well as identifying the specific reasons youth under 18 should stay in juvenile court, specifically: The data shows often youth charged in adult court do not pose a significant public safety risk. Nebraska is specifically highlighted in the report on page 10, illustrating that In 2017, Nebraska had 265 youth charged as adults, 29% were for traffic offenses, 43% for misdemeanors, and 27% for felonies. Transfer laws worsen existing racial and ethnic disparity. Recidivism rates for adult court remain dismal nationwide. The report indicates a 68% re-arrest rate after three years, and 83% after nine years. However, through LB201, Nebraska has the opportunity to build on the benefits and resources of the juvenile court and offer youth and their supports a better outcome. The specific benefits include but are not limited to: Nebraska has juvenile case progression standards that ensure swift court processing congruent with adolescent development and cognitive understanding. Youth charged in adult court often linger longer in detention which impedes their adolescent development, having long term impact on education, employment and overall well being; Youth struggle to understand the juvenile court process and court conditions. The Administrative Office of the Courts and Probation has partnered with the Robert F. Kennedy Center for Juvenile Justice to review court orders and conditions to ensure they are limited in the number of conditions and written and explained in a way that youth can understand. Youth are not afforded this in adult court; Stakeholders in the juvenile court process are trained in adolescent development and resources in order to assist in addressing their needs; Juvenile court allows the opportunity to have the record sealed ensuring better long-term outcomes for education, employment and reduced recidivism; Juvenile court can ensure a youth receives accountability and necessary treatment and non-treatment services through juvenile probation. Youth charged as adults and placed on adult probation can no longer access the resources the legislature has designated to juvenile probation for necessary community or facility-based

treatment. At the same time, youth 16 and 17 are not always eligible for adult services, nor is it best practice to intermingle youth and adults in treatment services. Youth are often not cognitively able to participate in adult services, therefore extremely limiting the rehabilitative options for youth if they are placed in the adult court system. Juvenile court also is designed to work with the youth's family and community supports setting the youth up for long-term success. We are pleased to see the introduction of this bill to come alongside the over 45 other states across the country who have implemented similar reforms to ensure youth are treated as youth and have opportunities to grow into productive members of our communities. In addition, we would encourage the committee to consider taking this opportunity to set specific timelines for the appear process outlined on pages 3 and 4 of the bill to ensure youth involved in the appeal process do not linger in detention centers unnecessarily. Thank you for your consideration and support of the youth of Nebraska.

LATHROP: I think that's it. Thanks, Kim. Next proponent. Anyone else here to testify in favor of the bill? All right, we will take opponent testimony. Welcome.

TRESSA ALIOTH: Well, thank you, Chairman Lathrop and members of the Judiciary Committee. I have had the opportunity to meet some of you, but not all. My name's Tressa Alioth, it's T-r-e-s-s-a A-l-i-o-t-h. I am in opposition to this bill on behalf of the Nebraska County Attorneys Association. Just by way of background, for those of you who don't know me, I have been with the Douglas County Attorney's Office since 1995. I have worked in all divisions in Douglas County. We have juveniles separate from our criminal division, which in some smaller jurisdictions they do not. And to Senator Slama's point, the current way that we do things is that we have Class IIIs, IIIAs, and Class IVs do start out with original jurisdiction in juvenile court. What this bill addresses is your IIAs, your IIs, your IDs, your ICs, your IBs, and your IAs. Those are robberies. Those are weapon charges. Those are prohibited person charges. Those are murder charges, assault charges, sexual assault in the first degree. They are the most egregious, most violent felonies that we have set out in statute. The penalties for such, on a Class 2A, which is the lowest, you're looking at a 1- to 20-year sentence. On murder, you're looking at life. So the fact that the system is set up the way that it is now, as Senator Slama pointed out, you're dealing with the more serious 16 and 17 year olds. Miss Hawekotte mentioned 14, 15. It's on the rare occasion that we're

charging a 14 or 15. And since the statute, we don't anymore. So just so that you understand, the way that this works is our office doesn't just file every single 16 or 17 year old that comes in. In my 26 years in the County Attorney's Office, I'm currently a supervisor of attorneys, we actually sit and we review reports. We're given a juvenile intake summary that tells us all the services or if that juvenile's involved. We also then may, may contact victims, may contact parents, may contact guardians in making a decision on whether we charge that juvenile or whether we send that juvenile to juvenile court. So it's not that we're automatically charging all of there's, there's a thought process that goes into play when we make a decision to charge a juvenile. And I see I only have a minute. But the time factor is also an issue. LB354 that we were in support of earlier today, changes that, that 211 days that Miss Hawekotte talked about. That's not because of the state. That's not because of anything-- defense counsel in these cases are having psychologists come in. They're continuing because they need more time. That's not anything that's going to change if these are moved to juvenile court. The detention of these individuals, because, again, we're talking about murderers, we're talking about gun charges, we're talking about assaults, they're going to remain detained. So that time period, and which is why we're in support of LB354, if that time period is shortened, all you are doing is, as you pointed out, Senator Lathrop, is you're just rearranging what is already being done. Miss Hawekotte gave 74 cases. She said the 60 percent stayed adult, 30 percent went to juvenile court. You're talking about 44 cases that are now going to have to start in juvenile court, log them up with having hearings. And in our jurisdiction, they're not 40 minutes. They're actually half a day long when you put on all of the evidence that we put on as county attorneys to make a decision on whether these are transferred. I see that my time is up. I was going to go through the things that we consider in those transfer hearings and what we put forth. So if you have questions, I do have that information.

LATHROP: I'm confident there will be questions. Let's start with Senator Slama.

SLAMA: So what is considered in those transfer hearings?

TRESSA ALIOTH: I'm glad you asked. So there are 15 factors that either court, regardless of which one, and again, it's the county attorney's burden. So we're the ones putting forth evidence on these, on these

factors. And it is the type of treatment that they would be likely amenable to, whether there's evidence that the alleged offense included violence, the motivation for the commission of the offense, the age of the juvenile and the ages and circumstances of any others involved. The previous history of the juvenile, the best interests of the juvenile, consideration of public safety, consideration of the juvenile's ability to appreciate the nature and seriousness of his or her conduct. Whether the best interests of the juvenile and the security of the public may require that the juvenile continue to be in a secure detention facility. Whether the victim agrees to participate in treatment, whether there are pretrial diversion programs that are available, whether the juvenile has been convicted or has acknowledged use of firearms in the past, and then whether they are members of a street gang.

SLAMA: So these are all factors considered on the front end with these serious felonies in determining whether to send these charges to adult court, juvenile court.

TRESSA ALIOTH: Correct. So when we're having these motion to transfer hearings, we're having to put forth, yes, they've been involved in juvenile court. Yes, they've had services and they were not-- didn't take advantage of those. We're not just charging every single one. If you-- if they haven't had those services, we do send those to juvenile court. However, what I ask you all as senators to think about is how are we rehabilitating someone who committed murder? How are we rehabilitating somebody who not once has shot somebody but shot on one side of town, then went over to the other side of town and shot someone else? How are we rehabilitating them? So it becomes, are-- even if they're in juvenile court, are we keeping them detained? I would submit to you there's not a juvenile court judge that is going to release somebody that is charged with the offenses that we have here.

SLAMA: And LB354 would resolve that concern that we've talked about a couple of times in this hearing of the juvenile sitting and waiting for that transfer motion for 200-- however many days, and narrow that down to 30 days. Is that correct?

TRESSA ALIOTH: Yes and no. Being practically and, and transparent and honest, it'll give the judges 30 days to make that decision. However, the-- I have a case that has been-- it's a murder of a 16, he's 16 and

defense counsel filed the motion within 15 days. They moved to continue because their psychologist couldn't get the individual evaluated. They then had to continue again because that evaluation wasn't in written form. They then had to continue again because that psychologist wasn't available for testimony. They then after the hearing was ruled on within three weeks by the judge, appealed that. So those things are not being taken into consideration in that 211 days or that 180 to the 200 and 365 days. Defense has to prepare for the things that they want in opposition to the things we show this should not be transferred to juvenile court. So it's not just the judges. Defense is the one, like as my colleague stated, we don't move for continuances on those.

SLAMA: Thank you. I really do appreciate your insight here.

TRESSA ALIOTH: Thank you, Senator.

LATHROP: Senator DeBoer.

DeBOER: Thank you very much for testifying. Can you help me understand because I do wonder if what we're doing is sort of-- I want to know what the, the practical effect is. So you seem to be very strongly against moving this original jurisdiction for the most severe cases. Others say we must have the original jurisdiction there. It seems there must be something happening beyond just where the original jurisdiction is that people are worried about. So is your concern that there will be more, not just given original jurisdiction, but that they will retain jurisdiction in the juvenile court? Or is your concern that somehow by transferring the jurisdiction, the original jurisdiction there, it's going to take longer to get it to your court and then there's something there? What's-- I'm trying to get what the, the, the bottom line is here.

TRESSA ALIOTH: OK. So-- and I thank you for that question, Senator DeBoer. When you charge initially and, and what-- the way our system has been set up from the onset is when an individual is going to juvenile court, that that is a lesser court. You're not-- as it's been stated, it's rehabilitation. It's not punishment. So if you make the presumption of we're going to start a murderer in juvenile court or someone that is charged with murder in juvenile court, you're making the presumption that if they're 18-- or are 17, we've got a year to do something about that. The other side for me, practically as a, as a

attorney who prosecutes these types of cases, is I've got this now with another attorney that's in juvenile court that is starting this process out, another court that is hearing all of those. And then I come in and start later. So while the whole goal is let's start this process and get them in treatment facilities and get them started in treatment, these are individuals that, as I stated before, where is the treatment for these types of cases? These are the ones we're keeping. So you're basically delaying what the start is into the district court by putting it down to juvenile. As the state-- the numbers stated by Miss Hawekotte, if you deal with those 74, 44 stayed in adult court, 30 went to juvenile court. And of those 30, some of those are ones that we unoppose and they get sent by our office after we've been into the discovery and we have talked to family members and we have dealt with those, we'll not oppose those specific transfers. So in this case, you're starting with the district court where all of the background that we go-- that goes into these, you're just delaying it coming down to district court because the cases we're talking about are as stated by the previous proponents of this are going to end up in district court.

DeBOER: So the objection is more the delay then whether they're going to be materially placed differently, because it seems like everybody's saying today that, that for the most part, with maybe one or two exceptions, they're going to end up in the same place. Is that--

TRESSA ALIOTH: For detention, yes, they, they will stay. The reality of it is this particular bill is not-- it's not going to have more of these cases stay in juvenile court.

DeBOER: That's what I'm saying because more or less, maybe there's one or two that might, who knows, but you're saying you think that ultimately the, the cases that you keep in district court, even if it starts in, in juvenile court, are going to still end up in district court.

TRESSA ALIOTH: Exactly, Senator DeBoer. Yes.

DeBOER: So your concern then is why delay the proceedings to go to district court.

TRESSA ALIOTH: Correct.

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DeBOER: OK, thank you.

LATHROP: Well, I want to make sure I understand that. The practical effect of this is you don't think there will be more cases retained in juvenile court than there are right-- than, than are sent there right now.

TRESSA ALIOTH: Correct.

LATHROP: For-- as we've already talked about, the, the lesser felonies start out in juvenile court, it's the very serious ones that start out in the district court. Are any of those being transferred up to juvenile court?

TRESSA ALIOTH: There are, and I know my colleague will testify after I'm done here, who practices more in juvenile court. I know there have been decisions that we've made on the onset of manslaughters where the juvenile is young, that we have filed those in juvenile court. We haven't filed those in adult court. There are several cases that--

LATHROP: You're losing a few of these because I've read them in the advanced sheets. You've appealed some of these decisions, right?

TRESSA ALIOTH: Exactly, we have. Not all of them go. We do, and again, some of them we're, we're having the transfer hearings. Don't have the amendable services, but it does become, haven't had prior services, but it becomes what is available to them. So while juvenile court may have the juvenile court judges and I know Senator Pansing Brooks made the statement of do we trust our judges? It kind of begs the question of do we not trust our district court judges, but we trust our juvenile court judges. Yes, they know the juvenile services, but they don't know how to deal with these violent offenders. And so there are some that have been transferred. And again, some we've agreed after we've went through the process to transfer. And then there are some that we have lost on transfer that have been sent up.

LATHROP: If this starts out in juvenile court-- this is a question I had earlier. If it starts out in juvenile court, are they allowed to leave and not be [INAUDIBLE]? Does the-- where they sit while they're waiting disposition change depending on whether it's in juvenile or adult court?

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TRESSA ALIOTH: Thank you for that question, Senator. Miss Hawekotte talked about that there are other resources, namely that we can do, out-of-home placement and shelters. Practically, you're not going to have an out-of-home placement or a shelter that is going to take these type of offenders. So they are going to remain in the Douglas County Youth Center if they're under the age of 18. If they're not under 18, then they're at Douglas County Corrections.

LATHROP: Regardless of where they start at.

TRESSA ALIOTH: Regardless. Yes.

LATHROP: Is the hearing any different in juvenile court on a motion to transfer to district court as it is in district court on a motion to transfer to juvenile court? In other words, the same fifteen considerations, the same hearing, the same evidence. It doesn't-- the, the hearings are going to look identical for all practical purposes?

TRESSA ALIOTH: Yes and no. I will say that I know our juvenile court, and again, my colleague can speak to the calendar in juvenile court does not have the wherewithal or the time to address the hearings. I know in district court, like I said, I know and I, forgive me for her name, but from the Lancaster Public Defender's Office said that in the 40 minutes. Our hearings that are done in district court are usually scheduled for half a day when we're dealing with the motion to transfer. So I would say that we're spending more time on these in district court than they would have the ability because of their docketing in juvenile court. If we're going to start all of these cases up here, practically speaking, I don't know if they're going to be able to continue to get them done in the 30 days or get them scheduled that way if we're putting all of these cases in juvenile court first. So the hearings, yes, they're conducted the same. Yes, it's the same factors. But I would submit I think they're spending more time on these serious ones in district court than they are in juvenile court.

LATHROP: OK, I think that's all the questions I have. Is that-- Senator McKinney.

McKINNEY: Are youth that are accused of-- youth that you deem as very violent, are they innocent before proven guilty or guilty before proven innocent?

TRESSA ALIOTH: Everyone that's charged in our system that we have is they're innocent until proven guilty. That is our system.

McKINNEY: So would you not make the determination that they can't be rehabilitated-- even, even though they're accused of something, can they or can they not be rehabilitated? From what you said, you're like these, these, these individuals of these violent offenders can't be rehabilitated. What are we doing? Are we making that determination prior to the kids coming in front of you or coming in front of the, the youth system or not?

TRESSA ALIOTH: No, we look at factors prior to making the filing decisions on whether or not there are services that are available and whether this is an individual who is going to be somebody that's going to need to be detained and what then can be done. We're not saying that they're guilty of this, but we're saying based on the background, based on the juvenile intake sheet, based on their record, based on the crime and the public safety interest of society, this is something that's going to be dealt with in adult court because there are not going to be juvenile services that can handle rehabilitating this individual.

McKINNEY: So there are no services in the juvenile system that could help with the mental state of the youth that's accused of robbery.

TRESSA ALIOTH: And Senator McKinney, no, that's not what I'm saying. I'm not saying that.

McKINNEY: So what are you saying?

TRESSA ALIOTH: I'm saying based on the violent nature of these and considering the factors that we as county attorneys have to consider on whether this should be a case that is in juvenile court or adult court, we look at those factors and make a decision on keeping that or tran-- or letting that be filed in juvenile court. So just because this encounters robberies, we don't file all robberies as adults. There are robberies that are filed as a juvenile. We take into consideration all of these factors when making that decision. The way the system is currently set up, that's how our office is. It's not that every single robbery or every single shooting or every single offense that fits here is charged in adult. The majority of them are. But we weigh all of these factors. And so not every single case, the

way that LB201 is going to have it go is that all of those are starting in juvenile court and then majority of them will be sent back down. I'm not saying we're saying there are no services available at all, but to the ones that we end up filing in adult court, there is not anything else.

McKINNEY: Has, has your current system doing things, one, made communities like north Omaha safer, and two, has it lessened the amount of individuals going inside the system?

TRESSA ALIOTH: I would say that it has made the system safer. I know my job is still like-- my numbers have not decreased because of COVID in the amount of violent felonies that I'm charging. So I know that it has made it safer. And I apologize, what was the second part of your question?

McKINNEY: Sorry, I said communities like north Omaha, not making the system safer. I was saying, has your strategy and the way you've been doing things made communities like north Omaha safer?

TRESSA ALIOTH: I think it's made all communities safer. But has crime went down? No.

McKINNEY: So how do you determine safety?

TRESSA ALIOTH: If we're taking an individual that we have through investigation with officers that has been found to have committed an offense off of the street that's making the community of north Omaha and all of Omaha safer. It doesn't necessarily mean that there's not going to be another shooting, but it's making that safer when we're taking these individuals off the street. Yes.

McKINNEY: OK. I guess my firsthand experience of, you know, I have family and friends that have been convicted as juveniles and ended up going in and I'm-- it's, it's, it's never a perfect system. Not everybody is going to be reformed or rehabilitated. That's just impossible. That's life. And I don't care what demographic you come from, that's just a fact. But I think we should afford individuals, especially individuals from communities that are high in poverty, not just, not just in north Omaha, but across the state of Nebraska that are high in poverty, don't have as many opportunities for upward mobility as the rest of, you know, society. And it's, it's not to say

that the, the crimes that they commit aren't great and we should be advocates for them. I'm not saying that. I'm just saying a lot more has to be taken to account when we look at these kids, because I know a lot of these individuals. And I'm not saying they're perfect, but just to throw them into adult system because we deem them as super violent, I'm not really understanding that. But thank you.

TRESSA ALIOTH: I, I would, Senator McKinney, I, I agree with you. I am from the north Omaha area. My mother and my family live in the north Omaha area. I have had family that has went, have went through the juvenile court system. But it's not the court system that is where we need to start. It is just the socioeconomics of our community that we then don't find people of our community in the court system. It's not the court system that changes. We can't simply say because you are from a certain area of town and you committed a violent crime with a firearm, that we're going to do this any different. For us, we don't-- in our office, we do not look at race. And quite frankly, for me, I don't look initially at age when I'm looking at a charge. Once I then make that decision of what I think happens here, the age factor becomes into play for me because then I need to go through my list of is this one that I keep in adult court or file in juvenile court. So I agree with you, Senator, that there does need to be a change, but it's not one that we can do in making a decision on whether we charge someone as an adult or a juvenile.

McKINNEY: All right. Thank you.

TRESSA ALIOTH: Thank you.

LATHROP: Senator DeBoer.

DeBOER: Sorry, I thought of one more as we're kind of going through this and I'm really just trying to figure out what it is we're, we're looking at here, where the pressure points are. Who is in the best position to determine whether someone should be charged as a juvenile or as an adult? Who's in the best position to determine that?

TRESSA ALIOTH: I believe the current system that we have now, county attorney who is an elected official.

DeBOER: So the county attorney is you would say-- I'm not-- this is not a trap, I'm just trying to figure it out. So you would say the

county attorney, particularly because they're an elected official or maybe regardless of that, are in the best position to determine whether or not someone should be tried as a juvenile or as an adult as opposed to a judge or a juvenile judge or--

TRESSA ALIOTH: Now, forgive me if I misspoke, Senator DeBoer, charging decisions, because all charging decisions are made by the County Attorney's Office. The charging decision should be made by us. No, the ultimate--

DeBOER: Sorry, sorry. I should have been more clear. The original jurisdiction, who-- not even the original jurisdiction, the ultimate jurisdiction, who is in the best position to determine whether it should be-- it should go forward as a case in the juvenile system or go forward as a case in the adult system?

TRESSA ALIOTH: I believe the system that we have now, namely on the more serious offenses you're dealing with the district court weighing those factors because of the docketing and, and the amount of time that can be taken on these types of hearings versus dealing with it in juvenile court.

DeBOER: But that, that isn't really it, because you've said that some, some robbery cases you send down and some don't. So there is a discretionary function somewhere.

TRESSA ALIOTH: Yes.

DeBOER: It's not just statutory because there's a discretionary function that's operating here.

TRESSA ALIOTH: Correct.

DeBOER: So who's in the best position to perform that discretionary function?

TRESSA ALIOTH: Are we talking in the charging or are we talking in where that case ends up?

DeBOER: Ultimately.

TRESSA ALIOTH: Ultimately. Obviously by statute, the judicial, the judicial branch is the one that can do that. And I think that the way

it is now is district court deals with your more violent felonies, namely our IIAs to our IAs and juvenile court has jurisdiction over--

DeBOER: But not all the IIAs through IAs, right? Like, some are sent to juvenile.

TRESSA ALIOTH: Some are sent to juvenile, yes.

DeBOER: So there, so there still is-- so I don't think we can go-- I'm sorry, I, I don't think we ultimately can say the statute is going to make the decision for us because it isn't, ultimately.

TRESSA ALIOTH: No, but in practicality-- I guess to better answer this question, Senator DeBoer, is in practicality right now that decision of, of those 74 that we put, 30 percent did go to juvenile, but 44 stayed down. The way that LB201 is designing it is, is that everything is going to start up in juvenile court. And so then you're going to have our office, which my colleague can speak to when I'm done, filing motions to transfer on every single thing, because they're timing of, of having to file charges and make those decision is much shorter than ours. So now on all of these cases, you're going to have a motion to transfer filed on everything, whereas the way it's currently set up, we file it and it's on defense counsel to make a determination as to whether or not they file a motion to transfer from district court to juvenile court. And not all of those cases have that motion to transfer filed in those.

DeBOER: I get that, I, I, I understand the docketing and timing argument. I-- I'm just trying to pinpoint for that discretionary function of those folks in those higher, more violent crimes when there's a decision to be made about whether or not they should stay in the district court or go down to juvenile or vice versa, if they stay in the juvenile or go up to the, the district court, like somebody's got to be deciding on those liminal cases which, which side of the fence they end up falling on. And I'm trying to determine because the testifier before you said it's best for the, the juvenile court judge to decide because they are involved with it. They know what's available, that sort of thing. And what I want to know from you is if you agree that ultimately the juvenile court judge is better suited or if you think that for some reason the district court judge is better suited to make those adjudications.

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TRESSA ALIOTH: Well, I agree as it comes to-- and, and I would agree with those that testified before me that our juvenile system does do great things. I do think that our juvenile justice, our juvenile court judges have more understanding of the treatments and facilities that are available for those juveniles that can be rehabilitated. I believe they don't have the same wherewithal that the district court judges do when you're dealing with violent offenses. And so I, I believe the current system that we have now where it's divided, I just don't think that the juvenile court judges will attempt in per se a, IA, a murder charge to try to decide are there any services that we can do for this individual that has killed two people.

DeBOER: OK, so you would say that because of the violent nature of the crimes in those higher felonies, that the district court judge would be better suited to make that discretionary judgment than a, than a juvenile court judge?

TRESSA ALIOTH: Yes.

DeBOER: OK, that's what I wanted to know.

TRESSA ALIOTH: OK.

LATHROP: Senator McKinney.

McKINNEY: Wouldn't, wouldn't a juvenile that commits the offense of murder-- if a 14, if a 14 or 15 year old commits a murder, don't you think it's fair for somebody that has a great understanding of juveniles and their, their brain development, mental capacity to make that judgment?

TRESSA ALIOTH: Again, when you're dealing with murder, you look at the factors that we consider. I mean, a lot of things that we're talking about here hit from our emotional side and, and I get that. But when you're looking at the factors as prosecutors that we set aside and look at what we have on where an individual goes. When you're dealing with a murder, you're talking about public safety. And so in those situations where you're dealing about the motivation for the crime, the violence of the crime, the consideration of them knowing the seriousness of it and public safety, those are all ones that are better suited where a district court judge is going to have a handle on what they do with that individual because there aren't going to be

facilities in the juvenile court system that will take that individual.

McKINNEY: And I'm not dealing from an emotional place. I'm dealing from logic. If, if a doctor is, you know, a specialist in cancer, would I rather a cancer specialist make a decision on my life or a chiropractor?

TRESSA ALIOTH: And, and, Senator McKinney, you said a 14 year old, currently we're dealing with 16, 17, so 14 would start in juvenile court.

McKINNEY: OK, a 16 or 7 year-- 17 year old, according to statistics and data, brain isn't fully developed yet.

TRESSA ALIOTH: But then you're dealing with-- again, you're dealing with someone who has taken another person's life at 16 or 17, going to juvenile court. What services are we going to be able to give them to rehabilitate them for murder in a year to two years?

McKINNEY: So if, if I go commit a murder at 16 or 17 years old, I'm going to be released to the public in one or two years, is what you're saying?

TRESSA ALIOTH: Juvenile jurisdiction only has till 19.

McKINNEY: I know individuals that are-- I would just leave it alone. Thank you.

TRESSA ALIOTH: Thank you, Senator.

LATHROP: Senator Morfeld.

MORFELD: Thank you for coming in today. You've, you've talked a lot about murders. I mean, so how often-- this is much more expansive. This covers a lot more than just murder cases. How many-- maybe you know the statistics on top of your head. Maybe you don't. This probably isn't fair. But I mean, on average, how many juvenile murderers are there each year in your jurisdiction? Douglas County, right?

TRESSA ALIOTH: Yes, I'm Douglas County. Oh, gosh, I wish I had that number. I know right now I have six murders sitting on my desk. Of

those six, two of those are 16 and 17 or 17, and I think the other is now 18.

MORFELD: OK. So I guess, I guess the point that I'm trying to make is there's a lot of other cases out there, and granted, these are serious crimes. I'm not, you know, I'm not dismissing assault or sexual assault or anything like that. But you're bringing up murders, and that is obviously the most kind of visceral, heinous, most heinous crime. But it seems like on, on one hand, we're saying that district courts are-- district court judges are best suited in this-- in these types of cases and juvenile court judges are best suited in these cases. But it really comes down to it seems like you just believe that the county attorney is best situated to determine whether it should go to district court or juvenile court. I guess my feeling is, is that juvenile court judges deal with juveniles on a daily basis and have a better understanding of the services and needs. I just feel like there's a disconnect. You're saying district court judges are, are best suited in these cases. Juvenile court judges are best suited in these cases. But what it really feels like you're saying is that the county attorney should just be able to decide. And you're, you're best suited to determine that. Is that, is that what I'm hearing or not?

TRESSA ALIOTH: Senator Morfeld, I appreciate the question and I'm not, I guess, saying that in looking at it from the perspective of how our system works and in practicality. I mean, it's easy to sit here and, and look at this just in kind of a, a black or white, but in how we actually do things, making that decision of those cases that's been discretionary in the County Attorney's Office as long as I've been there, makes so that there's not as many things filed as much as it's going to create putting everything in juvenile court. We don't necessarily with the discretion. So I guess if your answering me, do I believe with the discretion where it's at is the best situation right now. I do, because we're not filing every single thing. The things that we do file that may not necessarily-- a district court determined to stay there, which out of the cases there were 40 percent that went to juvenile. And again, I would give you that not all of those were contested hearings. So I believe the way that things are suited now, there's just a bunch that are going to come from juvenile court that are going to end up back in district court. And I would say that the system, it's going to be longer progressing that case through the system than it is the way we do it currently.

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MORFELD: OK, I'm still just thinking it through my head, but I appreciate that. Thank you.

TRESSA ALIOTH: All right.

LATHROP: Just one last thing, and, and this is going to be a homework assignment.

TRESSA ALIOTH: I think I've been here the longest of anybody all day.

LATHROP: I know, I know the 30 minutes are up. We should clear you up. No, here's a serious question. If you have-- if your logic is or, or one of the reasons for your position is that it takes longer to get this done and juvenile court isn't equipped to do it as rapidly or in as timely fashion as district court. Can you get us information on how long it takes for a motion to transfer to district court from juvenile court, how long it takes for one of those? On average, how long does that take for the juvenile court to dispose of that motion versus the district court motion to move up to juvenile court?

TRESSA ALIOTH: I don't have the answer to that, but, yes, I can get that to all of you.

LATHROP: That's really, that's really one of your arguments today if I'm listening and hearing everything you're telling us is that juvenile court isn't equipped, it would take longer if this was up to juvenile court, district courts are better equipped.

TRESSA ALIOTH: It is, Senator Lathrop. But I guess the biggest argument here is that the majority of cases of that we're talking about, again, just the IIAs to the IAs that start in juvenile court are going to end up in district court. I mean, that's, that's just a given. The majority, even in the numbers that Miss Hawekotte gave, the majority of those cases remained in adult court. And that's what's going to happen. So that's why I'm suggest-- submitting to the senators that the way the statute's currently designed is the best fit. But I can get the exact time limit to all of you. Yes.

LATHROP: OK. And I said I was just going to give you homework and not have another question. But if I'm listening and hearing what's being said, when we look at the 15 considerations, this being a serious offense is one of the big considerations and the list, which is really why they almost presumptively start out in district court and you've

got to get them moved as opposed to starting out in juvenile court and get them over to district court.

TRESSA ALIOTH: Correct.

LATHROP: Isn't that the logic behind sort of the serious ones start here and the lesser felonies start there.

TRESSA ALIOTH: Yes, to get them in the court where they're actually going to be adjudicated and tried. Yes.

LATHROP: OK. No other questions.

TRESSA ALIOTH: Thank you, Senators.

LATHROP: Thank you, thank you. And if you can share that with my office, that'd be great.

TRESSA ALIOTH: Yes.

MARK HANNA: [INAUDIBLE]

LATHROP: Oh, no, no, no, no, no, that's OK. We have the time today and the committee asked a lot of questions, so we're going to go ahead and let you. Don't tell anybody this, though.

MARK HANNA: It'll be our secret. Good afternoon. Mark Hanna, M-a-r-k H-a-n-n-a. I'm a deputy county attorney in Douglas County representing the Douglas County Attorney's Office. I want to reframe the topic and the question and the issue because this isn't solely-- this isn't a question of can a juvenile be rehabilitated? That's not a question the court asks. The court asks the specific question, can the juvenile be rehabilitated and can society still be safe? If the juvenile can be rehabilitated, but the risk to society is still too great, the court will not side on the-- for the side of rehabilitation. They'll put on the side of community safety. And that's the thing that's the most important here. This is a balancing test. This isn't black or white. This is, can a juvenile be rehabilitated while making sure the public is safe? And earlier, when the senator first introduced the bill, she gave the example of a 14 year old with drug problems. These are not the cases we're talking about. We're talking about IIAs or above, we're talking about the murders, the robberies, the kidnappings, the arsons, the shootings. These aren't children running around drinking.

These aren't the MIPs. These aren't the marijuana or, or even the harder drug issues. These are the serious violent offenses is what we are referring to. And the question of where should it start initially is the county attorney's decision. It is our discretion. And I side for that, frankly, because when we look at it, what is the county attorney's job? We represent the state and we do the best we possibly can to ensure the safety of our community. So when we file a murder charge in district court versus a murder charge in juvenile court, those send two distinct messages to the community. And I know that because I have personally spoken to many victims in the Omaha Douglas County community about this very issue. And that's why I'm here today. Looking into the eyes of a parent who lost their child due to another child shooting them and killing them and telling them this is staying in juvenile court was one of the hardest things I had to do. But I did it. We in Douglas County take into-- everything into consideration that we possibly can. Since I've been a county attorney, I know of at least three manslaughter cases that we started in juvenile court. And that's because we had the ability and the knowledge and experience to know, listen, this was a 14, 15, 16 year old. It either was an accident or based on the circumstances, we felt it was better for juvenile court. And we're the executive branch. There are checks and balances. If someone disagrees with that decision, they filed the motion to transfer and that's what should happen. And with these IIA or above, they should start with the county attorney [INAUDIBLE] would better serve the community, serve justice. So if there are times where we have an arson or a kidnapping or a robbery and we file it in district court, that's because the county attorney feels that what happened, those circumstances were so dangerous that it warrants for those individuals to be treated like adults. And if anyone has an issue with that decision, they file the motion to transfer. And statutorily, there are the guidelines and timelines for when the motion has to be filed and when the court has to hear it. It looks like I'm out of time. I have one more moment. Thank you. Practically speaking, what will be the outcome of this bill? It's not going to be that more juvenile children are going to stay in juvenile court. There's been a lot of testimony that juvenile court judges are the expert. But first, they are judges. A judge cannot take the stand and testify to himself or herself about brain development or services. If you have a juvenile court judge, state files a motion to transfer and defense counsel puts on no evidence, the judge will have no choice but to transfer it to district court because there was no evidence. The

judge isn't going include his knowledge, like any judge, whether you're in county, district or juvenile court into their particular case. But practically speaking, in juvenile court, when we filed the motion to transfer, if this bill passes, we have not a long time to file the motion to transfer. There are going to be times where I get a murder across my desk or several or kidnapping or robberies. I can get three robberies across my desk in juvenile court or in juvenile office. I have to make the determination of whether or not I'm going to file a motion to transfer right then and there because we value juveniles and we want to make sure they're heard as soon as possible. So I have to file those charges within a very quickly time frame to ensure that that same very day they're heard on the detention hearing and hopefully get arraigned to speed up the process. That gives the County Attorney's Office zero to no time to make that decision. So what is the outcome? The state cannot say, I'm sorry, victims, I'm sorry, state, we could not bring this to adult court because we didn't have enough time. The outcome is going to be the state is going to have to file motion to transfer on all of those that come across the desk and then either work out a plea agreement later on with defense counsel, we'll get court time, waste that court time, flood the court time. In Douglas County, we have hearings every 15 minutes simply because we have these serious charges and we by law have to file the motion to transfer with our petition.

LATHROP: OK.

MARK HANNA: And thank you for your time.

LATHROP: That was a little more than a little. And I don't want to start setting a precedence. Senator McKinney.

McKINNEY: Thank you for your testimony again. What services would the adult system give that would assist in rehabilitating or correcting juveniles that are IIA and above in the adult system versus the juvenile system? What, what, what is the benefits of one at one?

MARK HANNA: So I'm going to answer that question. I don't actually think that relates to this particular bill, because this will not have-- this bill will not have an effect on that. But it's the same exact services. As you heard from the public defender from Lancaster County, according to statute, the district court has the same ability

to order the same exact juvenile dispositional orders. And it would be up for defense counsel to argue that to the court.

McKINNEY: The testifier before said that the district court is more qualified to provide the services versus the juvenile court. But you just said they're the same. So what-- what's the difference here?

MARK HANNA: Well, the difference is, it's the question you asked. You asked me a question of whether or not the type of services. The question you asked my colleague was making the decision. So if you could narrow your question on what's the difference between the two courts in-- are you asking making a decision between whether or not to transfer or are you asking for the sentencing and dispositional orders? Because those are two separate answers.

McKINNEY: Making the decision on what's the best, best route to go for the juvenile is my question.

MARK HANNA: And here-- and now I'm going to say it's district court for a very specific reason. When it's filed in district court, defense counsel has to file the motion to transfer, which doesn't happen all the time because there are juveniles who don't want to be transferred and there's actually juveniles who transfer from juvenile court to district court on their own motion. But it's the district court, because at that point of time, defense counsel then has to show the court what type of rehabilitation the juvenile would be amenable to, what type of services is in district courts, you have that information coming in. Then you have the district court judge who is vastly more experienced in the type of IIA crimes and above, and they can make that balancing test. So I would say it is the district court.

McKINNEY: All right, thank you.

MARK HANNA: Thank you.

LATHROP: I don't see any other questions. Thank you so much for being here today and for your patience.

MARK HANNA: Thank you for your time.

***MICHAEL CHIPMAN:** Chairman Lathrop, members of the Judiciary Committee, for the record, my name is Michael Chipman. I'm appearing today as the President of the Fraternal Order of Police lodge 88. This

is the union that represents Protective Service workers in the Nebraska Department of Correctional Services and in the Department of Health and Human Services. Specifically, in the Department of Health and Human Services "we represent Youth Program Specialist at the Youth Rehabilitation Treatment Centers. I am against LB201. This bill aims to make all crimes committed by a juvenile have to go to Juvenile court. This would include violent assaults against our staff at the Youth Rehabilitation and Treatment Center. As we saw in the not too distant past juveniles disassembled a bed and beat our staff with the poles. We have seen staff have to go to the hospital with serious injuries. If a dangerous assault like this happens then the juveniles should be able to go to district court and be tried as adults. This bill makes our staff lives be in even more danger. I would ask you to vote no on this bill as it put our lives in further danger.

LATHROP: [INAUDIBLE] waiting. Anybody else here to testify on the bill? Seeing none, Senator Pansing Brooks, you may close. We do have three position letters: two are proponents; one is in opposition. In addition, we have written testimony that was provided by-- it looks like four people: Spike from the ACLU is a proponent; Julie Erickson, Voices for Children, a proponent; Dr. Anne Hobbs with UNO is a proponent; and Mike Chipman with the FOP is an opponent. With that, Senator Pansing Brooks, you may close.

PANSING BROOKS: Thank you, Chairman Lathrop. So first off, I, I thought it was a good hearing and I appreciate everybody who came and spoke today. And you all had good questions, so I appreciate that. As Senator Morfeld said they're highlighting the, the bad kids, the worst kids, the murderers. And my opinion is that we should treat kids as kids before giving them-- giving up and sending them to prison. We need to allow the judicial experts who are the juvenile judges to-- and, and all the people that they work with, probation, the service providers, you know, all of those that determine the chance of rehabilitation to work together to figure out what's best for the kids. All of them, all of these kids are not murdering. And the excellent information passed out by Miss Hawekotte shows that the bulk of these charges are weapon possession, theft, and drugs. The FIIA is theft of more than $5,000. Some, some computers are $5,000, or a stolen car, burglary of any building or storage unit that-- of a business, selling marijuana or possession of lots of marijuana, possession with the intent to sell. So possession of, I believe, 10 grams or more, the felony II levels are selling of any kind of

nonmarijuana like cocaine or pills. Serious assault is included, but without a gun. So, yes, the other-- there are felony assaults higher that, that do have guns. But they-- all they talked about was murder, not drugs, not, not theft with a computer or, or a car. And so what we have are kids. And our system was established on the theory that we are to treat kids as kids and we ought to give them every chance they can get. And that includes having them go to the brightest and the best who are trained, who go to seminars, who are completely comfortable in dealing with and, and, and handling issues related to kids. If it's more serious, it's absolutely going to go to adult court. There-- the juvenile court judges, I don't-- they never talked about that. What juvenile court judge is going to keep a murder case that-- they're not. These marginal kids should be under the purview of the, of the juvenile court judges to get some rehabilitation. And we're talking about kids under 18. There was some confusion in that. In, in under 18, all kids go to youth detention. They can't go to jail. So juvenile court means that there are options for services. If they, if, if they go to adult court, what happens is they get a high bond and they sit in court with nothing, nothing else. They steal a dang computer and they just sit there in prison. No other options, no more-- or if they're using significant drugs, no rehabilitation until they're, as we know, almost ready to get out or jam out. So these kids, these are kids, these are Nebraska kids. And we have to do better by them. And I think the juvenile courts, we haven't heard why not the juvenile courts, that they're more lenient, that they're less prepared, that they are unable to handle these matters or they're unable to handle and push them to adult court. I totally believe that they will be able to do that. But there are kids that fall through the cracks, first timers, somebody who makes a mistake. And instead of a can of beer, they have, they have some drugs. And there but, but for the grace of God go many of us. And whether we did it with alcohol versus, versus drugs, that's a, that's a small nuance in the mind of a child whose brain has not fully developed. So I would just say, you know, before we cast these stones, think about the fact of who could best represent these kids. As we heard from Chief Justice Heavican, the system is getting better. We've heard this from the statistics that Miss Hawekotte provided and Miss Houlden as well. We made a lot of improvements in the past few years in the juvenile justice system. The county attorneys have opposed all of those as we've brought them forward. I find it ironic, to say the least, that the county attorneys can determine which kids cannot be rehabilitated, as Senator McKinney

said, and therefore have to go to adult court. But they're not able to determine which cases they will seek detention on so that those kids can get counsel. Do any of you see the irony in that? Because I certainly do. So my opinion is that we need to-- the previous county attorney talked about rehabilitation and making our society safe. Do we not think that our juvenile judges are doing that with every breath of their work in the court? Clearly, juvenile justices also-- judges also want to provide rehabilitation and make society safe. We have kids falling through the cracks. The juvenile judges can handle this, and kids who need services can get help much, much faster. And the adult courts don't have, have all of the services available that are necessary. And so even if there's three, three kids, if you look at Miss Hawekotte's, again, drugs, theft, weapon possession, do those definitely have to go to adult, adult court? Why can't those go to juvenile court and they get some rehabilitation and work on those? Let the county attorneys make the argument why it needs to go to adult court, not the public defenders arguing. And I know that it says that it's the same burden of proof, but generally it's the public defenders arguing why it needs to go back to juvenile court. So with that, I close. It's been an interesting hearing. I appreciate hearing from all sides. And thank you for your time.

LATHROP: OK. Thanks, Senator Pansing Brooks. That will close our hearing on LB201. And we are adjourned.