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LATHROP: Good morning. For those of you who have not been here, before we begin hearings, I have an introduction to give, and I am now being teased by committee members that it's similar to the ride-- the-- the thing you hear right before you get on a ride at Disneyland. But I got to go through it so everybody kind of knows what the ground rules are. Takes probably about eight minutes, but it'll let you and people watching these hearings understand how we're going to operate this year with COVID and-- and in the committee more-- more precisely. 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 chair 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 consider taking advantage of the additional methods of sharing your thoughts and opinions. For complete details on the four options, please see the-- you find them on 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 when 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 the public to move in and out of the hearing room. We request that you wear a face covering 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 the chair in between testifiers. When public hearings reach seating capacity or near capacity, the entrance will be monitored by the Sergeant-of-Arms who will allow people to enter the hearing room based on 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 of an overflow room for hearings this year, for those

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hearings which attract a lot of testifiers and observers. For those hearings with large attendance, we request only testifiers enter the hearing room. We also ask that you please limit or eliminate handouts. Due to COVID concerns, we're providing two options this year for testifying at a committee hearing. The first option, which is the new option, you may drop off written testimony prior to the hearing. Please note that the following four requirements must be met to qualify to be on the committee statement. First, the submission of written testimony will only be accepted the day of the hearing between 8:30 and 9:30 in this hearing room. Number two, the individual must present their own written testimony, in person, and fill out a testifier sheet. Number three, the testifier must submit at least 12 copies. Number four, testimony must be written, 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 criteria are met. And of course, the second option is in-person testimony. As always, person attending-- persons attending a public hearing will have the opportunity to give verbal testimony. On the inside-- 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, and please print legibly. Hand the yellow testifier sheet to the page as you come forward to testify. There is also a white sheet on the same 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 the 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 my office prior to the deadline. Keep in mind that you may submit a letter for the record or testify at a 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 the proponents of the bill, then opponents, and finally, anyone speaking 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

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us your first and last name and spell them for the record. If you have copies of your testimony, please bring 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 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 thought and stop. As a matter of committee policy, I'd like to remind everyone, the use of cell phones and electronic devices is not allowed during public hearings, though you may see senators use them to take notes or stay in contact with staff. At this time, I'd ask everyone to look at their cell phones to 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 this year in the Judiciary Committee, senators will instead be using their laptops to pull up documents and follow along with each bill. You may notice committee members coming and going. That has nothing to do with how they regard the importance of the bill under consideration, but senators may have other bills to introduce in other committees or have other meetings to attend to. And with that behind us, one last thing. This year, because of the volume of bills, we're going to observe a process with respect to bills under consideration. Once the bill's been introduced, proponents will have 30 minutes and opponents will have 30 minutes, then we'll take neutral testimony and then close. So there is a time limit. If we have a bill with an awful lot of people that want to testify, we either need to coordinate or we're going to end up with some people not having an opportunity, so be-- please be considerate about that in the process. And with that, we'll have the members introduce themselves, beginning with Senator DeBoer.

DeBOER: Good morning, everyone. My name is Wendy DeBoer. I represent District 10, which is Bennington and parts of northwest Omaha.

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

PANSING BROOKS: Good morning. Patty Pansing Brooks, Legislative District 28 right here in the heart of Lincoln.

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SLAMA: Julie Slama, District 1, Otoe, Johnson, Nemaha, Pawnee, and Richardson Counties.

McKINNEY: Terrell McKinney, District 11, north Omaha.

LATHROP: OK. Assisting the committee are Laurie Vollertsen, who is doing a great deal of work when we're not here in the evenings and early in the mornings. I just can't say enough good things about Laurie Vollertsen. And our legal counsel this morning is Josh Henningsen. We are assisted today by our two pages, UNL students, Evan Tillman and Mason Ellis. And with that, we will begin today's hearing with LB372 and Senator Day or someone from her office. Good morning and welcome.

SAM HUPPERT: Morning. Good morning, Chairman Lathrop and members of the Judiciary Committee. My name is Sam Huppert; that's S-a-m H-u-p-p-e-r-t, and I'm Senator Jen Day's legislative aide and I'll be reading her LB372 introduction into the record. The intent of this bill is to make the existing Crime Victim's Reparations program more accessible to the victims of sexual assault, domestic abuse, and sex trafficking. The Nebraska Crime Victim's Reparations program was created in 1979 and provides compensation to innocent victims for expenses related to the criminal act. LB372 builds upon the existing program and make small adjustments for the unique considerations for victims of sexual assault, domestic abuse, and sex trafficking that will allow this program to better serve them. We've also come with a minor amendment today to clarify our intent to include child abuse victims in this bill. LB372 does three things. First, current law requires that to be eligible for reimbursement through the program, you have to have reported the crime to law enforcement within three days. This bill lifts the three-day requirement. It is not uncommon for victims of domestic or sexual violence to delay reporting the crimes committed against them. There are many reasons for this delay, with trauma response, shame and stigma, and safety concerns mean some of the most significant. It is important to note, however, that LB372 leaves in place the requirement that a victim must apply to the program within two years of their victimization. Second, LB372 clarifies what actions constitute a report to law enforcement by naming protection orders and a forensic medical exam, which represent formal engagement with the criminal legal system and provide supporting evidence of the crime. Third, the bill states that notarization shall not be necessary for application in an effort to

reduce barriers to accessing support from this program. Notarization is currently required by regulation. The financial cost associated with domestic and sexual violence can be significant. The average medical cost for victims of intimate partner violence was $2,665 per victimization. The majority of female sexual assault victims experience injury, and approximately 44 percent of victims raped by an intimate partner who received medical care spend one or more nights in the hospital. The Nebraska Crime Victim's Reparations program was created to help survivors afford these costs, and LB372 will allow the program to better fulfill this intent. There are many reasons that victims of sexual assault, domestic abuse, and sex trafficking may delay reporting these crimes to law enforcement. They are faced with the heavy stigmas associated with these crimes, which commonly leads victims to cast doubt upon the nature of their abuse and blame themselves for the violence they have experienced. For many victims, it can take years to overcome the shame, come to terms with their abuse, and accept it as a crime. In the case of sex trafficking, traffickers commonly manipulate their victims into believing false promises of love, care, and an enduring relationship over a long period of time. It is common for victims to initially reject cooperating with law enforcement because withholding trust and exhibiting hostility are some of the only ways for victims to cope with and survive the extreme nature of their exploitation. Reporting an incident of sexual assault, domestic abuse, or sex trafficking also poses serious safety risks for victims. Before reporting to law enforcement, most victims engage in a safety planning process to ensure their own safety and that of family members or friends as the risk of violence increases significantly. Implementing a safety plan can be an extended process, depending on the victim's access to safe housing, a support network, and financial security, among other things. It is critical that victims are given the time they need to protect themselves from possible retaliation before reporting to law enforcement. The existing notar-- notarization requirement for application is burdensome for survivors and provides little additional benefit for the administration of the program. The primary purpose of a notary is to validate the identity of the applicant. The process of notarization itself cannot confirm the validity of the information presented in the application. That work is done by a hearing officer of the Crime Commission. Additionally, under current law, any person who knowingly makes a false claim under the program shall be guilty of a Class I misdemeanor and shall forfeit any benefit received and shall

repay the state for any payment of compensation made under the act. It has always been the role the Crime Commission to determine whether the evidence presented by the victim meets the appropriate standards for reimbursement. LB372 will not change this responsibility of the Crime Commission. It only eliminates the unnecessary barrier that notarization presents. For all those reasons, LB372 makes a minor but important change to the Nebraska Crime Victim's Reparations program to acknowledge the unique experiences of victims of domestic abuse, sexual assault, and sex trafficking, and will ensure the program better supports them in seeking justice, healing, and reparations. I would greatly appreciate your support for this legislation.

LATHROP: OK, I guess we don't ask you questions, so thanks for that introduction. We appreciate it. We will take proponent testimony at this point. If you're in favor of the bill, you may come forward. Good morning. Welcome.

ALEXA CURTIS: Good morning. Senator and members of the Judiciary Committee, my name is Alexa Curtis, A-l-e-x-a C-u-r-t-i-s, and I am a fellow with the Women's Fund of Omaha, working primarily with our Freedom from Violence initiative to support survivors of sexual assault, domestic abuse, and sex trafficking. Women's Fund is testifying in support of LB372, a bill that addresses the unique barriers that survivors of sexual assault, domestic violence, and sex trafficking face by lifting the requirement that victims must report the crime to law enforcement within three days and eliminate-- eliminating notarization requirements for Crime Victim's Reparations, CVR, applications. It is our understanding that the Crime Commission Board has, since this bill was introduced, recommended changes to the crime victim compensation regulations that remove notary requirement and, in time, to move to an online application process. We fully support this effort. There is already an extensive review process by a hearing officer when a survivor applies to the CVR but negates the need for a notary. The second change, removing the three-day reporting requirement, is a crucial step to ensure access to reparations by victims of complex trauma. There are many reasons why a survivor of sexual assault, domestic violence, and sex trafficking may not report to law enforcement within three days. The act of reporting often poses a safety risk to survivors. Such an act may be perceived by the abuser as a loss of control, which is the single most dangerous time for a victim to leave these types of violences. In order to mitigate the safety risks of reporting, victims must safety plan to ensure that

they can maintain their physical and financial well-being. Both the planning and implementation of a safety plan can be an extended process, making the current three-day reporting requirement insufficient for someone to ensure safety. Additionally, what we know about how the brain and body process trauma and traumatic memories is contrary to the three-day reporting window. Recalling or sharing details about their abuse may be retraumatizing for a survivor and elicit physical trauma responses as a result. For a period of time after a traumatic event, memory coding, or the ability to remember details, is often impaired and may cause victims to only retain minimal or first-layer information about their assault. Additional details are remembered as the body comes out of this trauma state, which typically takes a minimum of 72 hours and is enabled by multiple sleep cycles, feelings of safety, and time. Requiring a victim to report within a time frame means they may not have access to memories of the trauma that are needed to report to law enforcement. Our current legislation does not address these unique barriers that victims of sexual assault, domestic violence, and sex trafficking experience and, consequently, may prevent them from receiving financial support through Nebraska's Crime Victim's Reparations. Women Fund respectively urges you to-- in support of LB372 and vote to General File.

LATHROP: You good. Thank you, Ms. Curtis. Any questions?

GEIST: I do.

LATHROP: Senator Geist,

GEIST: Thank you for your testimony. I just have a question about-- I understand and actually empathize and support this. I just am curious if there is a point that would-- the time would go so long that it impedes law enforcement from actually helping this individual. Is there a sweet spot or a window of time that a victim shouldn't exceed because of-- of the ability to prove-- for law enforcement to prove or help this victim? You see what I'm getting at?

ALEXA CURTIS: Yes, Senator.

GEIST: Do you-- do-- and you have more experiences than I do, so I-- I'm just wondering if there is a window of time that's best or just leaving-- is leaving this open-ended best?

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ALEXA CURTIS: There is a stu-- still a two-year reporting app-- the application must be submitted within two years of experiencing their victimization, so there is there--

GEIST: OK.

ALEXA CURTIS: --that still two-year limit. And as they're applying for Crime Victim Reparations, they still must be able to come forward with any receipts or medical bills, and all of that still must be presented.

GEIST: OK.

ALEXA CURTIS: So as long as I have all of those, I don't believe that there should be a sweet spot or restriction on time.

GEIST: OK. OK, thank you.

LATHROP: I see no other questions. Thanks for being here this morning.

ALEXA CURTIS: Thank you.

LATHROP: We appreciate it. Good morning. Welcome.

JEAN BRAZDA: Good morning. Good morning and thank you for allowing me to speak about LB372, the crime victim compensation bill. My name is Jean Brazda, J-e-a-n B-r-a-z-d-a, and I am the chief of staff in the Sarpy County Attorney's Office. I've had the pleasure of overseeing the Sarpy County victim witness unit and previously being the director over at domestic violence and sexual assault program in Sarpy County. Over the past 25 years, I have seen the trauma sexual assault, domestic violence, sex trafficking, and child abuse victims have experienced. I want to share with you a story today that is all too familiar for domestic violence victims. Mary had been married to her husband Ted for over 20 years. They've had two children and two grandchildren. Throughout the marriage, Ted had verbally abused, emotionally tormented, physically tortured, and sexually assaulted Mary. Mary never told anyone of the abuse until it involved the grandchildren. The last day that Ted physically assaulted Mary, he also physically assaulted their grandson. The day started out with Ted being angry that Mary's income was not enough to pay all of the bills that were due. Ted started berating Mary, calling her horrible names in front of their grandchildren. Mary asked Ted to stop, at least

until the kids went to school. Ted took offense to Mary telling him what to do. He struck her in the face. She again asked him to stop so the grandkids did not have to witness the abuse again. Ted became furious and started breaking objects, threw the car keys out the door, punched a hole in the front door, and grabbed Mary and forced her to the ground. Ted began strangling Mary and she yelled for help. Their grandson came into the room and begged Ted to stop. The grandson jumped on Ted's back and attempted to pull him off of Mary. Ted threw the grandson across the room, which allowed Mary to escape his hold. Mary grabbed her cell phone and told Ted to leave or she would call the police. Ted threw Mary's cell phone and left in his truck. Mary and the grandkids were alone in the house and fearful of what was going to happen next. Mary kept the grandchildren home from school that day because the situation was traumatic and because she needed to make sure that they were safe. Mary had left Ted before, and she knew that she had to have a plan in place before she tried to leave again. She needed to wait for Ted to leave town for work so she could reach out to her family. She wanted her family to know that she was ready to leave and she needed their assistance. Mary knew that what Ted did was wrong and she knew she would stop-- he would not stop until she was dead. Mary knew the only way to decrease the violence was to make a police report, but she could not make that call until her and her family were safe. Mary waited to leave until Ted left for the week trip for work, which was three days after the assault took place. Mary called the Bellevue Police Department and made a report. Law enforcement arrested Ted and he pled to a third-degree assault, domestic violence charge and was sentenced to one year of probation. The only way Mary was going to report the violence was when she knew her kids and herself were safe. Three days is not enough time to put a complex plan in place. Mary needed help emotionally and financially. I believe that this Crime Victim's Reparation bill will assist with that. Mary knew that the only way that she was going to stay safe was if she asked for help and created that safety plan. Thank you for making these simple changes.

LATHROP: OK, I do not see any questions after your testimony, but thanks for being here. Good morning.

ANNE BOATRIGHT: Good morning. Thank you for having me here. Good morning, Chairperson Lathrop and members of the Judiciary Committee. My name is Anne Boatright, A-n-n-e B-o-a-t-r-i-g-h-t. I am the State Forensic Nursing Coordinator and Sexual Assault Payment Program

administrator with the Nebraska Attorney General's Office. Additionally, I serve on the Crime Victim Reparation Board, appointed by this committee in record time, and I-- and I also serve on the board of directors for the International Association of Forensic Nurses. I come here today as a representative for the Attorney General's Office in support of LB372. As the State Forensic Nursing Coordinator, I work with stakeholders across our state to set best-practice standards around medical forensic exams for sexual assault, domestic violence, and sex trafficking. Additionally, I ensure that payments are made to facilities across Nebraska that provide care to victims that experience sexual assault through our sexual assault payment program. The program was created with the leadership of the Unicameral and this very committee. The fund ensures that payments occur for medical forensic exams for those of sexual assault and has currently reimbursed for 4,086 people since the program's inception in 2017. In my role, I see many people across our state who struggle financially because of victimization exper-- experienced. Many of in-- individuals of the aforementioned crimes experience shame related to their victimization. As a part of this, many of these people are unable to disclose their abuse within the 72-hour window, as you've previously heard. This inability to report may be related to fear of backlash, along with physical inability due to the control of their abuser. Standard best practice around evidence collection is 120 hours for sexual assault victims. Many of these patients are going to present for treatment well beyond the time frame for basic medical care. LB372 creates the ability for victims to come in, seek care as soon as they're able, while not increasing their stress related to uncontrolled medical cost. While we don't anticipate this is going to create a significant financial impact to CVR, we do anticipate that it's going to relieve a tremendous amount of stress for victims who are able to get the assistance relating to the abuse they need. Thank you and I'd welcome any of your questions.

LATHROP: I got a few for you, and it's not about the bill, which I appreciate you testifying on, but just because we have some members who have not been on the committee before, weren't here in 2017--

ANNE BOATRIGHT: Absolutely

LATHROP: --or when the Crime Victim's Reparation process was set up. Can you tell us where-- how we fund that fund that--

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ANNE BOATRIGHT: Yes.

LATHROP: --that you want to draw on for this bill?

ANNE BOATRIGHT: Yeah. So specifically related to CVR, CVR is funded with some state appropriation and then federal dollars that are matched as a part of that. The great thing about CVR is any funds that we input from state-allocated get matched from federal, so the more we actually input into CVR funds, the more ability we have to actually draw those federal dollars down.

LATHROP: Is this fund separate from the Crime Victim's Reparation?

ANNE BOATRIGHT: So the Sexual Assault Payment Program, I think, is what you're referring to--

LATHROP: Yes.

ANNE BOATRIGHT: --is separate. That is VOCA pri-- is funded, excuse me, primarily through some state appropriation, but then also primarily VOCA dollars.

LATHROP: And can you tell me what the budget's been, the annual budget's been, in-- ballpark it for me, between the state and the federal dollars.

ANNE BOATRIGHT: In terms of breakdown for the Sexual Assault Payment Program specifically?

LATHROP: Yes.

ANNE BOATRIGHT: I think the breakdown of it is-- I'm not 100 percent sure.

LATHROP: Is it $10,000 or $100,000, a million?

ANNE BOATRIGHT: It's-- it's-- so total budget that we had this last year, we paid out $789,000 total, and most of that was VOCA dollars. The breakdown specific, I apologize, but I don't remember--

LATHROP: No, that's fine. That just gives us some idea.

ANNE BOATRIGHT: Yeah.

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LATHROP: Do you have enough resources that if we open the gate a little bit wider here in this bill, that you'll be able to help more people?

ANNE BOATRIGHT: CVR and the Sexual Assault Payment Program are funded in two different ways. And with the Sexual Assault Payment Program, no, we're nearing the top of that and we understand that we are, you know, expending nearly all of the income. So since the Sexual Assault Payment Program began, we saw 918 victims the first year, 1,054 the second, and then it was 1,594 the third year, along with this last six months of the fiscal year being for that total of 4,086. And--

LATHROP: Does this fund take care of primarily medical expenses or are you moving people out of houses and providing them shelter?

ANNE BOATRIGHT: This is primarily only-- the SAPP is focused only on actually the forensic medical, so it's not even, you know, covering the entirety of their medical expenses. It's really a narrow focus to cover things like lab fees, facility fees. And, you know, I'll talk more about that, too, later, as well, but it's very specific for that forensic medical exam.

LATHROP: OK. Thank you.

ANNE BOATRIGHT: Absolutely.

LATHROP: Any other questions? I see none. Thanks for being here this morning.

ANNE BOATRIGHT: Thank you.

***ROBERT SANFORD:** My name is Robert Sanford. I am the Legal Director for the Nebraska Coalition to End Sexual and Domestic Violence and I am testifying on behalf of the Nebraska Coalition to express our support for LB372. I ask that this be considered written testimony and that it be included with the Committee statement on LB372. The Nebraska Coalition works to build the capacity of our 20 member programs that serve victims and survivors of domestic and sexual violence across the state of Nebraska. We do this by providing victim advocates with training and by responding to issues raised in their daily support provided to those victimized by these crimes. LB372 addresses an issue consistently raised by victim advocates over the years. Our staff at the Nebraska Coalition are asked repeatedly about

the 3-day reporting requirement placed on victims. Often this requirement is a barrier specifically affecting victims of domestic and sexual violence. Victims of domestic and sexual violence often face prolonged violence. Isolation often impacts the effects of the violence. While COVID-19 has caused all of us to reflect on isolation, this has been a factor for victims of domestic and sexual violence long before the current pandemic. Power and control by someone choosing to abuse them often impacts the ability of a victim of these specific crimes to reach out for help. Many fear the consequences of reporting the criminal behavior and engaging with the criminal justice system as well. These factors faced by victims of domestic and sexual violence may require time for them to decide to make a report to law enforcement and by the time they do the three day reporting requirement in Neb. Rev. Stat. 81-1821 may have already passed. The result is that this individual no longer qualifies for compensation under the Act. LB372 would eliminate the barrier caused by the 3-day reporting requirement for victims of sexual assault, domestic assault, and sex trafficking. Removing this will allow the victim to report the crime when it is safe to do so and when they have had a chance to process what has happened to them. Removing this barrier will help them by providing them with an opportunity to seek victim compensation to assist with some of the financial burdens they face related to the crimes committed against them. I have provided legal representation to victims of domestic and sexual violence and assisted advocates working with them since 1998. While I recognize that some victims of these crimes have received victim compensation, I cannot remember ever hearing from either an advocate or a victim that they received victim compensation under the Nebraska Crime Victim's Reparations Act. I hope this bill is passed and I that I will no longer be able to make that statement. The Nebraska Coalition supports LB372 and thanks Senator Day for introducing this legislation. We urge you to advance LB372 to the floor for full debate.

***ANGIE LAURITSEN:** Chairman Lathrop and Members of the committee: My name is Angie Lauritsen, and I'm the chair of the Legislative and Policy Committee for Survivors Rising. I am expressing (for the record) my support of LB372, legislation that would support survivors of domestic and sexual violence and sex trafficking through reparations. There are so many internal roadblocks when a victim comes forward to report to law enforcement. One of these roadblocks requires victims to report the crime to law enforcement within three days.

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Lifting this three-day requirement would provide much needed time for a victim to obtain safety. Facts show us that many survivors of domestic abuse, sexual assault, and sex trafficking do not ever come forward. But for those that do, placing limitations on their reporting revictimizes survivors of violence. In the end, bringing perpetrators to justice should be the number one goal. This legislation will provide a statute where the limited time frame for coming forward or having to have a document notarized to receive help with emergency medical services would be alleviated. Nebraska needs to be a state where offenders know they will be held accountable for their actions and that we will not tolerate violence, abuse, oppression, or sexual exploitation and that we support survivors throughout their survivorship. This bill takes a big step to ensure that victims in Nebraska will have the support they need during one of the most traumatic times in their lives. Victims have been through enough. We need to do better. The enactment of LB372 would prioritize victims' safety. I ask for your support. Thank you for your consideration and support of LB372.

***IVY SVOBODA:** Dear Senator Lathrop and Members of the Judiciary Committee: I am writing you today in support of LB372 which will reduce barriers to accessing crime victim's reparations (CVR) funding for children and families who experience child abuse, domestic violence, and sexual assault. The Nebraska Alliance of Child Advocacy Centers is the nationally accredited membership organization for the seven child advocacy centers (CACs) in our state. Our mission is to enhance the response to child abuse in our state. CACs provide trauma-informed services to children and families as we assist with investigations of child abuse and neglect, including advocacy, medical and mental health services. In 2019, Nebraska CACs served 6,675 Nebraska children who were reported to have experienced abuse or neglect, including 2,478 reports of sexual abuse, 850 reports of physical abuse, and 638 reports of child witnesses to family or domestic violence. ICVR funding provides an important support to ensure children and families are able to afford services needed for healing and justice and pay fees and bills incurred due to experiencing a crime. LB372 makes two important changes to CVR processes. First, it eliminates the notary requirement. Second, it eliminates the three-day reporting requirement which is not realistic for victims of crimes of abuse, power and control. Indeed, research estimates that in the case of child sexual abuse alone, only a third

of victims ever report, and fewer still report to an adult. NAC 80, Chapter 3 already provides an important exception to this requirement for child abuse victims applying for CVR. LB372, with proposed AM108 to include child abuse on page 2, will codify and appropriately clarify this existing regulation. We thank Senator Day for introducing this bill. We urge the committee to advance LB372, which provides important avenues to healing and justice for families. We ask that this letter be included in the Committee record on the bill.

LATHROP: Next proponent. Seeing none, is there anyone opposed to this bill? Anyone that wants to be heard in the neutral capacity? Seeing none, before closing our hearing, we do-- the record should reflect that LB372 has three position letters, all of them proponents. We also have some written testimony that was received this morning in support: Robert Sanford with the Nebraska Coalition to End Sexual and Domestic Violence; Angie Lauritsen with Survivors Rising is also a proponent; and finally, Ivy Svoboda, Nebraska Alliance of Child Advocacy Centers, offer written testimony as a proponent as well. And with that, we'll close our hearing on LB372, and that will bring us to LB497 and our own Senator DeBoer. Good morning.

DeBOER: Good morning, Chairperson Lathrop and members of the Judiciary Committee. My name is Wendy DeBoer, W-e-n-d-y D-e-B-o-e-r. I represent Legislative District 10, which includes Bennington and northwest Omaha. Today I'm introducing LB497 which would support financial security of survivors of domestic abuse and sexual assault. LB497 would allow the care-- would allow healthcare providers to apply directly to the Nebraska Crime Victim's Reparation program to reduce the burden on victims who are already eligible for reimbursement of medical expenses. I feel like the line of questioning that you had, Senator Lathrop, in the last one is about to be answered. So I've introduced LB497 in an effort to ensure that potential medical costs do not pose a barrier for survivors of domestic and sexual violence to seek the care they need. No survivor should have to worry about their ability to pay for medical care needed in the aftermath of violence that was perpetrated upon them. LB497 is less of a policy change and more of an administrative mechanism to better fulfill the intent of the existing Nebraska Crime Victim's Reparations, or CVR, program. As you heard in the previous hearing on LB372, the program was created in 1979 to provide compensation to crime victims for expenses related to the criminal act. This bill does not add any new eligibility category of victims or reimbursements to the program. Victims of domestic and

sexual assault are already eligible for reimbursement for medical costs associated with their vic-- victimization through the CVR program. LB497 provides a more efficient mechanism to reimburse for medical costs directly associated with domestic or sexual violence by allowing healthcare providers to seek reimbursement directly from the program. As it is now, a survivor who seeks care must wait to be billed by the health care provider, then apply to the Nebraska CVR program and provide all relev-- relevant medical bills and information, wait up to 180 days for the hearing officer to make a decision on the application, and then finally receive the reimbursement. This existing process creates additional barriers and financial stress for a survivor and delays payment to providers. So LB497 skips the middle steps. It allows a hospital to apply directly to the CVR program for reimbursements of costs that would otherwise be billed to the victim. Is important to note that LB472 ensures that the CVR is a payer of last resort. So it specifies that the healthcare provider can only seek reimbursement for costs which the provider will not otherwise receive reimbursement through private insurance, Medicaid or any other entity. In creating a more direct payment for mechan--mechanism for payment, it reduces the burden for a survivor and will potentially provide more prompt payment for healthcare providers. The medical costs associated with des-- domestic and sexual violence can be significant. Data shows an average cost of $2,000 per victimization and significantly more if hospitalization is required. Approximately 30 percent of victims of intimate partner violence pay medical costs out of pocket. The CVR program exists for this exact purpose, to pay for medical costs associated with crime, and this bill makes that process more direct. I do have an amendment for the committee that makes a couple of small changes. First, AM132 clarifies healthcare providers could directly apply to CV-- the CVR program for reimbursement of costs incurred by a victim of child abuse in the same way they would for victims of sexual or domestic violence. Our original intent had been to include children in the bill, but without specifically referencing child abuse, they would not be included, as child abuse does not fall under the definition of domestic abuse. Child abuse victims are already eligible for the CVR program, so this amendment would simply ensure that they are also eligible for the direct reimbursement mechanism. Secondly, the amendment would clarify that victims have to give their permission before a healthcare provider could apply for reimbursement for healthcare costs from the CVR program. LB497 provides an opportunity for our existing CVR

program to better support victims of domestic and sexual violence by reducing the burden on them when seeking reimbursement for medical care. I-- again, I do want to stress that this doesn't change what the program will pay for or for whom the program will provide reimbursement. It simply changes how the program helps survivors weather the costs that resulted from the crime committed against them. We can make the CVR program work better for survivors of domestic and sexual violence, as well as the healthcare providers who care for them, through LB497. Thank you for considering this important piece of legislation. I'm happy to answer any questions you might have.

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

PANSING BROOKS: I-- I have [INAUDIBLE]

LATHROP: Oh, I'm sorry.

PANSING BROOKS: No, that's OK.

LATHROP: There's a glare here and--

PANSING BROOKS: I know.

LATHROP: OK,

PANSING BROOKS: Thank you for bringing this bill, Senator DeBoer. I'm-- I'm just interested in-- you know, normally insurance companies-- do-- do most insurance companies pay directly to the provider? They pay some of it, but also some comes to the-- could you-- could you just walk through that a little bit? And I don't know whether-- and I do not practice insurance or any kind of coverage of healthcare. So I-- I guess I'm just interested whether that is almost a property right of the-- of the victim in a way. Are we changing something significant?

DeBOER: I-- I don't think so. Let me see if I understand your question. So--

PANSING BROOKS: Good, because then I'll understand it better.

DeBOER: OK, so when a victim of sexual assault would come in, or domestic violence, would come into the hospital, they might have a forensics kit done and that would be paid for by the Sexual Assault

Provi-- Payment Program, which is a separate program. But they might also have a broken arm or they might need to get a chest x-ray, whatever it is. That would be just like any other way, if you fell down the steps later-- do not do that-- and you broke your arm, you'd go to the doctor, you'd go to the hospital, and afterwards you'd have a bill for that.

PANSING BROOKS: Right.

DeBOER: And they would go to your insurance and whatever the-- you know, whatever the terms of your insurance are, if you have a copay or whatever, you'd have to pay that. That's the same. So what this would do is, whatever insurance paid for would be taken care of and the CRV-- CVR program would pay for whatever the additional amount was that wasn't being paid for. And since the CVR program under this bill would only be the payer of last resort, they would have to go through the insurance first and it would just be the remainder, which would be paid for by this program.

PANSING BROOKS: Thank you. That clarifies it for me.

DeBOER: Oh, good.

PANSING BROOKS: Thank you very much.

LATHROP: OK. I don't see any other questions. Thank you, Senator. We will take proponent testimony at this time. Good morning.

JENNIFER TRAN: Good morning. Good morning, Chairperson Lathrop and members of the Judiciary Committee. My name is Jennifer Tran, J-e-n-n-i-f-e-r T-r-a-n. I am the forensic nurse examiner team leader at Methodist-- excuse me-- at Methodist Women's Hospital in Omaha and have been practicing forensic nursing for the past 12 years. I am here today in support of LB497. In my role as the FNE team leader, we see patients following sexual assault, domestic violence, sex trafficking, and strangulation. When a patient arrives at the hospital, they are treated like every other emergency room patient and their medical needs are evaluated and prioritized first. Their triage nurse will ask if they were strangled, struck, or bleeding, as this will help determine the severity of their injuries. An emergency room provider will then complete a medical screening exam and treat any injuries that require immediate treatment, such as diffuse bleeding with

sutures, strangulation injuries with a CT scan, and broken bones with x-rays. The forensic nurse examiners consultant and assumes care of the patient. A complete and thorough physical examination is conducted and documented. Injuries are photographed and an alternative light source may be used to look for bodily fluids and bruising. If appropriate, the patient may consent to a sexual assault kit, also known as a SAK, which is a 12-step process that entails collecting their clothing and underwear, swabbing fingernails, mouth, mons pubis, external genitalia, inside the vagina and anus. I explain that my exam may seem like their annual speculum exam, but that does not take place at that exam. That means that they'll have another medical appointment to attend later. We then discuss appropriate pro-- prophylactic medications and immunizations. Methodist is proud to offer a follow-up appointment at the Methodist Community Health Clinic with trauma-informed providers because we recognize that they're not healed when they leave our ER doors. Methodist is the longest running forensic nurse examiner program in Omaha, thanks to the Heidi Wilke Endowment, grants, and donor funds. Without that support, our program would not be sustainable. I sat before you just a couple of years ago in support of the creation of the SAPP Fund. And as you know, this fund covers the cost of the SAK collection with the reimbursement of the healthcare facility of $500. While this is helpful, it's not enough. Many patients struggle financially as they have additional injuries that were not always covered by the forensic pieces of the examination. We have to explain that while the SAK would cost them nothing, the medical exam and treatment would. This creates an environment where patients may be choosing what part of their medical care they want to proceed with. Even with medical insurance, most patients have an out-of-pocket expense. On average, a typical visit costs between $1,000 to $2,000. The Crime Victim's Reparations Fund are available to these patients currently; however, there are many obstacles in place. Patients are required to pay the entire medical bill and then request reimbursement. Not many people are in the financial position to do this. And in order to apply for reimbursement, the application is lengthy and requires a notary's signature. Furthermore, I have not had any direct experience but have heard that the turnaround time is less than ideal, thereby leaving patients with a financial burden while waiting for reimbursement. By supporting LB497, you are supporting the mechanism of funding to support survivors and healthcare facilities. As a healthcare facility and-- and FNE program, our standard of care and practice would not

change. What would change is that after other payer source reimbursement, the healthcare facility would apply, with patient's permission, on behalf of them, for the Crime Victim Reparations Fund. This change would make it a smoother prof-- process, be less of a burden on our patients who are navigating trauma, and create a more sustainable-- more sustainable programs across the state.

LATHROP: OK, thank you.

JENNIFER TRAN: Thank you.

LATHROP: We appreciate the testimony. We need to just remind everybody, when the red light comes on--

JENNIFER TRAN: Oh.

LATHROP: --like, you-- you--

JENNIFER TRAN: I was looking down.

LATHROP: And the difficulty, and-- and I'm the enforcer--

JENNIFER TRAN: Yeah.

LATHROP: --like no one else up here is going to talk about the red light but me.

JENNIFER TRAN: OK.

LATHROP: That's my job. But if we don't, then it just means that other people don't have an opportunity to testify.

JENNIFER TRAN: Yeah.

LATHROP: Are there any questions for this testifier? I don't see any. Thanks for what you do and thanks for being here today.

JENNIFER TRAN: Thank you.

LATHROP: Good morning.

MEREDITH LIERK: Good morning, Chairman Lathrop and members of the Judiciary Committee. My name is Meredith Lierk, M-e-r-e-d-i-t-h L-i-e-r-k, and I am the director of the Violence Intervention and

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Prevention Center at Creighton University, where I serve as an advocate for survivors of sexual and domestic violence. I come here today in support of LB497 to be a voice for those who come to our hospitals seeking compassionate care after their bodies have been violated. Nebraska's Sexual Assault Survivor Bill of Rights guarantees a survivor the right to a free forensic medical examination, whether they choose to move forward with the legal process or not-- free, no charge, no bill, no demand letter, no EOB, free. And yet the bill comes, unleashing a sea of emotions that puts a survivor right back in that moment, the moment where their dignity and autonomy were violated. The bill reads $525 for Doctor X. Who is Doctor X, she asks, confused. She's going over it all again: the assault, the pain, the hospital visit, evidence being collected off her body like she is a crime scene, desperately trying to place this person charging her $525. But I don't have $525. And the bills keep coming, this time read a demand letter demanding payment for the treatment we said would be free, a demanding reminder of the worst thing that ever happened to her: this bill, a burden, one more thing being asked of her that she never wanted, demanded of her without her consent. We promise the right to a free forensic medical examination, and so I come before you, our esteemed elected officials, to humbly request additional funding to ensure this doesn't happen to another member of our community. This funding will make it possible for every person who has been sexually assaulted to receive that free medical examination. I beg of you, on behalf of those who are already paying the cost of someone else's actions, to take action to ensure that they don't also have to pay the financial cost of receiving critical medical care. You have the power to help our victims, our survivors. You have a pow-- the power to make this a reality. Thank you for your time and consideration.

LATHROP: Thank you for your testimony. We appreciate hearing from you. Of course, I don't see any questions.

MEREDITH LIERK: Thank you.

ANNE BOATRIGHT: Good morning again.

LATHROP: Welcome back.

ANNE BOATRIGHT: Good morning, Chairperson Lathrop and members of the Judiciary Committee. Again, my name is Anne Boatright, A-n-n-e

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B-o-a-t-r-i-g-h-t. I am the State Forensic Nursing Coordinator and the Sexual Assault Payment Program administrator with the Nebraska Attorney General. And I do serve on the Crime Victim Reparation Board, appointed by this committee, along with being on the board of directors for the International Association of Forensic Nursing. I come here as a representative for the Attorney General's Office in support of LB497. First I want to start off by sharing a phone call I recently received from a woman who had received a significantly large medical bill. Her significant other had strangled her and she had significant levels of injuries from the assault, causing her to flee with her infant. She had been sent to collections and was sobbing, describing how she didn't know how she'd pay the bill. They did not know where her husband was. She was in hiding and he was calling, terrorizing her for the bills she was receiving, for racking them up. I called the hospital, the collections agency, the insurance companies, and after many, many phone calls, I was able to get her connected so her bills were covered. Many of our patients don't know who to call and they don't know how to get these bills covered. They often will receive a $1,500 to $2,500 bill after their examinations. And victims have enough on their plate while they are dealing with the fight of their life. We can and should do better and LB497 creates an opportunity for this. In the last few weeks you all saw that we rec-- released our report regarding the Sexual Assault Payment Program. This was created, as I said previously, to fund the initial medical forensic examination. We're grateful for this. And as I said, it served over 4,086 people thus far. The majority of them have been for children under the age of 12 years old. We're acutely aware, however, that we're utilizing almost all of our funds. As I told you previously, our-- our fiscal impact this last year was $789,000-plus. These funds will most likely diminish over the next several years, down to almost half, related to the VOCA decreases. We understand that we need to create an opportunity to have these additional costs covered as well, and we need some reimbursement for domestic violence victims. Again, the CVR has received 517 applications since July 17-- or of-- July of 2017, excuse me. Of these applications, 25 were for sexual assault, 30 for child sexual assault, and 70 related to domestic violence. We think that 4-- LB497 will create an opportunity for increased sustainability, as well, for forensic nursing programs in our state, create additional funding streams to support the care they're providing to domestic violence victims, and we hope to create this environment where we'll have better outcomes for patients of

these crimes through increased prosecution, holding offenders more accountable, and creating a safer state. Thanks, and I welcome any questions you would have for me.

LATHROP: I have a few for you.

ANNE BOATRIGHT: Great. I'm ready.

LATHROP: So you're on the Crime Victim's Reparation Board.

ANNE BOATRIGHT: Correct.

LATHROP: Do you administer both funds?

ANNE BOATRIGHT: So I am the Sexual Assault Payment Program administrator, and then I also serve on the board. The person who oversees the funds at the Crime Commission specifically for CVR also helps administer the payments for sexual assault, so we both do both.

LATHROP: OK, and after-- now that we have both bills introduced, it's clear to me-- and I wasn't around in 2017. We set up a Sexual Assault Payment Program that you earlier testified is funded by state dollars and a federal match.

ANNE BOATRIGHT: Correct.

LATHROP: And that would cover the sexual assault kit, right? So if somebody goes into the ER and the-- the forensic nurse does what they do, that-- that piece is covered by the fund created in 2017 and funded with federal dollar match to our state appropriation. The other is the Crime Victim's Reparation Fund.

ANNE BOATRIGHT: Correct.

LATHROP: That's been around a lot longer, right?

ANNE BOATRIGHT: Yes.

LATHROP: And that's intended to compensate people who have been victims of crime.

ANNE BOATRIGHT: Correct.

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LATHROP: So what we're talking about today is having providers directly access that fund, and that fund is also used not just to pay the-- the bills of sexual assault victims if this were to pass, but if I am shot in a-- in a robbery and I have bills, those people, too, can access this money.

ANNE BOATRIGHT: Absolutely.

LATHROP: And they have to go through an application process.

ANNE BOATRIGHT: Correct.

LATHROP: Would-- we don't have enough money in that fund to take care of everybody's needs who are victims of crime. Is that true?

ANNE BOATRIGHT: That is true.

LATHROP: So give us an idea how much money comes into that fund every year and how much is paid out.

ANNE BOATRIGHT: So--

LATHROP: And by "that fund," I'm talking about the Crime Victim's Reparation Fund.

ANNE BOATRIGHT: So that fund this last year paid out about $600,000.

LATHROP: OK. Tell us where the money comes to fund the Crime Victim's Reparation Fund.

ANNE BOATRIGHT: So some of it is state-allocated funds. Some of it is fees that individuals will pay as a part of their convictions. And then it's a federal match as well. The different-- oh, sorry.

LATHROP: No, go ahead.

ANNE BOATRIGHT: The difference between CVR and SAPP, however, is the more that we actually invest in CVR, the more we can pull from federal dollars, which with the SAPP is not the case. It's a certain amount that is given and there is a match allocated, but it's not necessarily going to increase what we get back.

LATHROP: Do-- does some of the funds for the Crime Victim's Reparation Fund come from people who are on work release?

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ANNE BOATRIGHT: I'm not--

LATHROP: Don't we tax those individuals--

ANNE BOATRIGHT: I bel--

LATHROP: --and then they contribute to the fund?

ANNE BOATRIGHT: I believe so, but I'm not 100 percent sure.

LATHROP: OK. You said there was $600,000 that came into that fund. Tell us what the number of-- the value of all the claims that came to the fund.

ANNE BOATRIGHT: It was over a million dollars this last year.

LATHROP: So the-- the board necessarily has to decide I'm paying this but I'm not paying that, or I'm paying half of all the bills. That-- that process is taking place at the board.

ANNE BOATRIGHT: And some of it is dependent on-- sometimes people will apply for things that just aren't eligible. Sometimes they're not victims of crime. Sometimes, you know, it doesn't fit within that, so that is some of it as well. It's not like we're picking this victim over this victim, per se, when we're paying for various things.

LATHROP: But we-- we-- year to year, we don't have as much money in the fund-- come into the fund as we do people that have legitimate needs that would otherwise be paid out of the fund.

ANNE BOATRIGHT: Correct.

LATHROP: OK, so we have more needs than we have resources. And now we have a bill that would allow Methodist Women's Hospital to send a bill straight from the hospital to the fund.

ANNE BOATRIGHT: Correct.

LATHROP: If this bill were to pass, will they have priority in the fund or will they be part of the-- the process where the fund is deciding we're going to pay 50 percent of this bill, we're not paying this bill, and we're going to pay all of that bill?

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ANNE BOATRIGHT: It will be-- exactly. They won't have priority over other people. It will just be everybody is in the same pot.

LATHROP: OK. And my concern-- and I'm fine with this bill, to be-- to be perfectly honest, I-- it's hard to understand why anybody wouldn't be. But my concern is if we-- if a victim comes into the emergency room at the women's hospital, she has been sexually assaulted and she has also been a victim of abuse, so she's got a broken arm or a dislocated shoulder, some physical injury. The kit is paid for by the fund you spoke about on the first one.

ANNE BOATRIGHT: Yeah.

LATHROP: Whatever-- if she's uninsured, whatever the fund pays, if we're telling them, don't worry, everything's going to be free, that's not necessarily true.

ANNE BOATRIGHT: Right. And, you know, we do-- and hospitals do a really great job of trying to support victims when they come in. They do try and utilize all funds available to-- you know, use foundations and things like that. But we also know that these sexual assault nurse examiner programs or forensic nursing programs that are bringing in these nurses that are specially trained don't have enough to make it by, and so eventually you're going to have to, you know, cut some.

LATHROP: Maybe this is a caution to the providers not to tell people that it'll all be free, but that there's two funds that can help.

ANNE BOATRIGHT: And that's what we hope to do and we hope to accomplish with--

LATHROP: OK, I have no other questions for you. Senator Brandt.

BRANDT: Thank you, Chairman Lathrop. Thank you, Ms. Boatright, for testifying today. And sort of to follow up more on the accounting side of things, so is your fiscal year in sync with the state fiscal year? Does it run out on June 30?

ANNE BOATRIGHT: Correct.

BRANDT: So my concern here is, if-- looking at the numbers that you paid out, $600,000, we had claims of a million and some of those you disqualified, if somebody has an incident in May or June and the money

is gone, is-- I mean, how do you manage that? Because, obviously, if an incident happened in July or August, the funds have been replenished and-- and you've got money. But if you're running out in April, May, or June, how do you manage that situation?

ANNE BOATRIGHT: Yeah, so I think that the Crime Commission has waivers that they fill out so that they can pull some of the federal dollars early. And we've done that with the Sexual Assault Payment Program to kind of bridge those gaps so that we don't have a situation where we, you know, don't have the ability to pay for something.

BRANDT: Could an individual that qualified in May or June and the funds weren't available be put on a waiting list so that when the funds do become available, then they're eligible?

ANNE BOATRIGHT: I believe so. I don't know that it's necessarily a waiting list, but we just bridge that gap and pay out when we can. And so many payments are issued per month and then we have a little bit of flexibility. All of our federal dollars can roll over year to year, but they have to be spent-- certain, you know, years have to be spent by September. So we have some wiggle room and some ability to kind of bridge those gaps.

BRANDT: OK, thank you.

LATHROP: I don't see any other questions, but thanks for what you do and your testimony this morning.

ANNE BOATRIGHT: Thanks for having me here.

***TIFFANY JOEKEL:** My name is Tiffany Joekel, and I am testifying in support of LB497 on behalf of the Women's Fund of Omaha. Concerns about the cost of medical bills should never stand in the way of a survivor of domestic or sexual violence seeking care following such crimes. The cost of such violence can be very expensive to a victim - averaging thousands of dollars each time a victim of intimate partner violence or sexual assault seeks care. If hospitalization is required, the cost climbs to tens of thousands of dollars. The existing Nebraska Crime Victim's Reparations program, administered by the Crime Commission, was created to reimburse victims for the costs directly associated with their victimization. Victims of domestic and sexual violence are currently eligible to seek reimbursement for health care

costs that follow the treatment or examination of injuries of arising out of the sexual assault or domestic assault. LB497 will simply provide a more direct mechanism to cover these health care costs and ensure more timely payment for health care providers. This bill supports victims of domestic and sexual violence by reducing unnecessary administrative steps and barriers to addressing the medical debt that has resulted from their victimization. As the process stands now, survivors have to wait until they receive their medical bills and then relive their trauma as they fill out an application for the CVR program, which they then must have notarized. A survivor gathers all appropriate documentation, including providing itemized medical bills to the CVRhearing officer, who then investigates their application and request for reimbursement. The Crime Commission's hearing officer has up to 180 days to make a decision about reimbursement- the average time from application to decision was approximately 121 days in 2018. In those intervening months, while a survivor waits for reimbursement, they may or may not be able to pay the bills up front and will have to deal with the additional stress and financial instability that such outstanding medical debt may cause. This process adds to the trauma and instability in a survivor's life, and in many cases, survivors find the process so difficult and burdensome that they may not even pursue it at all. LB497 provides a new mechanism to accomplish the existing intent of the CVRprogram in a way that is less harmful and difficult for survivors. It creates a mechanism for health care providers - primarily hospitals and child advocacy centers - to directly bill the CVRprogram, with the survivor's permission. The process established in LB497 skips the middle steps of application and notarization. This process will also be beneficial for health care providers, as it will support more timely payment of medical bills associated with domestic and sexual violence. It is important to note that LB497 does not add any new categories of eligibility to the existing CVRprogram, nor does it in any way expand what is reimbursable through the program. LB497 also makes clear that the CVRprogram should be the payor of last resort - health care providers can only bill CVRfor costs not reimbursable by public or private insurance and any other payor source. LB497 provides a more efficient mechanism to fulfill the existing intent of the Nebraska Crime Victim's Reparations program, which is to support victims of crime by insulating them from the financial repercussions of their victimization. The new process proposed in LB497 is more trauma-informed for survivors of domestic

and sexual violence, and we strongly encourage your support and advancement of LB497.

***IVY SVOBODA:** Dear Senator Lathrop and Members of the Judiciary Committee: I am writing you today in support of LB497. This important bill will simplify the way children and families who experience child abuse, domestic violence, and sexual assault can access crime victim's reparations (CVR) funding. It will reduce family's out-of-pocket costs related to the experience of abuse, speed service delivery, and strengthen the ability of victim advocates and non-profits to provide immediate assistance and services. The Nebraska Alliance of Child Advocacy Centers is the nationally accredited membership organization for the seven child advocacy centers (CACs) in our state. CACs provide trauma-informed services to children and families as we assist with investigations of child abuse and neglect, including advocacy and medical services. Along with our members, the Nebraska Alliance seeks to enhance the response to child abuse in our state. In 2019, Nebraska CACs served 6,675 Nebraska children who were reported to have experienced abuse or neglect, including 2,478 reports of sexual abuse, 850 reports of physical abuse, and 638 reports of child witnesses to family or domestic violence. In 2019, CACs provided 1,341 medical exams to children who had experienced sexual abuse, physical abuse, or severe neglect. 1 While some medical exams and services are able to be reimbursed by the Sexual Assault Payment Program, many are not. LB497 provides additional options to ensure children are able to access the health care services they need for healing after abuse. We thank Senator DeBoer for introducing this bill. We urge the committee to advance LB497, and incorporate small technical changes to ensure that child victims of physical abuse are also included. We ask that this letter be included in the Committee record on the bill.

***DAVID SLATTERY:** Chairman lathrop and members of the Judiciary Committee. I am David Slattery, Director of Advocacy for the Nebraska Hospital Association (NHA). The NHA is the unified voice for Nebraska's hospitals and health systems, providing leadership and resources to enhance the delivery of quality patient care and services to Nebraska communities. Nebraska hospitals employ more than 44,000 individuals who deliver care to over 11,000 patients each day. Thank you for this opportunity to present this testimony. I am expressing (for the public record) the NHA's support for LB497 introduced by Senator Wendy DeBoer. Current statute allows for victims of domestic abuse and sexual assault to apply to the Nebraska Crime Victim's

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Reparations Program for reimbursement for health care costs. LB479 adds sex trafficking survivors to the list of individuals eligible for reimbursement and removes the victims from this process. The Department of Health and Human Services estimated that between 240,000 and 325,000, women and children are forced into sexual slavery in the United States every year. 88% of trafficking victims have been seen in a health care setting. Our hospitals are on the front lines of this issue and are committed to providing victims the support and services they need. It is important for victims to get medical care as soon as possible. They may have injuries they do not know about or their injuries may be worse than originally thought. Survivors of human trafficking can experience trauma that can often lead to long-term physical and mental health issues. Once LB497 is passed, health care providers will be able to apply directly to the Nebraska Crime Victim's Reparations Program for reimbursement for health care costs removing the victim from this process. The NHA wants to thank Senator DeBoer for bringing this legislation and asks the Committee to advance the bill. Thank you for your consideration.

***ANGIE LAURITSEN:** Chairman Lathrop and Members of the committee: My name is Angie Lauritsen, and I'm the chair of the Legislative and Policy Committee for Survivors Rising. I am expressing (for the record) my support of LB497, legislation that would support survivors of domestic and sexual violence through the Nebraska Crime Victim's Reparations Act. This legislation will provide the necessary funding to ensure all emergency medical services be covered outside of what is currently covered for the forensic processing of information. Victims need to know that they can receive the necessary care to start their healing process without the fear of medical costs. This bill takes a big step to ensure victims in Nebraska will have the support they need during one of the most traumatic times in their lives. Nebraska needs to be a state where offenders know they will be held accountable for their actions and that we will not tolerate violence, abuse, oppression, or sexual exploitation-a state where we support survivors throughout their survivorship from beginning to end. There are so many internal roadblocks when a victim comes forward to report a violent crime to law enforcement. In the end, bringing perpetrators to justice should be the number one goal. Victims have been through enough. We need to do better. The enactment of LB497 helps to prioritize victims' health and safety. I ask for your support. Thank you for your consideration and support of LB497.

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***NATALIE PEETZ:** Good morning Chairman Lathrop and Members of the Judiciary Committee: My name is Natalie Peetz and I am testifying in support of LB497 on behalf of our client, CHI Health. CHI Health is a regional health network consisting of 14 hospitals, 2 stand-alone behavioral health facilities, a free-standing emergency department, 136 employed physician practice locations and more than 11,000 employees in Nebraska and Southwest Iowa serving communities from Corning, Iowa to Kearney, Nebraska. By way of background, CHI Health has one of the largest Forensic Nurse Examiner Programs (FNEP) in the state and we have many years of experience working with victims of sexual assault, domestic violence, and sex trafficking in that capacity. And asa health care system, we have made violence prevention a top priority based on community needs assessments completed in all our service areas. Nurses in the FNEPare specifically trained in crisis intervention and provide injury detection and treatment, health care pertaining to sexual assaults, forensic medical evidence collection, domestic violence crisis intervention, testimony in judicial proceedings, and community resource connection. An important part of the FNEP is collaboration with community advocates, law enforcement, crime laboratories, the judicial system, members of the health system, and members of the community to provide a trauma-focused approach to care. This ensures the patient receives the necessary treatment and resources needed for recovery without re-victimization or re-traumatization. Consistent with these efforts, we are supportive of LB497 because it would allow providers to apply for reimbursement directly from the Nebraska Crime Victim's Reparations Program, further removing any financial and administrative burdens from victims of domestic abuse and sexual assault as they begin the crucial first steps of the healing process. CHI Health urges you to advance LB497 to the full Legislature.

***SCOUT RICHTERS:** Thank you Chairman Lathrop and members of the Judiciary Committee. My name is Scout Richters and I am Legal & Policy Counsel at the ACLU of Nebraska. The ACLU offers its support of LB497 and we would like to thank Senator DeBoer for introducing this legislation. Sexual assault and other forms of gender-based violence deprive women and girls of their fundamental ability to live with dignity. Women and girls experience domestic violence and sexual assault at alarming rates. Governments, institutions, laws, and policies contribute to the systematic devaluation ofthe lives and safety of women and girls by failing to respond to gender-based

violence and discriminating against those subjected to such violence. Allowing healthcare providers to be reimbursed for costs associated with treating and providing other medical care for victims of sexual assault or domestic assault increases the likelihood that victims will not be forced to shoulder the costs of care associated with the abuse and victimization they have already faced. It also increases the likelihood that victims of sexual assault or domestic assault will seek out necessary medical care by removing cost as a barrier as prescribed by LB497. As such, we offer our support of LB497, thank Senator DeBoer for bring this bill, and urge the committee to advance LB497.

***ROBERT SANFORD:** My name is Robert Sanford. I am the Legal Director for the Nebraska Coalition to End Sexual and Domestic Violence and I am testifying on behalf of the Nebraska Coalition to express our support for LB497. I ask that this be considered written testimony and that it be included with the Committee statement on LB497. The Nebraska Coalition supports the 20 domestic violence and sexual assault programs contracting with the Department of Health and Human Services to provide victim services to survivors of domestic and sexual violence. We do this by providing training to victim advocates and by assisting them with issues they face while providing victim assistance in an effort to build the capacity of victim services across Nebraska. LB497 is a straightforward bill that will benefit victims of domestic and sexual violence. The bill modifies the Nebraska Crime Victim's Reparations Act by allowing the health care provider to seek reimbursement for medical services related to a patient's domestic violence or sexual assault victimization. Victims can currently apply for reimbursement of medical costs associated with crimes through the Nebraska Crime Victim's Compensation program. However, under the current laws, the victim must collect the proof of the bills and submit the bills with their application. Victims at that point have likely paid for medical care out of pocket when that care not covered by insurance or other programs. This places a strain on the victim's economic stability. LB497 removes the burden of applying for this assistance from the victim of the crime. It allows the medical provider to apply directly for reimbursement and limits the victim's need to first pay for the medical care and then seek reimbursement from the State. The Nebraska Coalition supports efforts that remove barriers victims of domestic and sexual violence face, including costs associated with treatment for injuries sustained.

LB497 does just that. We support LB497 and ask that you advance the bill from Committee for debate on the floor of the Legislature.

LATHROP: Yeah. Next proponent. Anyone else here to speak in support of the bill? Anyone here to speak in opposition? Anyone here to testify in a neutral capacity? Seeing none, Senator DeBoer, you may close. This bill, LB497, has three position letters, all proponents. And we also have written testimony, if you'll allow me to introduce that before you: Tiffany Joekel from the Women's Fund of Omaha is a proponent; we also have proponent testimony, written testimony from Robert Sanford with the Nebraska Coalition to End Sexual and Domestic Violence; Scott Rich-- Scout Richters with the ACLU of Nebraska, also a proponent; Natalie Peetz with CHI Health is a supporter; also a proponent, Angie Lauritsen with Survivors Rising; David Slattery is a proponent with Nebraska Hospital Association; and finally, Ivy Svoboda is a proponent, with the Nebraska Alliance of Child Advocacy Centers. That is the complete list of all written testimony received on the bill. Senator DeBoer, you may close.

DeBOER: I don't have a lot to say. I just wanted to take a second to say that if there are some fine-tunings we need to do in terms of some of the questions that Senator Lathrop had, we'll work on those. And if anyone else has those, please let me know and-- and we will be working with Anne Boatright and others to make sure that we get this all taken care of and make it work, because I think this is an important bill and we really should get this out on the floor as soon as possible, so.

LATHROP: I'll just say I don't feel like there's any amendments because of my-- my question or anything needs to be done to the bill. I just wanted to understand and for the committee to understand that that-- that fund is a fund of limited resources with plenty of people, shooting victims, lots of people making claim there, but thanks for bringing the bill. I appreciate it. I don't see any other questions. And with that, we'll close the hearing on LB397 [SIC] and that will bring us to Senator Pansing Brooks and LB461.

LATHROP: Good morning. Welcome, Madam Vice President-- or Vice Chair. I just gave you a field promotion.

PANSING BROOKS: That sounds good too. Thank you.

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LATHROP: Been a long week already.

PANSING BROOKS: Ready?

LATHROP: You may proceed.

PANSING BROOKS: Thank-- thank you, Chairman 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 LB461, which provides for the placement of human trafficking awareness posters in casinos. Current statute stipulates that the Nebraska Department of Labor shall work with human tra-- the Human Trafficking Task Force to develop or select informational posters for placement around the state. These posters shall include a toll-free telephone number that a person may call for assistance, preferably the National Human Trafficking Resource Center Hotline. Posters shall be placed in rest stops across the-- rest stops across the state and also in strip clubs. The Attorney General's Office also works with local businesses and nonprofits for placement of posters in schools, gas stations, hotels, healthcare clinics, airports, train stations, bus stations, and other locations around the state. Last November, the voters of Nebraska passed three ballot initiatives allowing for expanded-- expanded gambling in our state. LB461 is designed to ensure that gambling-- casino gambling establishments are now included in statute-- statutory requirements for displaying these important trafficking awareness posters. LB461 makes no judgment on casino gambling; however, law enforcement does rou-- routinely recognize that casinos are hubs for human trafficking, so it is especially important to make sure that these new establishments in Nebraska are among those required to post these signs. We must do everything we can to increase awareness and help victims find the help that they need. These awareness efforts work hand-in-hand with other successful legislation that we-- that I brought, that we've all worked on previously, to provide for legal immunity for victim-- for human trafficking victims, to impose tougher sentences on buyers and traffickers, to allow victims to have convictions set aside, and-- and also to allow victims to receive damages in court. It is thanks to this work that we have all done together in the Legislature since 2015 that Nebraska has moved from an F rating to an A by the national human trafficking group Polaris. That's why I want to-- that's why I ask you to move LB461 out of committee. I also want to thank Nate Grasz of the Nebraska Family

Alliance for his support and work on this bill. So with that, I'll be happy to any-- answer any questions you may have.

LATHROP: Senator Brandt.

BRANDT: Thank you, Chairman Lathrop. Thank you, Senator Pansing Brooks, for bringing this bill. Why just casinos?

PANSING BROOKS: Good question. I'm happy to expand it to anything else, but the law already has referenced rest stops and-- what was the other one? Sorry.

BRANDT: Strip clubs.

PANSING BROOKS: Yes, strip club, so--

BRANDT: But, I mean, why just casinos?

PANSING BROOKS: We-- casinos came to mind because that was such a brand-new area and there is evidence that-- that-- that there is more sex trafficking at casinos because of the nature of the casino itself, that people are there for a fun time and they expect to have different things available, so.

BRANDT: And I guess the reason I bring that up is I have the opportunity to serve on General Affairs, which covers-- gambling is one of our things. So, I mean, you-- in the state of Nebraska, you also have keno.

PANSING BROOKS: That's--

BRANDT: And you have-- you have different forms of gambling throughout the state, and we anticipate sports betting. And-- and so--

PANSING BROOKS: Are--

BRANDT: Do-- are we going to come back every year and add another line to the law or is there a broader way to write this to be more inclusive of things down the road? I'm asking the question. I don't know.

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PANSING BROOKS: Yeah, I-- I think that-- I really don't know very much about gambling. I'm sorry. So I don't know if there are keno buildings. Are there keno buildings?

BRANDT: There-- there-- Denton, for example, has Big Red Keno.

PANSING BROOKS: OK.

BRANDT: Yeah.

PANSING BROOKS: OK. Well, I--

BRANDT: I mean, usually it's in-- usually it's in conjunction with a local bar or a restaurant.

PANSING BROOKS: OK. Well, I'm happy to add whatever broader language. I certainly don't intend for us to have to come back every year. And we have been careful. I mean, we didn't-- we didn't require it of hotels, but certain-- lots of communities are working with hotels and police, and the AG's Office, as I said, are working with various groups. But we felt that since casinos were particularly situated so that they were large buildings with a lot of people coming out, that we felt that that was a good reason to do it. But I'd-- I'd love to work with you to broaden it.

BRANDT: Yeah. I mean, if you look at like horse-- horse racing is-- is--

PANSING BROOKS: Yeah.

BRANDT: --parimutuel betting, so.

PANSING BROOKS: That's a good idea.

BRANDT: OK,

PANSING BROOKS: Maybe we can think of a good word for that.

BRANDT: Maybe. OK, thank you.

PANSING BROOKS: Thank you. I'd be happy to amend it.

LATHROP: Sen-- Senator Slama.

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SLAMA: Thank you, Chairman Lathrop and Senator Pansing Brooks. Not a question, just a quick comment. Thank you for leading the legislative charge against human trafficking. It's been a privilege to work with you on some of these, and we're grateful for your work.

PANSING BROOKS: I appreciate our partnership on many bills too. Thank you. Thank you very much.

LATHROP: OK, I don't see any other questions.

PANSING BROOKS: OK.

LATHROP: Thanks, Senator Pansing Brooks.

PANSING BROOKS: Thank you.

LATHROP: We will take proponent testimony. Good morning.

NATE GRASZ: Good morning, Chairman Lathrop and members of the Judiciary Committee. My name is Nate Grasz, N-a-t-e G-r-a-s-z, and I am testifying in support of LB461 on behalf of the Nebraska Family Alliance. A blurry surveillance tape from the early morning hours of February 23, 2013, at a casino hotel in Hanover, Maryland, captured a moment that has tragically become all too common at casinos. A slender woman stood in front of a heavyset man who suddenly swung his fist, delivering a blow to the side of her head that sent her stumbling back several feet. He paused before walking over to strike her repeatedly in the face as she defenselessly tried to shield herself. The woman, a trafficking victim, was being assaulted by her trafficker for failing to meet his demands. According to court records, as the trafficker sat in jail on his pending assault charge, his partner then took the woman back to the casino hotel to have sex with customers to raise the bail money for her trafficker. Casinos have proven to be a common rendezvous point for paid sexual encounters. The FBI and local law enforcement have continually identified casinos as hubs for trafficking. And in 2017, the United States Department of Justice specifically named casinos in their National Strategy to Combat Human Trafficking report as a location where pimps will often target children. Across the country, areas with casinos have seen increases in sex trafficking. As Dr. Celia Williamson from the University of Toledo has explained, casinos make host communities vulnerable to trafficking and can increase demand because casinos primarily attract

men with cash in their pocket looking to have a good time. A 2010 study from the UNLV Gaming Research and Review Journal found that casino patrons were 17 percent more likely to have paid for sex in the past year, and those classified as problem gamblers were 260 percent more likely to hire a prostitute than the average survey respondent. With the legalization of casinos in Nebraska, our state now faces new challenges in the ongoing efforts to eradicate human trafficking. The waves of women, men, and children who will be trafficked into the sex trade to meet the increase in demand that accompanies casinos must be met with decisive action. We're at a critical moment where the state has the opportunity to step in before casinos begin opening and take a proactive approach to this problem. Requiring informational posters with the National Human Trafficking Hotline number to be displayed in casinos is an important and necessary step. The hotline is available 24/7, and since 2007, more than 63,000 cases have been reported through the hotline. This will create awareness in an area it is needed most, provide a lifeline to survivors, and offer hope of help, resources and rescue. Sometimes just knowing there is a way out for survivors can make all the difference. I would like to thank Senator Pansing Brooks for introducing this bill and for her continued efforts to combat human trafficking, and we'd respectfully encourage the committee to advance LB461. Thank you.

LATHROP: OK. Well, we appreciate your testimony and your work with Senator Pansing Brooks.

NATE GRASZ: Thank you.

LATHROP: Thanks for being here.

NATE GRASZ: Thanks.

***TIFFANY JOEKEL:** My name is Tiffany Seibert Joekel and I am the Policy and Research Director at the Women's Fund of Omaha. The Women's testifies in support of LB461, providing informational posters about sex trafficking within casinos. As an organization promoting freedom from violence for all Nebraskans, we recognize a common and accurate understanding of sex trafficking to be critical in identifying instances of trafficking, supporting survivors and combatting stigma surrounding the crime. With common incomplete notions of how trafficking presents in our community, additional education is needed to ensure all forms of trafficking can be identified and to reduce the

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stigma or shame a survivor may experience. Many representations of trafficking demonstrate extreme force, kidnapping, confinement, and restraint that initiate and maintain the commercial sexual exploitation. These representations often assume physical restraint, keeping victims locked in rooms, physically unable to leave an experience of trafficking. While these experiences do occur, they do not account for the often more nuanced forms of force, fraud, or coercion a trafficker may employ. Singular presentation of trafficking in this way can be dangerous, as it discourages or decreases recognition of these other, more common forms of trafficking. There is no profile of a trafficker, and likewise no one representation of a victim. Trafficking often presents with a trafficker promising the victim protection, safety, presenting gifts, making the victim feel special or cared for, initiating a romantic relationship with the victim, promising a job, or other tactics to gain the trust of the victim in elaborate grooming processes. The trafficker may be known to the victim as someone they trust or a familial relationship. In these scenarios, traffickers will often employ manipulation, threats and trauma bonds to maintain control of the victim. Biochemical responses to trauma can cause individuals to form intense emotional connections to their harm-doer, and when coupled with complex psychological abuse and manipulation, may result in the individual experiencing harm not initially identifying as a victim or not recognizing their experiences as trafficking. When trafficking presents in these more nuanced forms, common misconceptions of trafficking can prevent identification of trafficking and prevent a survivor from recognizing their experience as trafficking. Recognizing the importance of common understanding of the more nuanced tactics trafficking employs, their remains a need in our community for further education on the multitude of forms trafficking takes. LB461 is an important step in advancing this community education on trafficking, providing informational posters within casinos. The Women's Fund respectfully urges this committee to support LB461 and advance this bill to General File. Thank you.

***TOM VENZOR:** Chairman Lathrop and Members of the Judiciary Committee, I am Tom Venzor, the Executive Director of the Nebraska Catholic Conference. I am offering support for LB461 on behalf of the Nebraska Catholic Conference. From the outset of his pontificate, Pope Francis has been consistently vocal about the modem form of slavery, that is, human trafficking, which we all must combat. Pope Francis has condemned human trafficking with the strongest language, recognizing

that trafficking is an "atrocious scourge," an "aberrant plague," and an "open wound on the body of contemporary society." As he has further stated: "The human person ought never to be sold or bought as if he or she were a commodity. Whoever uses human persons in this way and exploits them, even if indirectly, becomes an accomplice of injustice." The Nebraska Legislature has taken heroic strides over the last decade to raise awareness about the evils of human trafficking. Just a decade ago, Shared Hope gave Nebraska an F grade for the lack of anti-human trafficking laws our state had in place. Today, Polaris ranks Nebraska #1 in the country for our fight against human trafficking. This is not simply because of the major laws we have enacted to combat trafficking, but it is also because of the smaller, vigilant laws we have passed that educate and equip Nebraskans to identify and prevent trafficking. Once again, the Unicameral can contribute to anti-trafficking efforts through a smaller, vigilant action that will undoubtedly save women and men from a life of being trafficked. LB461 would rightfully ensure that casinos be added to the list of places which are required to display human trafficking informational posters. With the legalized advent of casino gambling into Nebraska, it is important to recognize the social costs of casinos relative to human trafficking. Casinos are known as hot spots for sex trafficking. One study found that casino patrons are 17% more likely to pay for sex and those identified as problem gamblers are 260% more likely to hire a prostitute. As well, FBI investigators have included casinos as a key location "to recover minor sex trafficking victims and to target the criminal enterprises responsible for the commercial sex trafficking of children." In recognizing casinos as hubs for trafficking activity and requiring human trafficking informational posters, Nebraska can remind the trafficking industry that we are watching, and we are fighting back against their criminal activity. More importantly, Nebraska can remind victims and survivors of trafficking that we see them, and that we are committed to abolishing their slavery and that we desire to restore their God-given human dignity. The Nebraska Catholic Conference respectfully requests that the Judiciary Committee advance LB516 to General File-and we pray that this straightforward, common sense bill find a place on Consent Calendar. Thank you for your time and consideration.

LATHROP: Next proponent. Anyone else here to speak in support of LB461? Anyone here in opposition? Anyone here to testify in a neutral capacity? Seeing none, Senator Pansing Brooks, you wish to close? She

waives close. Before we close out the record, we do have one position letter in support and we have written testimony offered this morning by Tiffany Joekel-- am I pronouncing that right? Is it yo--

PANSING BROOKS: It's yo-kul. [PHONETICALLY]

LATHROP: Joekel. Sorry, Tiffany. I've known her for a million years and-- anyway-- well, not that long. But Tiffany Joekel at the Women's Fund of Omaha is a proponent; and Tom Venzor, a proponent with the Nebraska Catholic Conference. With that, we'll close our hearing on LB461. That will bring us to a combined hearing on two somewhat similar bills, LB7 and LB519. Senator Blood will introduce LB7, followed by Senator Morfeld, and then we will have a hearing on both bills at the same time. Welcome, Senator Blood.

BLOOD: Well, good morning, Chair Lathrop, and to the entire committee. My name is Senator Carol Blood, and that-- that is spelled C-a-r-o-l B, as in "boy," l-o-o-d, as in "dog," and I represent Western Bellevue and southeastern Papillion, Nebraska. Thank you for the opportunity to introduce LB7, a bill to support victims of violent crimes, sex trafficking vic-- survivors, and individuals attempting to access the criminal legal system and emergency medical care. This bill builds upon our history of good Samaritan laws for victims to ensure someone is able to engage with law enforcement or seek critical medical care safely and without fear of criminal repercussions. By allowing survivors and witnesses of violent crimes to report without fear of prosecution or arrest for nonviolent offenses, LB7 supports identification of violent crimes in our community. This bill is about prioritizing health, well-being, and safety within our community. Legal protections of LB7 establish that someone shall not be in violation of sex work-related and drug possession offenses when the individual reports a violent crime to law enforcement or cooperates with a law enforcement investigation of a violent crime or assists the victim of a violent crime gain access to emergency medical care. LB7 supports those witnessing crimes, as well as victims themselves, in particular sex trafficking victims. So in the complex nature of sex trafficking, we continue to see incarceration of victims for crimes that occurred as a result of the violence that they experience. A 2016 study by the National Survivor Network found that 91 percent of trafficking survivors report having been arrested. While many are arrested for sex work-related offenses, drug possession is also a primary reason for such arrests and is the reason for its inclusion in

this bill. Components of this bill that require cooperation with law enforcement supports investigations and provides discretion to law enforcement agencies when carrying out the pro-- provisions within LB7. It also supports the identification and investigations of sex trafficking in our communities, as well as the safety of these survivors. Those most likely to witness in-- instances of trafficking may not feel comfortable reporting the crime to law enforcement for fear of criminal repercussions, so it's important to remember that it is already common practice. Again, I want to repeat this. It's already common practice among many Nebraska jurisdictions to withhold arrests of lower-level offenses when gaining cooperation in the report or investigation of more serious crimes, yet many witnesses and victims alike may not be aware of this practice or remain hesitant to engage without explicit legal protections. This bill provides victims and witnesses the assurance they may need to safely report and assist law enforcement in gaining such cooperation. Sex trafficking is already a very complex crime that poses many challenges to identification and investigations. These legal protections address a crucial component of those barriers so we are better prepared to respond to such violence. This bill additionally supports survivors of violent crimes, including sex trafficking and accessing emergency care needed as a result of the violence they experienced. Now Nebraska has understood this, that-- that access to emergency lifesaving care, and we know that it has to be prioritized, as has been shown by previous legislation here in Nebraska. This bill increases access to emergency care, building upon previous drug possession good Samaritan legislation in response to drug overdoses, introduced by Senator Morfeld and passed in 2017. LB7 expands those protections to now include protections for sex work-related offenses and drug possession offenses when assisting someone who has experienced a violent crime, access to critical medical care. So multiple components of this bill ensure that-- ensure it is utilized as intended. Law enforcement maintains discretion to determine if an individual has appropriately met cooperation requirements clearly stated in the bill. As such, if law enforcement has reason to believe information provided is not truthful or accurate, they maintain discretion to determine whether such legal protection should actually apply. This bill includes explicit language that ties access to legal protections with the report, cooperation, and request for medical assistance, ensuring protections can only be accessed when one of these three criteria is met and limiting the time frame for which these protections apply. This bill was drafted with

exist-- existing Nebraska good Samaritan laws as a model and foundation to ensure constitutionality and compatibility with our current laws. In particular, stating someone shall not be in violation of the eligible offense mirrors the language of our previously mentioned drug offense good Samaritan law in effect today and operating to its extent without statutory conflict. The language also draws from states that have already successfully adopted legal protections for these crimes into their lives for such instances, such as Alaska and Utah. In closing, I want to be clear. I think those who have worked with me understand that I'm a big supporter of law enforcement and our legal system. But with that said, I'm aware that the county attorneys have a few problems with this bill. I also know we've worked hard to try and fix those problems, but so far we haven't been able to quite reach an agreement, but we feel we're getting really close. We appreciate and respect that prosecutors are able to not prosecute for lesser charges as an important tool in their toolbox. However, the priority of this legislation is creating-- creating a very clear legal protection up front so that survivors and victims are willing to come forward and engage in the system. So I truly believe that LB7 is critical to supporting investigations, as well as supporting the health and safety of all who wish to engage in the criminal legal system or those who have experienced violence. The bottom line is that we need to remember that human trafficking victims are survivors of trauma, not criminals. Any type of criminal conviction that's related to trafficking ultimately creates a hurdle or barrier to any survivor's long-term recovery and future stability. For our state's safety and the well-being of these survivors, I really urge you-- your consideration and advancement of LB7 and want you to know that we are open to continue working with any opposition, with any member of this community or your legal staff or whomever we need to work with, to get this right. It's the next step that we need here in Nebraska to protect these victims, these survivors, and they deserve the right to a better life after the circumstances that they have experienced. So I will lastly add that I've offered an amendment and I would like the committee to consider when you consider the amendment, when you Exec on this bill. I believe this polishes up some of the language and clarifies when exactly a victim of sex trafficking can be exempted from prosecution. So with that, I'll take any questions, though I know there are others behind me waiting to testify who are better experts on this subject matter, and it may be a better use of your valuable time to speak with them first and I can address

anything that's remaining in my closing. So I appreciate your time today and I look forward to hearing the-- the second bill in this group.

LATHROP: OK, so do we. I don't see-- oh, Senator McKinney.

McKINNEY: I will-- I'll probably need to ask somebody coming behind you. Are-- are there any protections currently in the law that protect victims against retaliation?

BLOOD: Against retaliation? Yeah, I would definitely, when it comes to the law, speak to somebody who is--

McKINNEY: All right.

BLOOD: Yeah, I would not want to-- to answer questions that I'm not qualified to answer.

McKINNEY: OK.

BLOOD: But thank you for that question.

McKINNEY: Ok. No problem.

LATHROP: OK, I don't see any other questions. Senator Morfeld, you may open on LB519. Welcome.

MORFELD: Thank you, Chairman Lathrop, 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 LB519, a bill to provide amnesty from certain drug and alcohol charges for persons reporting a sexual assault of themselves or others. And it also gives judges discretion to waive requirements for publication of name changes when doing so would endanger the petitioner. This bill prevents victims and witnesses from arrest or prosecution for eligible alcohol or drug offenses if they report the incident and, in good faith, request emergency medical assistance for a victim and cooperate with law enforcement on investigations. This legislation mirrors my previous legislation that provided limited immunity for alcohol and drug overdoses that the Legislature has overwhelmingly passed two times. Evidence that is obtained as a result of a victim or witness of sexual assault that was found as a result of reporting sexual assault will

also not lead to the arrest or prosecution of that person. This legislation will benefit everyone. And on the alcohol issue, it'll specifically benefit young people, particularly the college students that I represent, in Nebraska. And it was college students that actually brought this idea to me. By removing potential punishments for certain drug and alcohol charges, students who experience or witness sexual assault may be more likely to come forward and report to campus or local authorities with this protection. Alcohol or drug use should not get in the way of bringing someone to justice because of sexual assault. Sexual assault is an epidemic on college campuses across countries. Schools in Nebraska are not exempt from this trend. Based off statistics supported by the Rape, Abuse and Incest National Network, thousands of college students in Nebraska have experienced rape or sexual assaults with physical force, violence, or incapacitation. Sexual assault is a widespread problem in many communities, but is particularly acute on college campuses. Studies have shown that victims of sexual assault sometimes do not come forward to report a crime because they believe that drugs and alcohol will be addressed before the crime of sexual assault. If more victims and bystanders come forward to report sexual assault, not only will there be justice and we will be safer, there will also be more data surrounding the topic in general. This will allow us as legislators to better create legislation that will be more effective in countering this. As noted above, LB519, adds to the work that I've done since I was first elected, two bills that I introduced addressing immunity for possession of drug-- of alcohol or drugs when a person calls for police on behalf of themselves for an overdose and they have to cooperate with law enforcement by staying on the scene and cooperating with the investigation. LB519 takes it to another level by encouraging those that are reporting sexual assault without fear of prosecution for simple possession, use of alcohol or drugs. LB519 also gives the judge discretion, as I talked about in the first part, to waive the requirement to publish a name change when a person would be in danger by doing so. I urge your favorable consideration of LB519. I'd be happy to answer any questions that you may have.

LATHROP: Senator Brandt.

BRANDT: Thank you, Chairman Lathrop. Thank you, Senator Morfeld, for bringing this. And-- and you're an attorney and-- and you could probably clarify this for me. I'm very sympathetic to the victim, but does this let a bystander off the hook? So somebody gets-- gets caught

for a drug offense or an alcohol offense and they can say, oh, by the way, I-- I know a sexual assault that happened last week. I mean, does this apply in that situation or not?

MORFELD: Yeah, that's a good question, Senator Brandt. It wouldn't. And if we need language to-- to clarify that, I'll work with legal counsel on that particular. It would have to be-- and-- and so the intent of this is that it'd be a contemporaneous type of incident. So that, for instance, if a-- if a bystander said, hey, I saw somebody that was incapacitated be sexually assaulted, there was drinking, there were drugs, I was partaking in those things, they wouldn't have any fear of explaining the circumstances and what was going on. That's the purpose of it--

BRANDT: OK.

MORFELD: --because what we don't want them to do is be drinking or on drugs or something like that and go, well, I can't report that because they're going to start asking me questions about what I was doing there and there's people there that saw me using alcohol and drugs and, you know, if-- if I-- if I tell them who's there, then they'll say that I was using alcohol and drugs, which is true, and then they won't report it. Yeah, it's [INAUDIBLE]

BRANDT: And I guess, yeah, my concern is those that will try and game the system, yeah.

MORFELD: Yeah.

BRANDT: And we always have that.

MORFELD: You-- yeah, you always have that, Senator Brandt. And I'll be honest with you, all the years blur together now and I don't remember if you were there for the debate on my drug or alcohol bill, it was two separate sessions. People did bring up some of those things, like, well, what if this happens, what if that happens? I'll tell you that I've been in touch with law enforcement agencies, particularly UNLPD and Lincoln Police. They have not seen abuse of those-- those laws in the way that people were concerned sometimes.

BRANDT: OK, very good.

LATHROP: All right. Thank you, Senator Morfeld.

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MORFELD: Thank you.

LATHROP: We'll take proponent testimony on these two bills. If you wouldn't mind, when you testify, if you're talking about a particular bill, if you can refer to LB7 or LB519, if you're making a distinction rather than broadly talking about both concepts. That will help us with the record and maintain a legislative history. Welcome.

KELSEY WALDRON: Thank you. Chairperson Lathrop, member of committee, my name is Kelsey Waldron, K-e-l-s-e-y W-a-l-d-r-o-n, and I'm the policy associate with the Women's Fund of Omaha. The Women's Fund testifies in support of LB7 and we've submitted written comment in support of LB519. LB7 is a good Samaritan bill promoting safer engagement with our criminal legal system and access to emergency medical care for survivors and witnesses of violent crime. This bill will support our state in creating more trauma-informed processes, specifically as it relates to instances of sex trafficking. We understand that the nature of sex trafficking and resulting trauma experienced are very complex. Instances of trafficking often involve extensive grooming processes and manipulation that may cause a survivor to not identify as a victim or form intense emotional connection with their harm doer: trauma bonds. Biochemical responses to trauma can cause individuals to form intense emotional connections to that harm doer. And when coupled with this psychological abuse, the result is that the individual experiencing that form of violence may not identify as a victim or may not recognize their experiences as trafficking. As a result, not everyone who has experienced this form of violence will immediately identify as a victim when first in need of care. Our current laws thus create a gap for these survivors and threaten to criminalize individuals for the violence that they have endured. A 2016 survey of trafficking survivors found that 91 percent of survivors had ex-- have been arrested. The most common charge sex trafficking survivors were arrested for was prostitution at 65 percent of survivors, followed by solicitation for prostitution at 42 percent, and drug possession at 40 percent. Inclusion of legal protections for both sex work and drug possession offenses mirrors the current data that we have available on the most common forms of criminalization of survivors. This bill recognizes the complex nature of trauma that may cause someone not to identify as a victim and addresses this legal gap by supporting individuals and accessing emergency care or engaging in our criminal legal system. And, Senator McKinney, to try and answer your question, so we currently have affirmative defense for sex

trafficking survivors if-- if they were a trafficking survivor from sex work-related offenses, as well as, thanks to Senator Patty Pansing Brooks's leadership, a sealing of criminal record after-- after sentencing for sex trafficking victims. This bill is really intended to build upon that legislation, to recognize instances, as I just described, where survivors are still falling through that crack and experiencing that criminalization. Then we also hope that this bill will increase access to justice for vulnerable populations that have information about sex trafficking but may-- may not feel comfortable coming forward and engaging in the criminal legal system. So as a result, we really believe this bill is about community well-being and safety, support for si-- survivor help and creates a more trauma-informed law. So we ask for your support on LB7, and I'd be happy to answer any additional questions.

LATHROP: OK. Any questions for Ms. Waldron? Senator McKinney.

McKINNEY: Thank you for your testimony. When I brought up the-- the question about protections about-- against retaliation, I was just thinking a victim, you know, gives their story and gives-- and-- and comes forward about information. What if somebody is aware of that and decides, OK, I'm going to go attack this person? Are there protections currently in place to make sure that if a victim comes forward, that somebody won't fig-- find out about it and come try to attack them?

KELSEY WALDRON: Sure. And we also have a representative from the Omaha Police Department that might be able to answer that more specifically. I would say that that would fall under sort of general victim witness protections that-- that we currently have, not necessarily specific to sex trafficking. But I think the-- the intent with this bill is we really recognize that without explicit protections from-- protections from criminal repercussions, many people won't come forward to engage in that criminal legal process who otherwise may have information about the crime or may want to access justice through that process. And so this is really intended to address currently the criminal legal repercussions of reporting that crime, rather than speaking specifically to-- to threats-of-violence repercussions.

McKINNEY: Thank you.

LATHROP: I see no other questions for you. Thanks for being here this morning.

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KELSEY WALDRON: Thank you.

LATHROP: Next proponent. Good morning.

TRACY SCHERER: Good morning. Can I go now?

LATHROP: Yeah, yeah, sure.

TRACY SCHERER: Good morning and thank you for the opportunity to provide testimony on behalf of the Omaha Police Department in support of LB7. My name is Tracy Scherer and I'm a lieutenant of the Omaha Police Department's child victims and missing persons unit. I've been in my current position for three-and-a-half years with a total of 26 years as a sworn police officer with the Omaha Police Department.

LATHROP: Ms. Scherer, can you spell your last name for us?

TRACY SCHERER: Oh, I'm sorry. It's S-c-h-e-r-e-r.

LATHROP: OK,

TRACY SCHERER: I have experience investigating sexual assault, sex trafficking, and other crimes of violence. Victims of such crimes experience a high level of trauma, have historically been disbelieved and often have difficulty trusting any officials, supportive services, or others whose intentions are to help. The suspects of such crimes often instill fear, make threats, or have control over their victims. These victims are often the scapegoats for the actual suspect. Victims are made to carry contraband, open bank accounts or participate in illegal activities at the mani-- manipulation and control of the suspect. Because of the multitude of factors, victims of violent crimes are reluctant to report, assist, or participate in investigation and prosecution of their perpetrators. The immunity from arrest provided in this bill already exists in practice in other situations. For example, suspects who are found to be in possession of controlled substances and don't have other charges tied to a victim are often offered the ability to provide information relating to their suppliers, other distributors and members of drug organizations in exchange for relief of arrest, prosecution for possession of controlled substance. Such practices allow police to find bigger drug operations' distributors instead of simply arresting the user with a small amount of cont-- controlled substance. This practice is typically reserved for drug offenses, only limiting the ability of

police officers to gain trust and rapport with reluctant victims. This bill is in line with such practices and affords officers the ability to use techniques in similar situations when gaining the trust of a victim is difficult. We believe having it in statute will go further toward victims being willing to use this as an option because of the complex trauma of trafficking victims, as well as distrust for symptoms and-- systems and outside agencies. I often feel an experience better illustrates the narrative. During November of 2020, two parties were stopped in Omaha along Interstate 80. The adult male driver and a 17-year-old female passenger were both interviewed. The female was well known to officers and has been the victim of sex trafficking for the last three years. Previous disclosures of sex trafficking have always ended with her refusal to cooperate with prosecution or further investigation. On this day, the female had a significant amount of methamphetamine locate-- located in her underwear. The 17-year-old reluctantly told officers the methamphetamine belonged to the driver, her boyfriend, who had been trafficking her and another girl out of a motel room in Council Bluffs, Iowa. Upon fi-- further investigation, this victim further disclosed that her boyfriend had just strangled her and she was afraid of him. Officers decided not to arrest the 17-year-old for the possession of narcotics and have instead worked to build rapport with her. After several interviews and efforts to build rapport, officers have been able to ident-- identify not only two of her traffickers, but several of the parties responsible for paying to have sex with her and continue to work towards arresting and prosecuting these offenders. Thank you for allowing me to speak to this. I believe that this bill is not out of line with what is already in practice and will assist us with gaining the-- the trust of survivors to actually come forward as-- when they're victims of such crimes.

LATHROP: OK. Any questions for Ms. Scherer? Senator Pansing Brooks.

PANSING BROOKS: Thank you for being here, Ms. Scherer-- or Officer Scherer. And I appreciate your work. It's also wonderful to see some of the work that the Legislature has initiated to try to make victims understand that they are victims and be willing thereby to work with police. So that's exactly what we were trying to have done. It's good to hear a story about that. Thank you. Thank you for your work.

LATHROP: I don't see any other questions. Thanks for your testimony though. Next proponent. Good morning.

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ANDREA EDWARDS: Good morning. Dear Senator Lathrop and members of the Judiciary Committee, my name is Andrea Edwards, A-n-d-r-e-a E-d-w-a-r-d-s, and I am the director of Heartland Housing Sanctuary at Heartland Family Service. I am testifying today in favor of LB7 on behalf of our agency and the clients that we serve. I would like to extend our appreciation to Senator Blood for bringing this bill forward. Heartland Housing Sanctuary consists of a 14-bed crisis stabilization shelter and community-based advocacy services for adult individuals who have been sexually exploited or trafficked. We recently were awarded funding to add a much-needed service in our community that includes transitional and rapid rehousing that is specific to individuals who have endured either labor or sex trafficking or both. This program offers a low-barrier, trauma-informed approach based around healing and recovery from human trafficking, along with a component of education for the community. As you can imagine, our clients have endured some of the worst traumas of human-- human experience. When enduring these horrors, they oftentimes found-- found themselves in the crosshairs of law. As outsiders who are not opposed to a world of trauma, poverty, substance abuse, mental illness and worse, we would like to imagine a simple, noncontroversial scenario where one bad person makes an innocent victim do something bad. Unfortunately, it is usually not that simple. In the scenarios our clients like Julie, whose name I've changed, have been part of, Julie is coerced to sell sex, steal, run drugs, or break the law by her known perpetrator. She is still a victim, but she has-- she has been given no other choice but to break the law. Unfortunately, Julie believes that she is the guilty one as her perpetrator use-- utilizes force, fraud, and coercion to control her. In turn, her perpetrator receives a benefit that is typically financial at the cost of Julie's freedom and potentially her life. Over half of our clients are like Julie and have prostitution, theft, and/or drug charges. Without LB7, these charges continue to hang over Julie's head. We have appreciated the work of Senator Pansing Brooks has done to pass laws that will expunge the records of sex trafficking survivors. But LB7 would take this a step further so that when anyone is caught in the crosshairs, they are not punished for being victims or for doing the right thing and helping law enforcement. When people are charged as criminals, those charges prevent our clients from getting basic resources or becoming productive members of society. They are unable to get benefits, housing, or a decent paying job. We see this often lead them back to doing what they are familiar with, selling sex, because they

know-- because that's what they know, relapsing on substances or stealing to meet their basic needs. LB7 provides an opportunity to break that cycle. We ask that you vote this bill out of committee and pass it onto the floor. I would be happy to answer any of your questions.

LATHROP: Very good. Any questions for Ms. Edwards? I don't see any.

ANDREA EDWARDS: Thank you.

LATHROP: Thanks for being here and for your work at the shelter too.

ANDREA EDWARDS: Absolutely. Thank you.

LATHROP: Yep. Anyone else here to testify as a proponent on either bill? Good morning.

BROOKLYN TERRILL: Hello. Hello, Chairman Lathrop, members of the Judiciary Committee. For the record, my name is Brooklyn Terrill, B-r-o-o-k-l-y-n T-e-r-r-i-l-l, and I'm a sophomore at the University of Nebraska-Lincoln. Today I am here to advocate on behalf of LB519 because I believe that instituting an amnesty-- amnesty policy for certain drug and alcohol charges for victims and bystanders who report sexual assault would be beneficial for Nebraska. The idea for this bill stemmed from an English assignment and an experience I had within a few weeks of coming to college. One of my friends randomly showed up at my dorm. She'd woken up a frater-- in a fraternity house with little rec-- recollection of the night before, confused and terrified. She didn't remember what had happened or how she'd gotten there. And when she asked the boy what had happened, all he responded with was, nothing, and if you tell anyone about it, you'll get in trouble for drinking. Because of what he said, she decided to do nothing. She moved on and tried to pretend it didn't happen. This is not an uncommon story and sexual assault is not an issue any university is exempt-- exempt from. Sexual assault is a complex issue, particularly with drugs, alcohol, and young people in the mix. The University of Nebraska system put an amnesty policy into place with President Carter's executive memorandum number 38 in August of 2020. This memorandum states that the university recognizes that an individual who has been consuming unauthorized alcohol or drugs at the time of an incident may be hesitant to make a report due to potential consequences. Though the University of Nebraska system has recognized

amnesty as an effective policy, LB519 would move further by expand-- expanding amnesty throughout the legal system. Eleven-point-two percent of all college students experience rape or sexual assault through physical force, violence, or incapa-- incapacitation, according to the Rape, Abuse and Incest National Network, RAINN. That is around one in every ten college students you-- that you meet, which equates to almost 3,000 students at UNL alone. These incidents are more likely to occur during the first few months of the school year when students are still acclimating to college life. According to the campus sexual assault study, on average, at least 50 percent of sexual assaults occurring in college involve alcohol. A study done by The Washington Post and the Kaiser Family Foundation reflects that victims of sexual assault feel they cannot report the crime because their drinking and/or drug use will be addressed as the primary offense. Drugs and alcohol are contributing to the frequency of sexual assault incidents on college campuses. However, the impact that they have on students reporting sex-- sexual assault could be managed with the implementation of LB519. They bill gives students who experience sexual assault the power to come forward and advocate for themselves without fear of re-- retribution. Implementing LB519 is a free and clear way the state of Nebraska can help victims of sexual assault. New York has one of the most progressive laws in the United States when it comes to sexual assault and their law acknowledges that the health and safety of students is important and that their underage drinking and drug use should not take away from their desire to report. I've heard the same stories my friend count-- told to me countless times from people who have experienced sexual assault themselves or heard about it happening to their friends. Campus sexual assault is a complex issue, but this is a simple policy change that has the potential to make a massive impact on the well-being and safety of Nebraska students. College students should be worried about finals and planning for their future careers, not whether or not to report a campus sexual assault. Amnesty helps center the-- the issue of campus sexual assault around the primary crime, sexual assault, itself. This is policy that will help victims of sexual assault, my fellow Huskers, and your fellow Nebraskans. Thank you for your time.

LATHROP: Very good. Well, we appreciate you coming in this morning. I don't see any questions, but thanks for your testimony and your perspective as a student.

BROOKLYN TERRILL: Thank you very much.

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***ANGIE LAURITSEN:** Chairman Lathrop and Members of the committee, I am Angie Lauritsen, I am the chair of the Legislative and Policy Committee for Survivors Rising. I am expressing (for the record) my support of LB519, legislation that would support trafficking survivors and victims of violent crimes. I thank Senator Morfeld for bringing this legislation to the committee. Providing services to victims and witnesses of serious crimes in Nebraska is key in helping bring the offenders to justice. This legislation will provide a statute where the fear of coming forward or receiving emergency medical services will be alleviated. There are so many internal roadblocks when/if a survivor comes forward to help law enforcement that if we could help take away some of the outside forces they would be more willing to come forward. In the end putting the perpetrators behind bars should be the number one goal. Nebraska needs to be a state where offenders know that they will be held accountable for their actions and that we will not tolerate violence, abuse, oppression and sexual exploitation and we support survivors throughout their survivorship. This bill takes a big step to ensure that victims in Nebraska will have the support they need during one of the most traumatic times of their lives. Victims have been through enough. We need to do better. Enactment of LB519 is a human rights issue. We must look out for the most vulnerable among us. I ask for your support. Thank you for your consideration and support of LB519.

***VERONICA MILLER:** Chairman Lathrop and 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 LB519. On behalf of the UNL student body, I want to thank Senator Morfeld for introducing this proposal to provide immunity from arrest and prosecution for certain drug and alcohol offenses for witnesses and victims of sexual assaults. This bill is presented to you today in an effort to bolster the existing Good Samaritan laws. Protecting survivors of sexual assault by empowering them to properly report what happened without fear of charges brought against them ensures accountability in our communities and strengthens support of survivors. Encouraging people to report sexual assault by eliminating the fear of extraneous charges is a powerful step in combatting the negative affects of rape culture and underreporting of sexual assault. Unfortunately, a majority of sexual assaults go unreported. Sexual

violence is more prevalent at college, compared to other crimes, such as robbery. Yet, college-age victims of sexual violence often do not report to law enforcement. There are various reasons why survivors and witnesses do not speak up, but I believe providing limited immunity to these parties can help to address this issue. Nebraska's current Good Samaritan Law protects intoxicated minors and encourages minors to call 911 when they suspect an alcohol overdose without fear of receiving an MIP (minor in possession). This law protects both the intoxicated minor and the caller from underage drinking charges and has been used countless times by UNL students. In a similar way, LB519 would benefit UNL students and all Nebraskans by protecting those witnesses and survivors of sexual assault from particular drug and alcohol charges. While this immunity is limited, it could have a real impact on people reporting and seeking help in dangerous situations. Included is a unanimously passed resolution from the Senate supporting the passage of LB519. Once again, ASUN would like to thank Senator Morfeld for introducing LB519 and for his proposal to provide immunity from arrest and prosecution for certain drug and alcohol offenses for witnesses and victims of sexual assaults. On behalf of the elected student government leaders at the University of Nebraska-Lincoln and the entire student body, please seriously consider this testimony and our support of LB519. We would urge the Judiciary Committee to support and advance this legislation to General File. Thank you for your time and consideration.

***SPIKE EICKHOLT:** My name is Spike Eickholt, and I appear as registered lobbyist in support of LB519. LB519, in part, updates our name change statute to provide better protection for the most vulnerable of Nebraskans based on successful reforms utilized in many other states.1 Senator Morfeld's proposed changes would provide petitioners with the ability to request a waiver of the publication requirements when they can present good cause. For the victims of domestic violence and members of the LGBTQ community the existing publication requirement can create unnecessary and serious risks to their personal safety. People should not be afraid to change their names because doing so puts them at risk of harm or death. The change proposed by this part of the bill is a common-sense measure that strikes the right balance at this time between legitimate government objectives and appropriately empowering courts to protect those for whom name changes are vital to their sense of safety and identity. While there is still more work to be done to ensure that name changes are fair and

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accessible to all citizens, LB519 takes an important step in advancing the safety and privacy interests of our residents and advancing gender justice and LGBTQ rights. We commend Senator Morfeld for advocating those interests on behalf of our most vulnerable and often disenfranchised residents.

***CHRISTON MACTAGGART:** My name is Christon MacTaggart, and I am testifying in support of LB519, providing legal protections for victims or witnesses of sexual assault under the influence of drugs or alcohol when they report to law enforcement or seek medical attention. This bill promotes the safety and well-being of our community, by supporting reports of sexual assault and assisting survivors in accessing health care. Survivors or witnesses to a sexual assault may be hesitant to engage with law enforcement or seek medical care if they are fearful of a drug or alcohol offense. This bill seeks to eliminate that barrier. In doing so it may help provide survivors that refrain from seeking medical care due to drugs or alcohol feel secure in their choice to do so. Sexual assaults already have a substantially low rate of reporting. About half of violent crimes, including sexual assaults, involve alcohol by the victim, the abuser, or both. This a substantial population of survivors that may experience this additional barrier to reporting and seeking medical attention. Most instances of sexual assault happen earlier in life when a victim or witness is under the age of 21 or even 18. Additionally, many survivors of sexual assault will feel shame regarding their victimization due to the fact that they had been under the influence of drugs or alcohol. The possible legal repercussions of alcohol or drugs violations may add to that shame and add additional barriers to reporting and seeking medical care. Nebraska statute already recognizes the detrimental impact such legal repercussions have for survivors and public safety, establishing that evidence supporting drug or alcohol offenses found during a sexual assault forensic medical exams of a survivor may not be used in prosecution of the survivor. This bill expands that protection beyond evidence resulting from forensic exams alone, ensuring survivors are not criminalized when seeking justice or accessing emergency medical assistance after sexual assault. Additionally, this Legislature has already demonstrated broad support for the principal of Good Samaritan laws - to provide limited exceptions to violation of crimes in an effort to seek safety or justice. Nebraska statute already has several examples of such a principal (28-472, 28-1418, and 53-180.05). This bill

recognizes this barrier that victims and witnesses of sexual assault might face if they are under the influence of drugs or alcohol and seeks to provide safety for these survivors as they access medical care or report to law enforcement. Women's Fund respectfully urges your support of LB519 and vote to General File.

***ROBERT SANFORD:** My name is Robert Sanford. I am the Legal Director for the Nebraska Coalition to End Sexual and Domestic Violence and I am testifying on behalf of the Nebraska Coalition to express our support for LB7. I ask that this be considered written testimony and that it be included with the Committee statement on LB7. The Nebraska Coalition is a nonprofit, membership-based organization consisting of twenty local agencies providing support services to victims of domestic and sexual violence. These twenty programs provide services in all ninety-three counties in Nebraska. The Nebraska Coalition is focused on enhancing safety and justice by changing the beliefs that perpetuate violence. We believe that individual autonomy will help survivors seek safety and that economic stability is a factor in autonomy and safety. Nebraska has taken great steps toward ending human sex trafficking in our state. LB7 is one more step in that process. LB7 would provide protections to victims of human sex trafficking who might otherwise be charged with prostitution under Neb. Rev. Stat. 28-801. According to the U.S. Department of Health & Human Services Office of the Assistant Secretary for Planning and Evaluation, victims of human trafficking "are often reluctant to identify themselves as victims." This document goes on to note barriers and challenges many victims of sex trafficking face, including a lack of trust and a fear of law enforcement and arrest. In other words, victims of human trafficking fear reporting crimes to law enforcement because of a belief that they will be arrested. This fear keeps victims trapped in abusive relationships that can include human sex trafficking. LB7 seeks to eliminate that fear and provide an opportunity for victims to report crimes. LB7 prevents law enforcement from arresting an individual who reports a crime of violence to law enforcement or seeks emergency medical assistance for the victim of a crime. It prevents prosecutors from filing criminal charges against the victim as well. In tum, this helps to build trust. We hope that this trust will lead to the reporting of crime and ultimately to victim safety. As I mentioned above, we believe safety can be achieved by providing victims with autonomy and through economic justice. LB7 will help survivors of sex trafficking as they seek safety. Victims

who no longer fear their own arrest are given the autonomy needed to reach out for help from law enforcement and from medical providers. In 2018, The Council of State Governments published an article about a law that one state had passed. The author noted that the law would "help victims of sex trafficking clear their records of prostitution or other offenses that were a direct result of their being trafficked." The article went on to note that the senator sponsoring that legislation did so "to help sex trafficking victims eliminate the barriers to housing, employment and education that are often associated with having a criminal record. The legislation described in the article was LBll32 introduced by Senator Pansing Brooks and discussed in this Committee in 2018. LB1132 created a process that allows certain victims of human trafficking to request that the conviction be set aside. LB7 is taking this idea a step further. It prevents the prostitution arrest or conviction from ever occurring when the individual reports a crime of violence or requests emergency medical assistance for the victim of a crime of violence. The result of LB7 is similar to LBl132. Certain victims of human trafficking will have a greater chance to become economically independent because they will not have a conviction for prostitution on their record. This will allow them a chance to escape the trap they may feel caught up in and lead them toward freedom from the individual trafficking them and forcing them into prostitution. The Nebraska Coalition is grateful to Senator Blood for her effort in providing opportunities for victims of sex trafficking to obtain the safety and autonomy many of us take for granted. We support LB7 and ask that you advance it out of Committee for debate by the full Legislature.

***SCOUT RICHTERS:** Thank you Chairman Lathrop and members of the Judiciary Committee. My name is Scout Richters and I am Legal & Policy Counsel at the ACLU of Nebraska. The ACLU offers its support of LB7 and we would like to extend our gratitude to Senator Blood for introducing this legislation. Fear of prosecution for prostitution or drug offenses makes individuals less likely to report violence and prevents individuals from accessing health care and other critical services. Prosecution for these offenses also contributes to Nebraska's mass incarceration crisis and overcrowding in Nebraska prisons and jails. Prosecution for these kinds of offenses further marginalizes some of our most vulnerable groups including trans women of color. Additionally, the ACLU of Nebraska notes that prosecution for prostitution offenses is already constitutionally suspect given

that the Supreme Court has recognized the right to private sexual intimacy and the right to form and make decisions about intimate relationships, including those that are sexual in nature. It is important to reiterate however, that this bill does not decriminalize prostitution or sex work. Instead, it provides a narrow grant of immunity from prosecution for those who report a crime or seek help for a victim of a crime for the specific crime of violence being investigated. We reiterate our appreciation to Senator Blood and urge the bill's advancement to General File.

***ANGIE LAURITSEN:** Chairman Lathrop and Members of the committee: My name is Angie Lauritsen, and I'm the chair of the Legislative and Policy Committee for Survivors Rising. I am expressing (for the record) my support of LB7, legislation that would support sex trafficking survivors and victims of violent crimes. I thank Senator Blood for bringing this legislation to the committee. Providing services to victims and witnesses of serious crimes in Nebraska is critical to bringing offenders to justice. This legislation would provide a statute that would alleviate the fear of coming forward or receiving emergency medical services. There are many barriers to reporting violent crimes-particularly in sex trafficking. LB7 would remove these roadblocks by supporting witnesses who come forward to report crimes and ensuring they're aware of these protections. Nebraska should be a state where survivors and witnesses of violent crimes can come forward to report without fear of prosecution or arrest. This bill takes a big step to ensure they'll have the support and safety they need during one of the most traumatic times of their lives. Victims have been through enough. We need to do better. The enactment of LB7 is a human rights issue. We must look out for the most vulnerable among us. I ask for your support. Thank you for your consideration and support of LB7.

***CAMERON COLLIER:** Chairman Lathrop and members of the Judiciary Committee, for the record, my name is Cameron Collier. I serve as the University of Nebraska - Lincoln (UNL), Association of Students Student Government, Government Liaison Committee Chair. Today I am appearing representing ASUN and the students ofUNL in support of LB7. Attached is the ASUN Government Bill #24, which was passed Wednesday night in our student senate with overwhelming support from senators representing all of the different colleges UNL has to offer. On behalf of ASUN and the students of UNL, I would like to thank Senator Blood for introducing this bill, to provide immunity from arrest and

prosecution for witnesses and victims· of violent crimes. The idea of Good Samaritan legislation is now seen as a "no - brainer" among college students. Of course, we are going to assist others who are incapacitated due to drinking too much alcohol, even if we ourselves, are drinking as well. This legislation makes students feel safer contacting authorities and staying on - seen to assist them in whatever way they can. I have close friends who have had to contact authorities to come to help their friends who were underage at the time and were close to having alcohol poisoning. Young adults make mistakes, and this legislation allows them to not face any prosecution, but more importantly, get medical help immediately rather than waiting. LB7 builds off previous legislation and assists in identifying sex trafficking in our communities, something that is, unfortunately, a problem in Nebraska. The National Human Trafficking Hotline found that in 2019 of the 62 human trafficking cases reported, 41 of them were sex trafficking cases. These numbers are of only the cases recorded, as many cases are never even reported to the authorities. By enacting LB7, more of these cases could be reported to the authorities, thus allowing for sex trafficking to go into a decline. Once again, ASUN would like to thank Senator Blood for introducing LB7 and her suppOli of Good Samaritan legislation. We urge the Judiciary Committee to support and advance this legislation to General File. Thank you for your time and consideration.

***DAVID SLATTERY:** Chairman lathrop and members of the Judiciary Committee. Iam David Slattery, Director of Advocacy for the Nebraska Hospital Association (NHA). The NHA is the unified voice for Nebraska's hospitals and health systems, providing leadership and resources to enhance the delivery of quality patient care and services to Nebraska communities. Nebraska hospitals employ more than 44,000 individuals who deliver care to over 11,000 patients each day. Thank you for this opportunity to present this testimony. Iam expressing (for the public record) the NHA's support for LB7 introduced by Senator Carol Blood. Good Samaritan laws promote the safety and wellbeing of our communities, allowing individuals to seek health care and report crimes without fear. They increase access to health care and support a feeling of safety when accessing medical care. This bill would prevent individuals from forgoing critical medical care, or failing to facilitate someone's access to medical care, due to fear of arrest or prosecution for sex work or drug possession offenses. LB7 also supports survivors of sex trafficking in accessing needed medical

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care. The Department of Health and Human Services estimated that between 240,000 and 325,000, women and children are forced into sexual slavery in the United States every year. Many individuals who experience sex trafficking may not feel comfortable identifying as a victim or survivor when first seeking medical care. This bill ensures someone can access care needed without fear of prosecution even when they do not identify as a victim. The NHA wants to thank Senator Blood for bringing this legislation and asks the Committee to advance the bill. Thank you for your consideration.

LATHROP: It's helpful for the committee. Anyone else here to testify as a proponent? Anyone here to testify in opposition to either LB7 or LB519?

COREY O'BRIEN: Good morning, Chairman Lathrop, members of the Judi-- Judiciary Committee. My name is Corey O'Brien; that's C-o-r-e-y O-'-B-r-i-e-n, and I appear here today on behalf of Nebraska Attorney General's Office. It may surprise many that we are in opposition to this bill. We are not in opposition to the overall concepts espoused in LB7 or LB519. However, our opposition is largely philosophical, as well as practical realities of what this bill could potentially do and how it could derail our opportunities to successfully prosecute offenders of sexual assault and human trafficking. Currently, my office is prosecuting a number of human trafficking cases. I have a rather sizable one out in south-central Nebraska. It probably surprises nobody that in those cases, the majority of the evidence lies in the form of the testimony of the victims and the witnesses and, as such, we are really inherently reliant upon the credibility of those witnesses. Our fear with LB7 and LB519 is by putting this immunity into statute, is we're giving defense attorneys the ability to attack the credibility of our witnesses, as opposed to the way the system is currently working. And it was really refreshing to hear Lieutenant Scherer talk about the practical realities, that being that-- and I've heard nobody speak of the fact that these trafficking victims or sexual assault victims are currently being charged or arrested, because I don't believe that to be the practice. And if it is the practice, I'd like to know about it, because what is happening is that they are being conferred with immunity. It's prosecutorial immunity. It's immunity from the law enforcement officers. And what that allows us to do is when we go into court, is we're able to put that plea agreement or that immunity agreement before a jury and the jury gets to see that information that the victim and the witness have

given us has been vetted by law enforcement as well as by the prosecutors, and it also lays out the terms of their agreement. By giving them blanket immunity statutorily, without that vetting process and without being able to lay the terms of that agreement out before a jury the way that we're able to now, it substantially impacts our ability to successfully prosecute the human traffickers and to defend the reliability and credibility of our victims in our cases. And so we'd certainly like to work with proponents of this bill on making sure that the end goal is the same, and that is that these individuals are not being prosecuted or arrested, but by doing so, that we do not compromise our ability to successfully prosecute them so that they go to jail and we can protect those victims. I'd be happy to answer any questions anybody has.

LATHROP: Mr. O'Brien--

COREY O'BRIEN: Yes, sir.

LATHROP: --I understand your-- the concern that you expressed, but the-- the goal of the bill is to-- to tell victims it's OK to come forward. You're assuming everybody's come forward and then the best thing for you to do is give them immunity as opposed to have it in the statute. And I think that the purpose of these two bills is to encourage them to come-- so that they understand when they come forward, they're not going to be prosecuted, not that they have to wait to find that out until they meet the prosecutor.

COREY O'BRIEN: And in 25 years of being a prosecutor, that's been a challenge, not just in the human trafficking realm. We deal with this constantly with drive-by shooting victims. We deal with it with the victims of gang crimes. We deal with it particularly with domestic violence, because they're all fearful of the fact that, one, they could get prosecuted. It's been my experience that their biggest fear is that their perpetrator is going to get them or that friends of the perpetrator are going to get them. It's not so much that they're fearful that, in my experience, that they're going to get prosecuted. But I--

LATHROP: It's hard to know because you don't know how many people haven't come forward.

COREY O'BRIEN: Well, exactly.

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LATHROP: And our-- our college student--

COREY O'BRIEN: We do everything we can to try to encourage them to come forward and-- and it's a double-edged sword. Does the-- does the risks outweigh the benefits of-- of the bill? And that's something that, of course, that we're evaluating. And we want them to come forward. We're doing everything we can to get them to come forward, because without them we can't make the cases to begin with, so.

LATHROP: True. But this is kind of a come-forward bill, right? Not-not so much-- I think everybody around here would agree that these people aren't being prosecuted under the current system. They're-- they get immunity, but this is intended to speak to the issue. Some young lady gets assaulted over at a, you know, a beer party and they're like, oh, my God, if I go forward, they're going to get-- they're going to get me for using drugs or drinking too much.

COREY O'BRIEN: Well, I mean, I think even if you pass this bill, you've still got the same challenge. I don't know that this is necessarily going to tell the victims out there, because they're not reading the statute books either, that they are going to be free from prosecution. And quite frankly, when I read the bills, all-- all of them, and I've been doing this a long time, I had to read them six or seven times just to know exactly what crimes we're-- we're actually giving immunity for, because it's not a blanket immunity in any of these bills and what-- what crimes that they're actually being the victim for.

LATHROP: OK, well, I'm going to ask a question that I don't--

COREY O'BRIEN: Sure

LATHROP: --generally ask an opponent, but how strongly do you feel about your opposition?

COREY O'BRIEN: I feel quite strongly in the fact that this bill has no business being in statute.

LATHROP: I'm sorry, I didn't understand you.

COREY O'BRIEN: This bill has no business being in the written law.

LATHROP: So a ten?

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COREY O'BRIEN: From-- from-- from a philosophical standpoint.

LATHROP: Out of zero to ten, you're a ten in opposition?

COREY O'BRIEN: Yes, because I don't see that there's a need for this bill currently in Nebraska, either one.

LATHROP: OK, OK. That's all the questions I had for you--

COREY O'BRIEN: Sure.

LATHROP: --Mr. O'Brien. Let's see if anybody else has questions.

COREY O'BRIEN: Sure.

LATHROP: Senator Pansing Brooks.

PANSING BROOKS: Thank you for coming down, Mr. O'Brien.

COREY O'BRIEN: Yes, ma'am.

PANSING BROOKS: So I guess I didn't understand what you-- what your what you were saying about what the-- the defense-- the defense is going to do about it. And what I'm understanding is you guys want to will the power to grant immunity rather than having it be part of the statutes that these people will have the authority to go forward. And I do want to just add that, yeah, they're not reading statutes, but-- but people who are trafficked are talking to one another. And there may be somebody who says, oh, you know, you'll get immunity if you go forward. But it is not a given, depending on who the county attorney is or what's going on, that they will be given immunity. So that's what we're trying to do, is to help rather than to hurt, but--

COREY O'BRIEN: And-- and so am I, Senator, really. Honestly, I am, and I'm not-- I hope that people are not seeing this as a pro-- a prosecutorial power grab. It-- that's not the point of our objections, either the County Attorneys Association or my office. The biggest fear that we have is that under the way that I do business now, it is very difficult to prosecute any of these cases, sexual assault in particular, human trafficking, because the major defense that most of the perpetrators are advancing is she's lying or he's lying, whoever the victim is. Here, we've got a system where you say blanketly, almost universally, you've got immunity that's been conferred to you

by the Legislature. And defense attorneys are going to make my victims eat that on the witness stand, at depositions, and they have and they do that now, even with the immunity that we grant them. But the advantage is that I get to go up before the jury and put forward the terms of the immunity agreement that I've entered into them with, and the jurors are able to see exactly what those terms of the agreement is, that they remain truthful, that they remain cooperative. All those things will be a part of the evidence, and there's also been a vetting process that's taken place in order to confer that prosecute-- that immunity agreement to them. That doesn't happen, and I won't be able to present that evidence when I go to court and show a jury that that same process occurred here. So that's where I was drawing the distinction between what is occurring now versus what would occur under the-- and-- and the lines of attack.

PANSING BROOKS: But with that-- with that immunity, of course, it wouldn't be granted if there weren't some sort of evidence and-- and ability-- I mean, if I came to you today and said I've been trafficked and-- and I were, I don't know, drinking too much or something, without some sort of evidence and either hotel bills or hotel receipts or phone, I mean, I don't think it's-- I just-- I still am having a hard time understanding your concern about this but--

COREY O'BRIEN: And quite frankly, we're giving immunity and a lot more for a lot more offenses than just the three or four that are mentioned in both of the bills. You know, it's not just-- you know, it could be the theft crimes or that they're going in and doing shoplifting on behalf of the trafficker. So, I mean, again, you know, we are giving greater immunity than the bill gives, but we're allowed to control that to the degree that we're able to defend the credibility of our victims a lot more readily than putting this in statute and allowing us to get attacked for it.

PANSING BROOKS: Right. I'm sort of concerned-- or confused, too, because I thought we already granted immunity from prosecution if there's evidence of trafficking.

COREY O'BRIEN: For only pro--

PANSING BROOKS: So it's just traffic--

COREY O'BRIEN: --for-- for prostitution.

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PANSING BROOKS: Or for prostitution--

COREY O'BRIEN: For prostitution.

PANSING BROOKS: --but not for sexual assault is what-- so you've drawn a line at--

COREY O'BRIEN: That doesn't exist-- that doesn't-- well, I mean, in statute that doesn't exist except for prostitution now.

PANSING BROOKS: Pardon me?

COREY O'BRIEN: Your bill-- your bill allowed it for prostitution offenses, yes.

PANSING BROOKS: Right.

COREY O'BRIEN: Yes.

PANSING BROOKS: So you draw the line--

COREY O'BRIEN: Only, only--

PANSING BROOKS: So you draw the line at sexual assault. It goes too far, is that what you're saying?

COREY O'BRIEN: No, no, no, no, no.

PANSING BROOKS: OK.

COREY O'BRIEN: Are we wanting--

PANSING BROOKS: This bill-- this bill is going on and expanding that, really, in a way.

COREY O'BRIEN: Right, I'm-- all I'm saying is that it's hurtful to our ability to defend the credibility of the victim if it's written in statute, as opposed to being conferred by us and we're allowed to control the terms of the agreement and present that to the jury to defend their credibility.

PANSING BROOKS: OK.

COREY O'BRIEN: So I'm not against giving it to them--

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PANSING BROOKS: It's just--

COREY O'BRIEN: --under no circumstances.

PANSING BROOKS: --you guys want to do it. That's the big--

COREY O'BRIEN: It's a-- it's a philosophical difference and it's practical reality in terms of, you know, actually defending them in court and making sure that the trafficker goes to jail.

PANSING BROOKS: OK, so mainly law enfor-- or county attorneys and attorney generals [SIC] want to give it out rather than having it?

COREY O'BRIEN: Or law enforcement--

PANSING BROOKS: Well--

COREY O'BRIEN: --absolutely.

PANSING BROOKS: Thank you.

COREY O'BRIEN: Which is what is happening, according to this year, now.

LATHROP: I have a-- I have another question for you.

COREY O'BRIEN: Sure.

LATHROP: If this bill were limited or narrowed to-- and I'm not speaking for the introducers, but if this was narrowed to-- we're talking about sex trafficking and then we have a student that comes in and talks about sex assaults on campuses. And I think that's a-- that's an epidemic and it's awful.

COREY O'BRIEN: It is.

LATHROP: If we narrowed this down to say a person who reports a sexual assault will not be prosecuted for a drug or alcohol offense that occurred contemporaneously or near in time to the sexual assault, would you have a problem with that?

COREY O'BRIEN: Can you repeat that again? I'm sorry. I wasn't-- I was trying to focus--

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LATHROP: If it were narrowed to a victim of a sexual assault will not be prosecuted for a drug or alcohol offense committed contemporaneously or near in time to the sexual assault, would you have a problem with that?

COREY O'BRIEN: Yes, for the same reasons that I've stated that I have the issues--

LATHROP: See-- OK.

COREY O'BRIEN: --with. I mean, again, are they--

LATHROP: I really do think this is a-- and I'm not trying to be argumentative.

COREY O'BRIEN: I'm not either.

LATHROP: I really do think this young lady brought something that-- that to me is really a big deal.

COREY O'BRIEN: It is.

LATHROP: Somebody is like, oh, my God, and you-- if you had a poster, if they're telling people over at the university you don't have to worry that you were at that party last night, you smoked some weed, you were drinking, you did whatever, and then this guy sexually assaults you when you are incapable of consent, and they're worried that if I go in there, they're going to prosecute me for doing whatever I did right before the-- the sexual assault happened, that just gets more people to the police station. And by the way, if you prosecute that case, the fact that they were doing the drinking and all that's probably going to be part of the evidence, right?

COREY O'BRIEN: Right.

LATHROP: And you're not going to prosecute them at all anyway.

COREY O'BRIEN: That's right. And I want to make sure that her-- that her perpetrator goes to jail. And that's-- that's where, you know, I want to make sure that it's clear is that my end goal is that her perpetrator goes to jail. And in terms of putting something in statute that might compromise my ability to do that, that's where I have the issue.

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LATHROP: OK.

COREY O'BRIEN: And I hope that that's understood. I don't have an issue with them drinking. I don't have an issue with them doing drugs. It's, why should I allow her to get beaten up by a defense attorney on a credibility issue when I can control that issue and have the ability to fight off that allegation that she's not being truthful and the only reason that she told this story was because the Legislature found that if she comes forward, she's automatically credible?

COREY O'BRIEN: OK. Senator McKinney.

McKINNEY: Thank you for your testimony. I'm just curious. You-- dur-- during the discussion you talked about protected the victim from the defense attorney. I'm just curious, did you guys offer any protection for-- for victims and families of victims against retaliation?

COREY O'BRIEN: So, I mean, there are statutes now, and I hope I'm understanding your question correctly. If you go and you report a crime, you don't want somebody to come and harm you or your family.

McKINNEY: Right.

COREY O'BRIEN: There are crimes-- tampering with a witness-- that do exist. Over recent years, this body has increased the penalties for people that would tamper with a witness, somebody that came forward and supplied information to police about a crime that occurred. That would be a separate crime. But law enforcement, you know, they usually are aware of situations, particularly where there's been allegations, for instance, of a drive-by shooting and they go in and they make a report of a drive-by shooting. There are-- they're fearful that the suspect's going to know about that and they'll do increased drive-bys to make-- you know, to make sure that the victim is OK. So, I mean, there are steps that are taken. Now what you see on TV in terms of witness protection programs and things like that, we don't really have that capability on the state system, but there are-- that does exist in-- in-- in the federal system.

McKINNEY: I just simply asked that question because I'm aware of those situations in my community where individuals are afraid to come forward because, although you may be able to prosecute the individual that committed the offense, there's still the fear of some type of

retaliation. And law enforcement and your office really doesn't-- don't offer any real protection against those things, honestly.

COREY O'BRIEN: And I wouldn't disagree with you, Senator. Honestly, I wish we could do more to protect the--

McKINNEY: Why can't you?

COREY O'BRIEN: It's a lack of resources, frankly, I mean, monetarily, you know, resources. I mean, we don't have the ability to-- to pay for a-- a victim to be moved to a different location. You know, I think there are some services, particularly in the human trafficking realm, where-- or in the domestic violence realm, where we can get them into shelters and things like that.

McKINNEY: I guess I asked that question because we-- we currently have a prison overcrowding problem and by not having protections in place on the front end, we heighten the potential for individuals to-- to commit offenses and things like that. And then the state comes in and says we need to build a prison. But we could have probably prevented some of the cost if we provided protections on the front end. So I'm just curious of why we don't offer those protections or find ways to find the resources and the funds to protect individuals and potentially decrease the-- the likelihood of those type of offenses even taking place, and also preventing-- and also decreasing the amount of individuals in our prisons.

COREY O'BRIEN: We try to do the best that we can with the resources that we have available to us. I know that law enforcement, you know, takes the fear that victims have incredibly seriously and they do whatever they can to protect them within their monetary and-- and personnel resources. Sometimes we're dependent upon the courts because, you know, a lot of times, while there's pending charges, they'll get out on bail. And, you know, we pray to God every day that they don't go and--

McKINNEY: So--

COREY O'BRIEN: --you know, exact revenge on them.

McKINNEY: So would the AG's Office be OK with advocating for finding more resources for victims to protect them against retaliation in the future?

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COREY O'BRIEN: I would have to visit-- you know, before I commit on behalf of the office, I'd have to visit with the AG. But knowing, you know, him well enough, I think that he's always looking for extra protections for victims. I mean, again, we can't do our job without the cooperation of victims and-- and them coming forward.

McKINNEY: 'Cause-- 'cause my thing is, we can't only try to protect them in the courtroom. We also have to protect them in society, as well, and--

COREY O'BRIEN: unquestionably

McKINNEY: --we can't just say we want to just be able to prosecute a case. We want to make sure these individuals aren't harmed further. So I would hope your office would, you know, be advocates for finding resources, talking to the Governor and other stakeholders to get funds for protections for victims, to protect them against retaliation. Thank you.

COREY O'BRIEN: Thank you, sir.

PANSING BROOKS: I have one.

LATHROP: Senator Pansing Brooks.

PANSING BROOKS: Thank you for being here, Mr. O'Brien. So I just have one more thing. So I think-- so are you saying that the-- if you give immun-- immunity first, then the defense will be able to say that we'll attack the credibility of the witness because they've been given freedom, I guess?

COREY O'BRIEN: They're still going to attack the credibility of the witness, but it-- it allows me to defend that a lot more easily when I've got a written agreement that I can present to the jury and say this is the terms of the agreement by which they are supposed to live, in terms of their immunity. And so from a practical standpoint, it's a lot easier for me to defend that victim's credibility, to fend off those challenges that are going to be inevitable anyway, when I've got some control over it and the ability to say that this is the steps that went through, law enforcement did this, this, and this, the prosecutor did this, this, and this, to verify the accuracy of the information and that the victim's making this up because now they've simply been given a free pass, get-out-of-jail card.

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PANSING BROOKS: OK. So to me, though, you're-- the system as it is now is more coercive because you're able to hold those charges over that person and make sure that they say the right thing, and then you'll give them the immunity once that-- once that happens. So I-- to me, it seems like it's more coercive and not as-- as good a system as granting them the immunity and letting them go forward and feel like they're protected, rather than feeling that they're speaking under threat and if they make one little mistake, they're going to be-- they-- they don't have the immunity. I-- I have--

COREY O'BRIEN: I would disagree with that, Senator, simply because, if you look at both bills, both bills say that they have to remain cooperative throughout or else they don't get immunity to begin with.

PANSING BROOKS: Right.

COREY O'BRIEN: So, I mean--

PANSING BROOKS: So rather than being coercive and saying you don't get it until we tell you if you perform well enough--

COREY O'BRIEN: Well, how is that not equal, I mean, the same thing? I don't understand that.

PANSING BROOKS: Well, I don't understand what you're saying either, so let's get [INAUDIBLE]

COREY O'BRIEN: OK, we're just-- we're just asking that, you know, until there's some-- somebody comes forward with some reason why in Nebraska the system is failing victims, that we're-- we're liable to do more harm than good to protect our victims if we put in to law this immunity, as opposed to the immunity that's already been in practice, already given, as everybody else has said here, so.

PANSING BROOKS: Well, I agree we're at a point of mutual misunderstanding, so-- but thank you for coming.

COREY O'BRIEN: Thank you.

LATHROP: I'm just going to offer this. Even-- even if these things don't pass, I think you guys ought to be at freshman orientation at UNL and on college campuses and saying you need to understand, young ladies-- it's primarily younger women, the freshmen that come in-- and

telling them if this happens to you, you don't need to worry, but come forward, because I think-- I think this young lady's-- Ms. Terrill has made a great point, which is you don't have to worry. That's the thing that concerns me the most, the number of women who are sexually assaulted on college campuses, particularly freshmen, they're like fresh meat. They show up at a beer party and somebody is just circling them like-- like somehow this is a sport, and then they're assaulted and they don't know-- my God, now what do I do? I was-- I-- I drank and I shouldn't have been, I'm underage, and these people need to feel that they're not going to be prosecuted if they come forward for whatever-- whatever they did immediately before somebody sexually assaulted them without their consent.

COREY O'BRIEN: And I would make a much broader appeal, Senator, to crime victims everywhere: Don't suffer in silence. We will work with you to get you out of your dilemma and you don't have to fear prosecution.

LATHROP: All right. Senator DeBoer.

DeBOER: Sorry. I just-- I just wanted to weigh one more piece in on-- on that conversation and that something that maybe we ought to consider and I don't know if you've taken into consideration is the fact that by having this immunity for those folks, it sort of gets away with exactly the situation-- or sort of does away with exactly the situation where the perpetrator feels that he's got an excuse. Well, I can do this because I can say to you, you're going to get in trouble, too, and if we have something in the law that sort of prevents that, we might actually stop some of these crimes from happening. So that's something I think we ought to think about as well.

COREY O'BRIEN: And we know that that happens. We know that that's one of the manipulative tools that, you know, not just human traffickers, but, you know, the-- the-- the spousal abusers, they do that constantly. If you call police on me, you're going to jail too. That's it.

DeBOER: OK.

LATHROP: OK, thanks, Mr. O'Brien.

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COREY O'BRIEN: Thank you.

***SARA KAY:** Chairman Lathrop and members of the Judiciary Committee: My name is Sara Kay, and I am testifying on behalf of the Nebraska County Attorneys Association in opposition to LB7. The general concept of LB7 is to legislatively provide a certain class of individuals who break the law immunity, under certain circumstances, from arrest and prosecution. In that concept there are perils of violation of separation of powers, equal protection and arguably involuntary surrender of 4th and 5th Amendment rights. The bills need more precise definitions. And, we believe the bill does not preserve the separate and distinct functions and responsibilities between "investigation" and "prosecution." 1. Immunity from prosecution can currently be granted by the prosecution. A court can step in to protect a person's constitutional rights, but the Legislature either makes some act a crime, with elements to prove beyond a reasonable doubt, or not. This bill attempts to legislatively grant immunity from prosecution for criminal violations that the same legislature created and defined as enforceable crimes. Our research suggests the legislative grant of immunity is beyond the power of the legislative branch and unconstitutional. 2. Current law at Neb. Rev. Stat. §28-801 and §28-801.01 have affirmative defenses and/or an immunity provision. LB7 extends "immunity" to other crimes, including drug possession crimes, under certain circumstances. 3. The underlying question is what is the legitimate governmental interest to exclude from arrest or prosecution those who "cooperate", "report", "witness", act in "good faith", are a "victim", "request emergency assistance", or all or some of the above, for an undefined amount of time and an undefined result. The proposal is too vague. 4. We suggest the Legislature address each "eligible offense" and define what actions make it a crime, and what actions do not. Threats, duress, force, or coercion are current available defenses. LB7 does offer an opportunity to amend the targeted statutes that define the criminal conduct but limited to encouraging self-reporting and rendering aid to others. 5. The phrase "arrested or prosecuted" or "arrest or prosecution" is confusing from a practical or contextual point of view. How and when will the prosecutor know any of the immunity qualifiers exist, existed, or continue to exist? What if there is disagreement? How do citations fit into the "immunity" decision? 6. As it relates to "cooperation" with "law enforcement" in the "investigation or prosecution," can a person cooperate with one and not the other? How much cooperation? What if the person lies about

some things during the cooperation? Most importantly, cooperation and the promise of immunity will later affect the victim's/witness's motive and credibility if called as a trial witness. The bill's provisions may in fact undermine the prosecution of those who victimize the people we are trying to help. 7. There are technical drafting challenges throughout the bill, and we believe the present version would be very difficult to enforce. The Nebraska County Attorneys Association is actively engaged in on-going discussions with Senator Blood and advocacy group representatives and is offering to assist with changes to help victims. We respectfully request the Committee not advance LB7 in its present form. Thank you for your time and consideration.

***SARA KAY:** Chairman Lathrop and members of the Judiciary Committee: My name is Sara Kay, and I am testifying on behalf of the Nebraska County Attorneys Association in opposition to LB519. The general concept of LB519 is similar to the concept of LB7. LB519 would legislatively provide a certain class of individuals who break the law immunity, under certain circumstances, from arrest and prosecution. In that concept there are perils of violation of separation of powers, equal protection and arguably involuntary surrender of 4th and 5th Amendment rights. The bills need more precise definitions. And, we believe the bill does not preserve the separate and distinct functions and responsibilities between "investigation" and "prosecution." 1. Immunity from prosecution can currently be granted by the prosecution. A court can step in to protect a person's constitutional rights, but the Legislature either makes some act a crime, with elements to prove beyond a reasonable doubt, or not. This bill attempts to legislatively grant immunity from prosecution for criminal violations that the same legislature created and defined as enforceable crimes. Our research suggests the legislative grant of immunity is beyond the power of the legislative branch and unconstitutional. 2. Current law at Neb. Rev. Stat. §28-801 and §28-801.01 have affirmative defenses and/or an immunity provision. LB519 extends "immunity" to other crimes, including alcohol and drug possession crimes, under certain circumstances to include when a person is the victim of a sexual assault. 3. The underlying question is what is the legitimate governmental interest to exclude from arrest or prosecution those who "cooperate", "report", "witness", act in "good faith", are a "victim", "request emergency assistance", or all or some of the above, for an undefined amount of time and an undefined result. The proposal is too

vague. 4. We suggest the Legislature address each "eligible offense" and define what actions make it a crime, and what actions do not. Threats, duress, force, or coercion are current available defenses. LB519 does offer an opportunity to amend the targeted statutes that define the criminal conduct but limited to encouraging self-reporting and rendering aid to others. In this respect, we recommend LB7 be used as a vehicle to address the situation in which a victim of sexual assault or trafficking is not reluctant to make a report or render aid to another because they are in under the influence of or in possession of drugs or alcohol. 5. The phrase "arrested or prosecuted" or "arrest or prosecution" is confusing from a practical or contextual point of view. How and when will the prosecutor know any of the immunity qualifiers exist, existed, or continue to exist? What if there is disagreement? How do citations fit into the "immunity" decision? 6. As it relates to "cooperation" with "law enforcement" in the "investigation or prosecution," can a person cooperate with one and not the other? How much cooperation? What if the person lies about some things during the cooperation? Most importantly, cooperation and the promise of immunity will later affect the victim's/witness's motive and credibility if called as a trial witness. The bill's provisions may in fact undermine the prosecution of those who victimize the people we are trying to help. 7. There are technical drafting challenges throughout the bill, and we believe the present version would be very difficult to enforce. The Nebraska County Attorneys Association respectfully requests the Committee not advance LB519. Thank you for your time and consideration.

LATHROP: Anyone else here in opposition to either LB7 or LB519? Anyone here in a neutral capacity on either bill?

SPIKE EICKHOLT: Good afternoon-- or good morning, Chair Lathrop, members of the committee. My name is Spike Eickholt, S-p-i-k-e, last name is E-i-c-k-h-o-l-t, appearing in a neutral capacity on behalf of the Nebraska Criminal Defense Attorneys Association. I was only going to speak on a very narrow issue, but maybe I'll respond to some of the other things that were talked about. This bill, or both of these bills, and I'm neutral on both bills, are sort of modeled after Senator Morfeld's bill that he did a couple of years ago. It's now codified at 28-472. And what that basically is, is the immunity for possession of a controlled substance if you report a drug overdose. And what it says in that statute is what I think these bills ought to be amended to say, and that is, it's not a crime if you do A, B, and

C. It's not a possession of controlled substance if you do A, B, and C. And in 28-472, you have to call 911. You have to do it as soon as possible. You have to remain on the scene and you have to cooperate with the responding people, and then you're not charged with possession of a controlled substance. And I think that's what Senator Blood and Senator Morfeld want to do with these bills. If you're not charged with a controlled substance, if you report a sexual assault and you do so as soon as possible and you cooperate with the sexual assault investigation, what we're asking for as an association is that-- the 28-472 protection does work and some prosecutors honor that or are not charging people. But some prosecutors disagree with that. Either they dispute the factual situation underlying it or they think it's an affirmative defense and not an immunity provision, and some of my members around the state are having to litigate these things. We have to go to court, sometimes all the way to trial. So if you do something with these bills, I would propose maybe to say a procedure, a motion to determine the immunity early on in the case, because if you want to do what the introducers want to do in this bill, and that is encourage victims to come forward and not have to worry about the court process and going through a trial and everything, then you want to have that issue resolved really for both parties early on in the case. As far as what Mr. O'Brien says, since he called us out on a couple of occasions regarding the underlying-- or this claim of-- that defense attorneys are going to make use of this, I think, frankly, the current system now lets us use it more effectively. In other words, I can't question a witness about criminal histories and things like that. I can question a witness about their testimony, if they're somehow given an inducement to testify a certain way. In other words, if a person is charged with a crime and the charges are dismissed with the agreement that they have to testify against my client, I can question that witness all about them to impugn and attack their credibility. But if a witness is not even going to be charged, if the witness has not even committed a crime, then I-- I can't go into that. In other words, their testimony is not dependent upon the fact that they may be charged because they weren't charged, because they're not in violation of the law. And that would, if anything, resolve that situation. Now I suppose I could go and somehow try to attack the credibility of the witness based on their understanding of the law, and that's why they came forward and so on, but I don't think-- that's probably not going to be relevant because it's going to be confusing to the jury and it's immaterial and the witness probably doesn't even

know that stuff. It's not like an inducement to testify is under the current scheme. So I think Senator Pansing Brooks is right. This would probably mitigate that, rather than exacerbate it. I'll answer any questions you have.

LATHROP: OK. Any questions? I see none. Thanks for being here today. As always, we appreciate hearing that perspective. Anyone else here in opposition to either bill? Seeing none. Senator Blood, you may close. And before you do, I'm going to enter on the-- in the record the fact that we have position letters on LB7; we have nine, all proponent. On LB519, Senator Morfeld's bill, we have one and it is a proponent. Also received written testimony: proponent, Robert Sanford with the Nebraska Coalition for Sexual and Domestic Violence; also a proponent, Scout Richter-- Scout Richters at the ACLU; also a proponent of LB7, Angie Lauritsen with Survivors Rising; an additional letter testimony, proponent, is Cameron Collier, C-o-l-l-i-e-r, at ASUN, A-S-U-N, student government; David Slattery is also a proponent with Nebraska Hospital Association; and Sara Kay, Nebraska County Attorneys Association, is an opponent of LB7. On LB519 we also have testimony, written testimony, as a proponent, Angie Lauritsen with Survivors Rising; Veronica Miller is a proponent with ASUN student government; Spike Eickholt with the ACLU of Nebraska is a proponent of LB519; and-- well, not "and"-- Christon MacTaggart-- MacTaggart at the Women's Fund of Omaha is a proponent; and opposed on LB519 is Sara Kay with the Nebraska County Attorneys Association. With that, Senator Blood, you may close on LB7.

BLOOD: Thank you, Chairperson Lathrop. And as promised, I'm going to wrap up the questions that are still hanging in the air. Senator Brandt, I encourage you to look at page 2, line 10, in reference to the question you had about somebody basically not telling the truth. The one thing that's-- that's really important-- and by the way, I actually get some college credits towards law school after this bill. So one of the things that I learned about that I think really applies to the question that you had is, how do we know that the individual is being truthful? And how do we know, are they a victim or are they a witness? How do we establish what's called good faith? And please correct me if I'm wrong on my interpretation. So if the individual is found to provide information that was not truthful, they would not meet such good-faith cooperation requirements and thus would not have to access-- would not have access to these particular legal protections. The good-faith language is intended to ensure someone is

being truthful when making a report or requesting emergency medical care. Ultimately, if it is found that a crime of violence was falsely reported, a person would not be eligible for the protections available under this bill, as the legal protections in this bill are structured around the occurrence of a crime of violence. So the-- the bill puts forward the terms of immunity, as well, and immunity-- I cannot read my handwriting-- the immunity being granted without condition, if they meet the circumstances within this bill, is actually less coercive and supports the witness-- witness's credibility. So I have to say that I was disturbed by some of the things that Mr. O'Brien said, and I think "disturbed" is the right word. When I hear words like "free pass" and "more harm than good," to me, I hear language that doesn't identify that these people are-- are victims. When I hear words like "free pass," I hear "criminal," and I think the language should be selected a little bit more carefully next time he testifies, in my personal opinion. Senator Lathrop touched down a little bit on the drug part of the bill. I want to remind everybody that drugs are one of the things that are utilized when a pimp wants to control his victim. What better victim do you have when you're a pimp than one who can't control themselves, than one who becomes dependent on you for those drugs because they then become addicted? So I really want you to remember that when you go back and you look at this bill, that that's why we had to touch down on that particular thing. And also in response to the-- and I know I'm bouncing around, but I promised you I'd answer everything that I could-- could hear. The-- the-- in response to one of the things the AG's Office said, it's-- you know, it's within our authority to establish crimes and statutorily define what constitutes a crime. This bill pertains to defining what constitutes a crime and creates three narrow situations that would not constitute a violation of that crime. The proposed amended language defines the situations in which someone would not be in violation of an eligible offense, and I talked about that in my opening as well. You know, the bottom line is that-- and I-- and Senator Pansing Brooks touched down on this. The prosecution can still show that they did their due diligence on whether or not the victim is credible, and again, victim, not a criminal, a victim. A plea deal isn't the only way to do this. And so I-- I'm really stuck on why people are-- are not supporting this bill based on that little window of information they keep pounding on us, because I think it's clarified quite clearly within the bill and it sounds like there's other sen-- other attorneys on this committee who-- who possibly feel the same. So I want to say that the great

obstacle to identifying any victim of trafficking is really the hidden nature of this type of crime, and it-- it can also be the lack of self-identification as a victim. There's the shame sometimes and the disgrace, like how did this happen to me, and I come from a good family, or whatever the circumstances are. We have to remember that these people are victims and it's a very complicated issue, and there is a fear of law enforcement and there is a fear of retaliation, Senator McKinney. So why aren't we making this less complicated by constantly going back and revisiting state statute and providing every protection that we possibly can do? That is reasonable and this is a reasonable bill. And I-- I beg you to-- to please consider this bill and help us get it out on the floor for debate, not for me but for the victims that are going to come after this and the victims that are going to come again and again and again because sex trafficking is never going to be something that ends, unfortunately, but that doesn't mean we have to give into it by pretending it doesn't exist.

LATHROP: OK, thank you, Senator Blood. We appreciate your close on LB7. Senator Morfeld, you may close on LB519.

MORFELD: Thank you, Chairman Lathrop, members of the committee. You know, to be honest with you, I'm-- I'm a little surprised, and I haven't been all that surprised the last few years, but I'm a little surprised by the-- Mr. O'Brien's opposition and the county attorneys' opposition. I'll have to go look back in my files for the-- the alcohol immunity bill, the good Samaritan bill, and then the-- the drug good Samaritan bill. But I don't remember them testifying in opposition on those. I do remember being in touch with them. But if I'm wrong, then so be it. I'll-- I'll correct the late--the record at a later date. So this-- this is new to me. I would say that in my experience, as many of you know, I represent the University of Nebraska-Lincoln district. I hear from a lot of students and I-- I work very closely with ASUN student government every year. And there are-- I will tell you that students do not give the benefit of the doubt to law enforcement to not charge them with alcohol and drug violations. It's pretty well known that they're not supposed to be drinking or-- or doing drugs, and so there is a real fear among students that they will get into trouble. And I understand that some of us-- you know, hey, listen, it's just an alcohol charge, it's an MIP, it's not a big deal. But to these students, who are trying to begin their professional and their personal lives, it seems like a big deal because it can be a barrier to getting some of these professional

certifications and these other things. It's things that they have to disclose. Whether you're becoming an attorney or a medical professional, particularly when it comes to drugs, regardless of whether it's something like marijuana, they have to disclose those things and that can be a big deal getting into medical professions and-- and potentially legal and law enforcement professions. And so these are real barriers to young people reporting serious crimes that have occurred to them, like sexual assault. And I don't think most students are going to be thinking, man, gee, I should go down there and-- and hopefully the prosecutor will give me the benefit of the doubt, we'll see, fingers crossed. That's absurd. If they automatically get-- I-- I think that the thing is, is that if they get it automatically, this immunity under the law, there's no incentive to lie or do what the prosecutor wants. So I-- I think that what Mr. O'Brien is saying, it's the opposite. And I think Mr. Eickholt pointed that out fairly well, and some members of this committee also pointed it out fairly well. I just-- I'm a little surprised, but I should stop being surprised. I'm happy to work with the committee to tighten up the language. I thought, Senator Lathrop, your suggestion would be a good one, notwithstanding the opposition, and I'm-- I'm happy to work with it, but thank you.

LATHROP: OK. I think that's it. Thank you, Senator Morfeld. You are the next introducer. That will close our hearings on LB7 and LB519 and bring us to Senator Morfeld and our last bill of the morning, LB118. Senator Morfeld, you may open your bill.

MORFELD: Feel like maybe I needed a little fresh air after that one, before I start this one. OK.

LATHROP: We got no time for fresh air.

MORFELD: Nope, we're going.

LATHROP: We're going to forge ahead.

MORFELD: We're rolling. I'm ready to go. Chairman Lathrop, members of the Judiciary Committee, for the record, my name is Adam Morfeld; that's A-d-a-m M-o-r-f-e-l-d, representing "fighting" 46th Legislative District, here today to introduce LB118, a measure that would extend the time of certain protection orders from one to five years. I have introduced LB118 to prioritize the safety of survivors by extending

the duration of protection orders and reducing the barriers that notarization requirements pose to accessing safety. The dangerous time-- the most dangerous time for a victim is when they threaten an abuser's power and control. The mere fact of a victim trying to attain safety for themselves and their family can provoke and escalate violence. We see this again and again in news coverage of horrific situations of intimate partner violence, the violent reactions when a victim seeks help from law enforcement, tries to leave, mentions divorce, or even seeks a protection order. Our court system can support the safety of survivors by granting protection orders that prevent offenders from contacting, intimidating, harassing, or harming them or their children. While protection orders provide critical support, barriers do remain for survivors as they seek access to such protections, increasing the burdens for sur-- for survivors and court systems alike. With the duration of protection orders being limited to one year, the burden is placed on survivors to annually reapply for renewal. These moments of renewal are particularly vulnerable times for survivors. An annual renewal process requires survivor-- survivors to continually revisit experiences of violence and trauma and yet again escalates the risk of violence, threatening an abuser's power when they are notified by a court about the renewal again and again, when the abuser is served with the fi-- with the final order. Longer durations of protection orders provided in LB118 could limit future instances of violence by reducing such legal contact with the abuser. One study found that 70 percent reduction-- a 70 percent reduction in physical abuse and a 60 percent reduction in psychological abuse to be directly associated with the extended duration of protection orders, and the limitations to the respondent in protection orders do not create extraordinary burdens for them. In many cases, protection orders simply limit their ability to be in contact with their victim. These are not unreasonable restrictions. Other states have worked to address these concerns by extending the duration of protection orders beyond Nebraska's one-year limit. As of 2-- 2017, 20 states had longer-- 27 states had longer protection order durations available than in Nebraska, ranging from two years to permanent lifetime protection orders. Common among these states were five-year protection orders, which is proposed in this bill, and this was adopted by California, New York, Ohio, Oklahoma and South Dakota. This longer duration provides greater stability and safety to survivors and reduces the workload for our judicial system. I want to give an example. Just prior to the pandemic, another survivor was in the

intensive care unit at a local hospital due to an assault that she had survived. An advocate on the team was willing to assist her with her application for a protection order from within her hospital rooms. If I could get a glass of water, please, thank you. The survivor felt well enough and that it was urgent enough for her to complete while still in the hospital. It would have been so much easier if she had been able to simply sign a sworn statement so that an advocate assisted-- thank you very much-- so that an advocate who assisted her could then submit the affidavit for her at the courthouse. Instead, the survivor had to ask a family member to visit the home where the abuser was still present and risk their own safety in order to retrieve her identification and drop it off to the hospital. I'm skipping ahead a little bit, but this is going to the notarization requirement, which we would take out for protection orders under this. I just realized I maybe didn't make that clear. They then had to call six different departments within the hospital in search of a notary on staff who was willing to notarize the document in her ICU room. That's just one example. Additionally-- which I put in before I explained it. Additionally, LB118 removes the notarization requirement for protection orders. During a time of increased risk and crisis for a survivor, additional barriers such as notarization may prevent or delay a survivor from gaining necessary protections. Survivors may struggle to access such services without their abuser knowing. This barrier has been exacerbated during COVID-19 as notary services are limited and more difficult to obtain under social distancing measures. While electronic notarization has now been statutorily authorized, survivors continue to struggle to access such services. Additionally, accessing online notarization from home may not be a safe option for survivors still living with their abuser while pro-- seeking a protection order. These barriers could be alleviated by providing self-authenticated sworn statements on applications for protection orders. These sworn statements would affirm that the information is true and correct under the penalty of perjury. Arguably, the threat of perjury poses a much stronger incentive to be truthful than simply seeking the signature of a notary who has no way to confirm the veracity of the information presented by the petitioner. The primary role of the notary is to confirm identity. It has always been up to the court to determine whether the evidence presented by that petitioner meets that legal standard for the protection order. LB118 would not change this responsibility of the court. It only eliminates a barrier and threat to the safety of survivors for notariz-- that

notarization presents. LB118 is an opportunity for this Legislature to demonstrate our commitment to the safety of survivors of domestic abuse, sexual assault, and harassment, and for their families who are often caught up in the cycle of violence. We can remove this barrier for survivors of finding a notary while they're trying to-- trying to escape potentially imminent violence. We can prevent victims from having to go before a judge every single year to retell their experience of trauma and violence. We can provide peace of mind to victims so that they do not have to put safety plans in place every year for the moment that-- when their abuser feels provoked by being served a notice about a request for renewal. LB118 would make this essential process more accessible to survivors and more streamlined for court systems, and it's worthy of this committee's report-- support. I urge support and I'm happy to answer any questions.

LATHROP: Very good. Any questions? Senator Brandt.

BRANDT: Thank you, Chairman Lathrop. Thank you, Senator Morfeld, for bringing this bill. Is this just the renewal for five years or is this the initial for five years?

MORFELD: Well, it would automatically be five years unless-- so right now it's automatically one year.

BRANDT: Yes.

MORFELD: And this would make it automatically five years. And then, yes, you'd have to renew if you needed it after five years.

BRANDT: OK, thank you.

MORFELD: Yep.

LATHROP: Any other questions? Senator Slama.

SLAMA: Thank you. Chairman Lathrop. Sender Morfeld, I do appreciate your work on LB118. I just had a couple of questions. Do-- so this is just out of my curiosity. Are there any other affidavits in our current Nebraska legal system that don't require a notary?

MORFELD: It's a good question. I'm not-- I'll let somebody else behind me answer--

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SLAMA: OK, cool.

MORFELD: --yeah, because I don't want to answer incorrectly.

SLAMA: No worries. And in addition, these protection orders keep the person who this is filed against from purchasing or possessing a firearm for the extent of the order. Is that correct?

MORFELD: Yes.

SLAMA: So a consequence of LB118 is that we would automatically be extending the restriction on that person to buy or possess a firearm from one year to five years. Is that correct?

MORFELD: Yes.

SLAMA: OK, thank you.

MORFELD: I see no other questions, Senator-- oh, I'm sorry, Senator Geist.

GEIST: I'm curious if it would be worth entertaining the thought of having an option of a one-year or five-year?

MORFELD: You could give an option. There might be enough-- yeah, I mean, that's certainly something we could look at.

GEIST: That's all

MORFELD: I-- I will say, you know, from my-- you know, this bill is a little personal to me in that I grew up in a household with domestic violence, and I'll tell you that very rarely is this just a one-year problem. If there's a threat that rises to that level, it's almost always multiple years. And in the case of my family, it was an individual that-- well, it was my half-brother. Anyway, I won't get into the details because I don't want to say names, but it's a person that-- who's with us for the rest of our lives, let's just say that. Right?

GEIST: Understood.

MORFELD: And so--

GEIST: So the length of time is important.

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MORFELD: The length and time is important. And-- and I'll just say that very rarely is it just a threat that exists for just one year. These are very charged things. And-- and I'll tell you that in-- in our instance, the harassment and the threat probably was for-- for at least five to six, maybe seven years, until things calmed down enough, for lack of a better term.

GEIST: OK. Thank you.

LATHROP: OK, I don't see any other questions. Thanks, Senator Morfeld.

MORFELD: Thank you.

LATHROP: We will take proponent testimony for 30 minutes. Good afternoon. Welcome.

PAT CARRAHER: Good afternoon. Thank you for giving me the opportunity to provide testimony. My name is Pat Carraher, P-a-t C-a-r-r-a-h-e-r. I'm the managing attorney at Legal Aid of Nebraska in the Lincoln office. Legal Aid of Nebraska is a nonprofit law firm that provides free legal assistance to low-income persons across the state. Over half of the requests that we get are in the area of domestic relations law, and within domestic relations cases we give high priority to domestic violence cases. I've been at Legal Aid for 33 years. I've always worked in domestic relations law, so I think we have a-- a broad experience to talk about things like protection orders. And Legal Aid does support LB118. Specifically, the reason why we want to support it is the extension of the duration from a 12-month protection order to a 5-year protection order. We've just seen so many cases where a 12-month protection order is totally inadequate. And I collected a variety of cases, but with the time I'm not going to describe every one. But let me just generally say we see these cases with, you know, horrible violence and the perpetrators are just not going to be deterred after 12 months. They may go to jail for domestic assault. They may be in jail for 30 days or six months, for a year. And when they get out, the first thing they do-- and you would think it'd be the last thing they do, but the first thing they do, they go park outside the apartment building where that victim live [SIC] and they will wait forever to have that opportunity to go and harass her and threaten her again, and that 12-month limit is just not going to stop that. A lot of these perpetrators are mentally unstable. They like weapons. They like to threaten about weapons because they know

that's what terrifies victims. And a five-year requirement would-- would just be a tremendous benefit to those victims. The other thing I want to talk about is the renewal process. It's great that the Legislature passed that bill a few years ago that gives victims an opportunity to renew their protection order. But that protection is limited. First of all, the victim has to go back in through the process and go through that all over again. Also, they only get another 12 months. And the statute doesn't talk about it being limited, but there are a lot of attorneys and judges who think you only get one renewal, that you can't keep renewing it year after year. And whether that's right or not, as long as the judges believe that, the reality is those victims are only going to get a total of 24 months of protection. So a five-year protection order would be a tremendous benefit to those victims. So those are the reasons why Legal Aid supports LB118. I'd be happy to answer any questions.

LATHROP: OK. Senator Brandt.

BRANDT: Thank you, Chairman Lathrop. Thank you, Mr. Carraher, for appearing today. So under the current system, at the end of year two, if-- if the victim can show they are still being harassed, certainly, the judge would issue another order, would they not?

PAT CARRAHER: Well, so we haven't had an opportunity to really litigate that. We would like to appeal that if a judge says, no, you only get one. But we've heard judges make comments, you know, off the record, and other attorneys make comments off the record, that they think you only get one renewal. Now, if-- if new reasons had occurred, new incidents had occurred, you could file for a new protection order and start the process over again. But if no new incidents had occurred, there are judges out there who would deny that third year of a protection order.

BRANDT: All right. Thank you.

LATHROP: Can I ask you just a brief question? In your experience, is five years the right number? Where's-- where's the sweet spot? Where do we see-- you know, typically, this is a two-year problem? Is it a-- typically a three or four or five or what's the duration at which we can say it's almost always necessary that it be this period of time, if you can tell us.

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PAT CARRAHER: Well, that's hard to answer. I mean, 12 months is kind of an arbitrary number. Five years is kind of an arbitrary number. There are some states that have lifetime protection orders. And believe me, I-- I know of cases where that would be warranted. I suppose there are cases where people really do learn their lesson and they're afraid of jail and they don't need a five-year protection order, but I-- I-- I think five years is a reasonable amount of time to leave a protection order in place.

LATHROP: OK. OK, thank you. I do not see any other questions. Appreciate you being here this afternoon. Good afternoon.

ANGIE LAURITSEN: Is it really, already?

LATHROP: It's that late already.

ANGIE LAURITSEN: Thank you for allowing me to come and speak today on LB118, Chairman Lathrop and committee members, thank you so much for the opportunity. My name is Angie Lauritsen, A-n-g-i-e L-a-u-r-i-t-s-e-n. I am a survivor of intimate partner abuse, and I am here to try to represent the child's voice that pertains to this bill and why it is so incredibly important. I am a survivor of childhood sexual, physical, and mental abuse at the hands of my father. When we finally escaped his violence when I was 14 years old, we were granted a protection order. To me, that protection order provided a safety net. It provided an invisible barrier between us and my father. When the stalking started, the deputies believed us and they came to our country home each time we called. They found the location where he would monitor us from that overgrown field next to our home. When he would come to my window in the middle of the night, they came. When I saw him walking around our home through a window, they came. In my mind, they believed us because we had the protection order. Then one day after my father showed up at my job and left a note on my car, I called my mom and she told me that there was nothing we could do because the protection order had ended. I was devastated. My safety net was gone. In my mind, that meant that he now had license to show up any place he wanted. I began to look for him everywhere I went. You're probably wondering why my mom didn't renew the order. I'm honestly not sure she even knew that she could. She says today, looking back, that it's because she didn't want to poke the bear. I know now that she was still in trauma and she was afraid, just like I was. When protection orders expire, it is retraumatizing the victim.

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It yanks away one of the only thing [SIC] that makes you feel safe. One year is simply not enough. Looking back, I would have preferred a lifetime protection order. One year went by so quickly and even five years doesn't feel long enough. But it's a big step in the right direction to protect the safety of survivors, particularly children. I have not had any voluntary contact with my father since I became an adult and that will not change. Opponents will get up after me and try to advocate for people like my father. They will advocate that he should be able to come and visit me without my consent, that he could come, show up at my place of work and intimidate me. As a victim, I can assure you that the threat of violence does not go away after just one year. Having to revisit the trauma that a survivor experiences on an annual basis is cruel and unforgivable. Five years is the bare minimum we can do for these survivors to protect them. We must do better. Thank you so much for your support of LB118 and I would gladly answer any questions that you may have.

LATHROP: OK. I do not see any questions. Oh, I'm sorry, Senator Geist.

GEIST: Just a quick comment, not a question. I just can't imagine what you've gone through and I appreciate your testimony. Thank you.

ANGIE LAURITSEN: Thank you very much, Senator.

LATHROP: I see no other questions. Thanks for being here, Ms. Lauritsen.

ANGIE LAURITSEN: Thank you.

MEGAN BELCHER: Good afternoon.

LATHROP: Yes, good afternoon and welcome.

MEGAN BELCHER: Thank you for your time today. I appreciate you taking the opportunity to hear from those in support of LB118. I'm Megan Belcher, M-e-g-a-n B-e-l-c-h-e-r. I'm a mother of two young daughters, a lawyer, a community leader, and an active and engaged member of the Nebraska Bar and our legal community. Most importantly, for your purposes today, I'm also a domestic violence survivor and I am a seasoned litigator who has navigated our state system for obtaining protective orders. And I want to share just a bit with you about my journey today and then make an ask of you as you think about your consideration of LB118. In 2015, after an unexpected and violent act

of child abuse against my oldest child, I did what you're told to do: I sought to protect my children and I sought to try and get my-- the father of my children the help he needed. And when he refused, I left to protect my children. Ultimately, I had to seek a protective order, which I obtained in September of 2015 after repeated incidents of my now ex-husband breaking into my house and threatening my life and making other threats in front of my children. He violated that protective order in October of 2015, just six weeks later. And to harken to what you've heard today, he appealed that protective order violation, which was the result of a jury verdict in October of 2016, the Supreme Court, and as early as six weeks ago, threatened my life in a parking lot. In general, I will tell you, as a lawyer who has litigated domestically and internationally, led significant class action, managed entire portfolios for companies that manage their annual revenue in billions, is that there is nothing easy or intuitive about Nebraska's protective order violation process. It's not a supportive process for victims and we have a lot of opportunity there. I provide you that context to send the message to you that as a state and as leaders for our state, we have significant opportunity, particularly as we look to support those individuals facing the most complex, dangerous, and traumatic situations of their lives. I could spend a full day sharing with you the statements and insights that have been offered by influential members of this process really telling me I should not have pursued a protective order and that it was really not the best way to protect myself and my children. But it's time for someone to say that we need to do better. The status quo in Nebraska is not protecting victims in our state, nor is it in line with our brand as a state where we represent ourselves as a best place to live, because that brand is as much about what we do in the good times for our citizens at it-- as it is in the deeply complex times. I will ask you today to support LB118 and extend the protections to the victims in our state to five years and reduce the burdens that they have to undertake in order to get those protections. And I appreciate that that's a humbling challenge for you, but I think that you are up to the task of pursuing this endeavor on behalf of our citizens who are most in need. I appreciate the opportunity to appear before you today, and I'm happy to take your questions.

LATHROP: Senator Geist.

GEIST: Yes. Thank you for your testimony. And I'm curious, since you've done litigating kind of across the spectrum, do other states

have-- have protective-- protection orders that extend to five years, or is-- is there an average that you've seen?

MEGAN BELCHER: Yeah, I think-- I think you've got a wonderful exhibit from the Women's Fund that will tell you a great survey that they've done of states. Many states have extended periods, including up to a lifetime ban. And I believe a more-- majority of the states have longer than one year.

MEGAN BELCHER: OK, thank you.

LATHROP: Senator DeBoer.

DeBOER: Thank you for appearing before us today and for your testimony. Since you've practiced in this field, I'd like to ask you-- I think there's probably going to be some due process concerns, so could you speak to the due process issue?

MEGAN BELCHER: Sure. I think you're-- you're likely to hear from the bar today on a couple of issues, one around a due process issue and, two, really around the-- the notary issue. On the due process side, due process is really there to ensure that mistaken or unjustified deprivation of life, liberty, or property doesn't occur. And what I would say to you is that, one, although there is a provision for an ex parte phase of the order, the defendant, respondent in those matters, can get a hearing. They can have their opportunity to present their side of the case and set a judge up to make a credibility determination. I will also tell you the firearm piece is not a given, harkening back to an earlier question, so I would encourage you to examine that. Separately, they're-- protective orders, if you take a look at them, they're just trying to prevent conduct that should not otherwise occur, so I don't-- I don't see a due process argument there. What I will tell you, in the practical effect of trying to enfor-- enforce someone from threatening you, threatening your children, coming to your home on a day-to-day basis without a protective order, is deeply complex.

DeBOER: OK.

LATHROP: OK, I do not see any other questions, but--

MEGAN BELCHER: Thank you, Mr. Chairman.

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LATHROP: --thank you. Oh, let me-- let me just ask one maybe. Is there a process for-- so let's say two people go through a divorce. The divorce is brought on by domestic violence. They have children. They got to work the-- work through the-- all the child stuff, and two years after the divorce they're getting along well enough. Can-- can the parties agree to-- if it's-- it's-- if it's a five-year restraining order, can the parties agree in year three to extinguish the order or have it vacated?

MEGAN BELCHER: Yeah. I don't know why protective orders would be any different in that the parties could agree to a stipulation to have the order vacated.

LATHROP: OK. OK. That was my question. I appreciate your testimony and being here today.

MEGAN BELCHER: Thank you. Thank you, Mr. Chairman.

LATHROP: Good afternoon.

KATIE WELSH: Good afternoon.

LATHROP: Welcome.

KATIE WELSH: Thank you. Thank you, Chairman Lathrop and committee members. My name is Katie Welsh, K-a-t-i-e W-e-l-s-h, and I'm the legal director at the Women's Center for Advancement. We're a nonprofit that serves survivors of domestic and sexual violence in Omaha, Nebraska. I'm here today to express the WCA's support for LB118 and I want to share an experience we had while serving a survivor of domestic and sexual violence. For purposes of this story, the survivor has asked me to refer to her as Jane. Jane originally came to the WCA several years ago for help with filing a protection order. Her abuser had left town unexpectedly, and she didn't think she would have another chance to leave without provoking his suspicion. As a mother-- mother of three and a survivor of a 21-year abusive marriage, Jane knew very well how to avoid her abuser's violent outrage. She recalls that drafting her petition and notarizing her signature in the short time she had was no small task. Had she not kept her ID in a safe place and acted decisively, she would not have made the best use of this opportunity. In her protection order application, she described instances of name calling, financial exploitation, dodging furniture

and other household items that were routinely thrown at her and the kids, and being punched or pushed just for passing him in the hall. She became even more scared of him in the days leading up to filing because he was walking around their house with knives and even putting them to the throats of family members. The filing and approval of her original protection order application was her first step towards safety. Her next was filing for divorce. Despite these important first steps, however, her abuser's quest for control intensified. During the one-year term of her original protection order, he called from different numbers, probed her neighbors for information, and even sent her a threat to remind her that he could kill her whenever he wanted. Aside from reporting the violations to the police, she knew of no other recourse available to her but to try to convince the court that her protection order be renewed. She has applied for two renewals so far, but worries how many more times she can make this happen. He shows no signs of stopping, and she is understandably nervous about running into him in court. As a mother, she needs this protection order to continue not only for herself, but because it's the only way she knows to protect her minor children. As Jane's story shows us, a one-year term is not long enough. Without LB118, survivors must assume the risk of confronting their abuser year after year in the court system. We are grateful that Jane continues to utilize WCA services to navigate the renewal process, including the notarization requirements, but we know of many other clients who don't find us until they're unprotected because their PO has already lapsed. I hope Jane's story has convinced this committee that this bill is first and foremost about safety. If there is opposition, I assume it's focused on legal procedural matters, which I am confident can be resolved in favor of survivors' safety. For these reasons and on behalf of the WCA, I ask you to vote-- vote in support of the bill and advance it out of committee. Thank you.

LATHROP: Very good.

KATIE WELSH: Take any questions.

LATHROP: Thank you, Ms. Welsh. I don't see any questions. Thanks for being here today.

KATIE WELSH: Thank you.

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ROBERT SANFORD: Good afternoon, Chairman Lathrop and members of the Judiciary Committee. My name is Robert Sanford, R-o-b-e-r-t S-a-n-f-o-r-d. I am the legal director for the Nebraska Coalition to End Sexual and Domestic Violence. We are a membership-based organization providing training and assistance to Nebraska's 20 domestic and sexual violence service providers in an effort to build the capacity of programs that provide direct services to survivors. This past year has put a strain on systems and processes in ways that we have not seen in our lifetime. Some of the problems are new and some problems have existed for years. LB118 is a bill that seeks to address preexisting problems for survivors of domestic and sexual violence that have been intensified because of the pandemic but that will continue to exist without legislation and statutory change. LB118 seeks to address two issues facing victims. The first problem relates to requirements associated with the renewal of a protection order. Nebraska's current orders last for one year. Many states, as been specified earlier, last much longer than that. The director of one of our programs recently shared the confusion this creates for some survivors. When an individual comes from another state who is able to apply for a protection order in either state, they then must weigh the pros and cons of applying for a protection order in Nebraska. The duration of our orders is often a surprise and is a mark in the con list. The duration of our protection orders is also a concern when it comes to renewing an order. If the petitioner has left Nebraska for another state, they would need to return to Nebraska every year in order to renew that order. This creates safety issues that the petitioner must consider. Finally, one of our program directors noted that during the pandemic, their staff struggled to find a notary who could help the victim complete the application process. An advocate for that program noted that the survivor went to five or six locations before she was able to find a notary who could actually witness the signature, delaying the filing of the application and the potential safety the protection order could offer. I've offered with my testimony today examples from Kansas and Colorado, where they have adopted language allowing for self-authenticated signatures. Other states have found ways to do this, those being two examples, and remove the barrier by replacing the notary requirement with a signed sworn statement. Victims of intimate partner violence face issues leaving an abusive relationship. LB118 would help minimize two of these issues by extending the duration of the order and by renewing-- or removing barriers related to the notarization. It does not change

any other aspect of the protection order process. The Nebraska coalition supports this bill and we ask that you advance the bill from committee. Thank you.

LATHROP: OK. Senator Brandt.

BRANDT: Thank you, Chairman Lathrop. Thank you, Mr. Sanford, for appearing today. Does a state's protection order extend only to the state lines or-- so if Nebraska has a one-year order and Iowa has a five-year order, when these individuals across state lines, is the Iowa one in effect in Nebraska? Is Nebraska in effect in Iowa?

ROBERT SANFORD: It's a great question. Federal law, full faith and credit allows for a valid order in one state to be recognized in another state. So whether it's Iowa coming to Nebraska, it would be enforced as if it was still valid in Nebraska. Similarly with protection orders from tribal courts, those would also cross boundaries.

BRANDT: So basically, Nebraska does recognize five-year lifetime protection orders from another state.

ROBERT SANFORD: Correct.

BRANDT: OK, thank you.

LATHROP: OK, good question. Thank you for being here today.

ROBERT SANFORD: Thank you.

***CHRISTON MACTAGGART:** Chairperson Lathrop and Members of the Judiciary Committee, my name is Christon MacTaggart and I am the Freedom From Violence Project Coordinator for the Women's Fund of Omaha. The Women's Fund testifies in support of LB118, a bill that makes protection orders more accessible to survivors and streamlines the process for the court system by extending the duration of the orders and eliminating the notarization requirement. Protection orders, which consist of Domestic Abuse Protection Orders, Sexual Assault Protection Orders and Harassment Protection orders play a vital role in a survivor's safety. As Nebraska works towards reducing violence within its communities, protection orders are a part of the harm reduction. Studies have found that protection orders are associated with an 80 percent reduction in police reported physical violence in the

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following year after granted. Longer durations of protection orders may lead to a greater decrease risk of violence than the current one-year duration of orders. One study found a 70 percent reduction in physical abuse and 60 percent reduction on psychological abuse to be directly associated with the extended duration of protection orders. Extended protection orders also account for the many survivors that experience abuse for longer than a one-year period. One in four domestic violence survivors report experiencing five or more years of abuse. Right now, for survivors experiencing multiple years of violence, they must engage in an annual renewal process with the court, with such renewal process beginning exactly 45 days prior to the order's expiration. This process is entirely initiated by survivors and there is no court notification when an order is about to expire. This means survivors must remember the exact date their order expires and apply for renewal within this strict timeframe, most often without the support of legal representation. For survivors who miss this renewal period, they must reapply for an entirely new order after it expires. In Douglas County over 200 protection orders in the last few years have been requested between the same parties who previously had protection orders. This reapplication process requires survivors to revisit experiences of trauma and potentially increases safety issues through additional contact with their abuser, but it also puts an unnecessary strain on the court system. When the annual renewal process for a Domestic Abuse Protection Order or a Sexual Assault Protection Order are utilized, there is an exceptionally high approval rate (87%).This exemplifies that many survivors still had a need for protection that was confirmed by the courts. With a majority of renewal requests being approved, the extended duration of protection orders would streamline the process for the courts. The second portion of this bill, the notarization process, poses another barrier for survivors seeking protection orders. Initial application for a protection order is an extremely dangerous time for a survivor as orders are typically obtained when a victim is leaving their abuser, which is one of the most dangerous times for them. Notarization may prevent or delay a survivor from obtaining a protection order, which increases safety risks. This is especially true if a victim does not have transportation to get to a notary or have access to their identifying documentation because of immigration status, it being taken by their abuser or they had to leave without it. Additionally, 99 percent of domestic violence survivors experience financial abuse from their harm-doer, including restricting access to bank accounts or

limiting knowledge and information of bank accounts. As notarization is often obtained through one's bank, domestic violence-related financial abuse creates unique barriers to notarizations. The limitations caused by COVID-19 have only exasperated these barriers. Eliminating the current notarization requirements and replacing with a sworn statement that states that the information provided is true and accurate under the penalty of perjury will allow for electronic submission of orders and allow for greater access to this pro se process. Twenty-Seven other states have noted the value in lengthening their protection orders and have longer protection orders than Nebraska. Women's Fund respectfully urges you to join these twenty-seven other states in protecting survivors through extended protection orders through your support of LB118 and vote to General File.

***IVY SVOBODA:** Dear Senator Lathrop and Members of the Judiciary Committee: I am writing you today in support of LB118, which makes important improvements to Nebraska's protection order process. LB118 will increase the safety of and reduce the trauma to survivors of sexual assault, abuse, or violence. In Nebraska survivors in need of protection orders include both children and their caregivers. The Nebraska Alliance of Child Advocacy Centers is the nationally accredited membership organization for the seven child advocacy centers (CACs) in our state. CACs provide trauma-informed services to children and families as we assist with investigations of child abuse and neglect, including advocacy and medical services. Along with our members, the Nebraska Alliance seeks to enhance the response to child abuse in our state. In 2019, Nebraska CACs served 6,675 Nebraska children who were reported to have experienced abuse or neglect, including 2,478 reports of sexual abuse, 850 reports of physical abuse, and 638 reports of child witnesses to family or domestic violence. 94% of the time those responsible for the abuse which brought children to the CAC in 2019 were known to them - including parents, caregivers, relatives, and other trusted adults. 1 In all of these cases, protection orders can be helpful to ensure that the person responsible for the abuse does not continue to threaten the safety of the child and family. LB118 specifically makes three improvements to the protection order process. It eliminates the need for a notary which can be difficult to access, especially for minors. It also extends the duration of protection order renewals which means that child victims will not have to confront the person who threatens

their safety or relive their trauma on an annual basis. Lastly, it will also reduce barriers to continued protection for vulnerable children and families who are not familiar with the court process. We thank Senator Morfeld for introducing this bill. We urge the committee to advance LB118. We ask that this letter be included in the Committee record on the bill.

LATHROP: Next proponent. Anyone else here to speak in support of the bill? Seeing none, we will go to opponent testimony, if any. Good afternoon,

VINCENT LITWINOWICZ: My name-- thank you, Committee Chair and members of the committee. My name is Vincent Litwinowicz; that's V-i-n-c-e-n-t L-i-t-w-i-n-o-w-i-c-z. In coming here today, I didn't know whether to be in support or against it because I really had one big problem. And as a result-- I had gotten a protection order and I'm going to go over briefly how bizarre it was. And so I was not doing well at the time, and my main argument is that I only had five days to respond. I had recently lost-- I would have had prepared notes at my computer that I just got, the fingerprint ID stopped working because I was in acute rehab recently and it wouldn't recognize my fingerprint and I forgot my PIN. And so I-- I don't have a copies.

LATHROP: That's OK. That's OK.

VINCENT LITWINOWICZ: And so anyway, I have the copy of this protection order, and it basically resulted in-- at the end, because I had to withdraw, I had a funded position for grad school, getting a doctorate, making stronger magnets at UNL. I got MS. OK? My person I was with told my mom that the relationship was fulfilling for the first three years. Anyway, in the last year, I was drinking, I wasn't doing so well, but I-- I-- I was not abusive in any way. In fact, I've never hit a person in my life and I've endured bullying as a result of that. So anyway, there was a point in time where she wanted me to go home, you know, I was going to go home, and so she could contemplate the relationship. And so I-- I-- I left. In fact, I left earlier than I was-- she wanted me to go. And then while I was at home, she broke up with me, and so I was scrambling to find a place to live. And I did that. I came home, and then I was paying rent too. I was on the lease and I volunteered-- voluntarily agreed to go somewhere else and to a friend's house. And so on this protection order there's-- I'm not saying she lied, but there-- there's-- there's just-- there's things

that are incorrect. And her brother was second in command in the sheriff's department in the county that contains Colorado Springs. And by a mutual therapist, which I won't name because it was not her place to tell me, but she was actually coerced into doing it. And so-- so if this would be five years, all I'm asking for is to increase the amount-- you can still keep the protection order in place for that-- for that time that you can debate it. The-- I-- I have a mental diagnosis and I didn't even know what a protection order-- I've never done anything like this, so I just-- may not have time for that. And so anyway, if I would have wanted a job or something-- and actually, I did compromise a place I wanted to live, you know, because I had a record, so in one instance, I'm just anecdotally-- she-- she's [INAUDIBLE] mentions that I made over 50 phone calls, numerous messages, you know, and then-- anyway, I know my red light. But I made 13 phone calls and then all I wanted to do was use the apartment on Thanksgiving 'cause-- this is Thanksgiving Day 2010. So I just wanted to call my mom and I didn't want to go to-- at my place, none of-- none of the stuff was set up. I was using a cane. I had MS. It was Thanksgiving. I wanted to go into the apartment and Skype because I didn't want to, you know, get emotional at a coffee shop. And so anyway, it turns out I talked to the landlady and tried to get her help. And I called the police and it all got turned against me saying I was harassing them, which-- which that's just-- it's not within my capabilities to do that unless I'm provoked in a major way to begin with. So I guess-- I know I have a red light. I'm not going to go any-- any further, really. It's just that I wish I would have had time to submit this.

LATHROP: Can I ask a question, just for clarification, because you are on a red light? Are you opposed to the bill because of the length of time that these--

VINCENT LITWINOWICZ: No, I'm opposed--

LATHROP: --these protection--

VINCENT LITWINOWICZ: No, although if I-- if I would have gotten a five-year, you know, I don't know if I'd still be here, to tell you the truth.

LATHROP: OK.

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VINCENT LITWINOWICZ: But--

LATHROP: Are you opposed to the bill or are you a supporter of the bill?

VINCENT LITWINOWICZ: I-- I supp-- I guess I support the bill except for the-- the ten-day-- the time period that you have to respond to the judge.

LATHROP: OK,

VINCENT LITWINOWICZ: That-- that's the-- that's the big catch. And then in conjunction, if it would have been five years and that would have happened, I can tell you three years in, if I would have saw her in line at a farmer's market, there's no way in hell I would have left and she could have called-- I would have been "Cool Hand Luke-ing" it because there's no way, you know, I would have put up with that. So, you-- you know, it would have been a big issue.

LATHROP: OK, I think we have your testimony.

VINCENT LITWINOWICZ: OK.

LATHROP: And I appreciate you being here this morning--

VINCENT LITWINOWICZ: All right.

LATHROP: --this afternoon.

VINCENT LITWINOWICZ: Otherwise, I think it's necessary and it's probably valid in 99.9 percent of the cases.

LATHROP: Right.

VINCENT LITWINOWICZ: But-- but I have to live with-- I had to live with it and as far as who knows how long, if I want to go somewhere else, and I resent it because I-- I deserve none of it.

LATHROP: OK.

VINCENT LITWINOWICZ: And--

LATHROP: Thank you. Thank you for your testimony this afternoon.

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VINCENT LITWINOWICZ: Yeah. Thanks. Thanks for listening.

LATHROP: You're very welcome. We're happy to.

VINCENT LITWINOWICZ: Yeah. Thank you for having me here.

LATHROP: Sure. Sure. Anyone else here to testify in opposition? Welcome.

SPIKE EICKHOLT: Thank you. Good afternoon, 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 in opposition to the bill. I just want to say that our opposition to the bill is not in any way meant to defend or justify some of the behavior and some of the victimization that's been done to the people who testified earlier. That's not what this is based on. Protection orders are civil orders in nature. It's like a civil lawsuit. And I'm going to use the pronoun because it's usually this way. She sues him, ordering-- asking the judge to order him to have no contact with her, but they are enforced criminally. If you violate a protection order, the first time, it's a misdemeanor. If you violate a protection order a second or subsequent time, it's a felony. Our association is concerned with the fact that this is going to expose significantly more people to felony prosecution. And that is because, as a practical matter, a majority of the cases that our members have for protection order violations are what I would consider or call consensual violations. In other words, the order prohibits him from having contact with her or being at a certain address and other restrictions on him. It is not a defense if she initiates a conduct, if she welcomes a conduct, whatever. It happens more often than not. Admittedly, that's part of the cycle of the domestic violence relationship. There's a situation. He-- she's afraid. She calls a cop. She gets the order. She forgives him. She wants him back. I've had cases where people have been in court together on other cases; identified by the police, had a protection order, he's arrested, taken into jail. I've had cases where they've been passengers in a vehicle. Cops pull them over for some unrelated reasons. They regularly check for warrants and they can detect protection orders in existence. They'll arrest that way. Prosecutors across the state have a zero-tolerance policy for protection order cases. In other words, they charge all of them. In part, that's because they are responding to the advocacy groups that you heard testify today. Also, in part, it's

pretty easy to prove these convictions. It's-- there's no intent requirement. As long as you have notice of the order and you're served with the order and you violate any condition, it's a strict liability crime. I understand the desire to lengthen the protection orders in those-- in some of those cases from one to five years, and so did this committee when it passed a bill about 18 months ago to allow for the renewal of it. That was LB532 and that was advanced by this committee and adopted by the body. And perhaps this is coming back for a law change so quickly because of the pandemic situation, and that's why you have that notary requirement being requested to be dropped as well. But I'd argue that we already have what I would consider an opportunity to extend orders that should be extended already in statute. In other words, you can go back and ask to have them extended. A couple of things: You don't have to go to court to do so, You can simply fill out a form. Yes, you can file a motion to modify. Yes, you can file a motion to vacate. I will tell you that the advocates that help people get the protection orders rarely, if ever, will assist a victim or petitioner in modifying vacating it because it is contrary to their program goals and policies. And I'll answer any questions if anyone has any.

LATHROP: OK. Sena-- Senator DeBoer.

DeBOER: So maybe you can finish addressing this question. So the parties-- previous testifier said that the parties can agree to extinguish the order with a stipulation to vacate the order.

SPIKE EICKHOLT: They can. They can--

DeBOER: They can.

SPIKE EICKHOLT: --in theory. I will tell you that in my experience, judges oftentimes are very reluctant to do so, particularly when they look back at the original facts that were listed for the first protection order; particularly if there's been a subsequent violation, the judges are very reluctant to do so. Maybe if both parties are represented by counsel, the judges may be more assured about that. And then you have that situation you have where if the abuser can afford to hire a lawyer for her and then she has a-- judge has at least some sort of assurance that there are some protections here and people are on equal footing, that judge will vacate or modify the order. But as a practical matter, and I've seen this regularly, and I had a case I was

appointed to over the summer where both parties made various motions to modify, motions to vacate, and the judges dismiss it outright without a hearing.

DeBOER: But then wouldn't that-- I mean, it seems likely to me that this reconciliation would happen within a one-year period more often than in the two- to five-year period.

SPIKE EICKHOLT: Right. And if the protection order is in existence for five years, then what you have is you have a criminalized relationship that goes on for five years. I have never seen a petitioner who has invited, allowed, permitted or initiated text conversation, emails, ever be prosecuted. Now that's probably the right thing to do because you have that imbalance in that relationship, but I've never seen that person be prosecuted, in part, because they're probably not violating the protection order themselves. The order applies to the respondent. The order applies to him. It says you don't contact her. The sad thing is you see sometimes-- and I've represented many abusers-- what they do when they get that-- served that order in jail, they get their own motion and they file one to get against her because she's not going to win this argument either. And judges many times will grant mutual orders. And then you have the sad, unfortunate situation where you've got two people, who are perversely drawn closer together, avoiding police, avoiding authorities, avoiding family members who are worried about them because neither of them wants to give each other in trouble. They don't want this order anymore. Now I know that that's difficult for me to say, but what I'm saying, by extending the five-year window, the five-year order, it's going to result in more felony prosecutions. It just is. And that's our association's concern.

LATHROP: Can I ask you just a background question? Under current law, if-- if a person gets a protection order and they go in 12 months later to renew it, do they have to make a showing that they're still being bothered, or do you just say, I want it for another year, Judge?

SPIKE EICKHOLT: It used to be that you had to make some sort of new factual showing, but you just passed-- that's what LB532 allowed was the automatic renewal of it, that you go back after the year and you ask to renew it. And that's only been operative for maybe 10 or 12 months, and it's been interrupted by the pandemic where it would-- in other words, it would be-- for those orders that are coming due in a

year or whatever, it probably was difficult to go to the courthouse and people didn't want to go.

LATHROP: OK. So I don't need to show anything new. All I gotta do is say, yet I'm still afraid of the--

SPIKE EICKHOLT: Right.

LATHROP: --I'm still afraid of my ex-husband.

SPIKE EICKHOLT: And Senator Brandt asked that question earlier that the statute was amended to allow for it to be renewed in a year. Does that mean just a one-time renewal? And I guess the law has not even been in effect, so we just don't know. The judges really haven't had an opportunity to formally opine on it and-- just due to the time length of the new law-- and as Mr. Carraher said before, some lawyers have had different opinions about that. And maybe that's what could be done. I hate-- I hate to suggest a way to modify this law to get it into our books, but if you have it five years-- and just additional point-- it's all types of protection orders. We have domestic violence protection orders, which we've been talking about a lot, sexual assault protection orders, and then the standard harassment protection orders, which could be neighbors, it could be nondomestic-type interactions that you have with people. And if I could just-- one thing. The protection order just, doesn't say don't do certain things, you can't have a gun. There are due process consequences. Employers often will ask, employers will discover when you look up someone's court history, you are a prohibited person under the law. You aren't going to explain-- most people think protection order and they think protection order violation, they think, wow, you must have beat her up again, and that's not always like that. Not that it's not OK, I'm just saying that's just something that goes along and has significant consequence to people.

LATHROP: OK. Senator Brandt.

BRANDT: Thank you, Chairman Lathrop. Thank you, Mr. Eickholt. A lot has been made of the trauma's fresh. It's a year later. They have to go to court and then they will see-- the face-- do they have to face each other in court or is there a way to do this where the victim-- the victim can get a protection order without seeing the other individual?

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SPIKE EICKHOLT: Yes. First, they don't even have to go to court.

BRANDT: OK.

SPIKE EICKHOLT: And more importantly, unlike any other case that I can think of, there's standard forms you can fill out and there's no filing fees involved whatsoever. So it doesn't cost anything. You can fill out the forms at home. As long as a notary administers the oath and witnesses your signature, that's ready to file. And the advocate can carry it down to the courthouse for the victim. I've seen them do that before. I've worked with Voices for Hope and done that for people before, yeah. Or the lawyer, if the person has a lawyer, can do that. They don't actually need to be in court. He has-- the respondent has ten days to request a court hearing. The judge may set the matter for a hearing. And at that time, then it would be in court with the judge there. She may see him. Now I-- I've done many of those show-cause hearings. The deputies are there. The judges are pretty-- they're controlling over him. He's not going to get the opportunity to run his mouth and say whatever he wants to say and question her in any way. Many times, even as lawyer, I've been prohibited or not allowed to call her. In other words, they just stand on the notarized statement that she filled out and the facts that she laid and that's it. I don't get to go beyond those four corners and she doesn't have to expand beyond that four corners. Now each judge is a little different on that, but--

BRANDT: OK, thank you.

LATHROP: I don't see any other questions. Thanks for being here. Any other opponents? Good afternoon.

TIM HRUZA: Good afternoon, Chairman Lathrop. Members of the Judiciary Committee, my name is Tim Hruza, last name spelled H-r-u-z-a, appearing today on behalf of the Nebraska State Bar Association in opposition to LB118. And our-- first begin with a little-- by simply stating that our opposition today really has-- has nothing to do with the seriousness of many of the situations that you've heard from today, and I want to be clear about that. It really has to do with the technical way that, that these orders, this type of civil proceeding with criminal repercussions, does proceed through the court system and the changes proposed in the bill. With that, too, just quickly, the Bar Association's process, I know, was a-- a real discussion for all

of you yesterday. And I-- I do want to let at least some of the new members of the committee know how we come to a position on a piece of legislation. All 684 bills that were introduced this year are reviewed; they're flagged. This year, we submitted 160 of those 684 bills to the legislation committee of the Bar Association. That committee is comprised of 59 attorneys who volunteer their time to review all of the bills, encompassing a number of different subject matter areas. Each one, in their individual, respective expertise, review those bills that are flagged for that subject matter. They-- they recommend position on bills. Oftentimes we take support, we take opposition positions, and we take monitor positions on a bill where we won't come in and provide an opinion simply because the lawyers who reviewed it were not struck or were not concerned, necessarily, enough for us to get involved. Out of that process then, we recommended taking positions on 40 of those 160 bills. That's then reviewed by the executive council and the house of delegates. We have-- over 80 members of the house of delegates participated. The house of delegates is comprised of 97 attorneys, so this year we had 80 that participated, virtually reviewing our bills. With that then, I should note that LB118 was one of the bills that we took a position of opposition on, which is why I'm here to testify today. And again, it deals specifically with tech-- the technical proposals in the bill. I will tell you that the Bar Association has concerns about both of the changes proposed by the bill with respect-- maybe most importantly, with respect to the notary change. One thing that-- that those-- those of us that practice law, those of us that have practiced law, understand is that a sworn affidavit, the notary requirement on a sworn affidavit is not something to be taken lightly. And I know that a lot of times it's seen, for purposes of a signature, as a-- as a stamp, a rubber stamp on a-- a pleading, on, you know, a real estate document. But it-- the person that's-- that's taking-- that notary that's serving there is somebody that's been certified by the state to take an oath, a sworn oath, and-- and can verify the-- ob-- objectively verify the-- not only the identification and who that person is, but they in-- they intend to be doing what they're doing. And I think that's important for a lot of reasons. From a civil-- this is a civil proceeding. In almost every other context of a civil proceeding, when an affidavit is filed, it is required to be filed by a notary under oath. And that-- we believe that that oath provision is something that's very important, not only from the witness's standpoint or the person giving the statement, but also from the

judicial standpoint. And I see that I'm out of time, but I do have one more point on that, that I'd like to make, if somebody would ask a question.

LATHROP: What's the second concern?

TIM HRUZA: With respect to that notary provision, Chair Lathrop, there is a concern that the ex parte nature of how these protection orders operate really is bolstered by that notary requirement, so-- and as Mr. Eickholt sort of explained earlier, when that petition is submitted to the judge, the judges are reviewing it on the four corners of the document and making a decision as to whether or not a protection order should be issued ex parte without either of the parties before them. They're not allowed-- the judge is not allowed to question the petitioner. The judge is not allowed to hear from the respondent either in making that decision. And to the extent that the notary requirement is an objective third party that is validating the oath made by the petitioner, that all facts within that are true, we believe it's important to maintain that process, which is required under our civil procedure statutes--

LATHROP: OK.

TIM HRUZA: --25-1241. And then I would also say we also don't want to give judges any hesitation in-- in issuing these because there's not a third-party objectively--

LATHROP: OK, how about the five years? Does the Bar Association have a position or did they go no position on the five years?

TIM HRUZA: We are opposed to the five-year period as well. I think every attorney that spoke up on this bill during our review, both-- both defense attorneys that are involved in our process, as well as county attorneys involved in our process, raised concerns over the five-year period, the fact that there's no regular review there, and then also noted what Mr. Eickholt noted, which is that this committee just made changes to that renewal process a few years ago, not even a few years ago, a little over 12 months ago, and that-- that we would-- before we jump into a five-year period that has criminal repercussions, but also, you know, civil repercussions-- Senator Slama asked a question related to some of those things, Mr. Eickholt mentioned employment issues-- that there is at least-- the respondent

has some rights that-- that need to be considered in the process as well.

LATHROP: OK. Any questions for Mr. Hruza about today's bills?

TIM HRUZA: Can I just-- can I also--

LATHROP: We're not going to interrogate him about bills we were looking for him on yesterday.

TIM HRUZA: Can I also say, just real quickly, I have-- I have been in contact with the advocates. We are-- we have-- we've had a dialogue since December on this proposal. They've been well aware of the bar's concerns since then. We did circulate this legislation before it was introduced--

LATHROP: OK.

TIM HRUZA: --and got that feedback from them. So we're working on it and we're open to discussion.

***SARA KAY:** Chairman Lathrop and members of the Judiciary Committee: My name is Sara Kay, and I am testifying on behalf of the Nebraska County Attorneys Association in opposition to LB118. Law enforcement, prosecutors and the court provide protection, advocacy, and process for victims of harassment and abuse. Nebraska's prosecutors appreciate the effort to assist self-represented litigants with their petitions to the court for protection from harassment and abuse. We appreciate the effort to provide a longer period of protection for victims. And, we understand the barrier that exists for self-represented litigants in either getting to a court clerk or a notary public prior to filing. However, our opposition to the changes proposed in LB118 is for the following reasons: 1. Extending the length of a protection order from one year to five years will create legitimate constitutional issues for respondents and may therefore jeopardize the durability of the protection sought by victims. The validity of a protection order is elemental to successful prosecution of offenders and relief and safety for victims. LB118 creates a few vulnerabilities that do not presently exist. The existing renewal option for a Domestic Abuse Protection Order (1 year) or a Sexual Assault Protection Order (annually) requires a formal request, notice and hearing. That process allows for the protection of due process rights and was designed to withstand

constitutional challenge. If a longer term of protection at the outset is the desired outcome, we would recommend extending the initial order for a period of no longer than two years and encourage the use of the existing renewal process thereafter, perhaps annually for a maximum term that would withstand constitutional challenges. 2. Removing the requirement for a signature before a notary public or court clerk may jeopardize the authenticity of the affidavit, but more importantly whether a judge can make a finding that the signature is authentic and the identification of the petitioner true and correct. We commend the State Court Administrator's office and its collaboration with the judicial branch to enhance access to the Courts for self-represented litigants. We support their continued efforts to develop a process of electronic submission of protection orders that is open to all parties but also maintains the integrity, trustworthiness, and reliability of the filing. Thank you for your time and consideration.

LATHROP: We always appreciate hearing from the bar. Any other opponents to testify on LB118? Anyone here in a neutral capacity? Seeing none, Senator Morfeld, we have-- prior to your close on LB118, we have seven position letters, all seven proponent letters. We also have written testimony offered this morning that will be included in the record: proponent Christon MacTaggart with the Women's Fund of Omaha; also a proponent, Ivy Swoboda at Nebraska Alliance for Children-- of Child Advocacy Centers. And finally, opposed, is Sara Kay with the County Attorneys Association. With that, Senator Morfeld, you may close and then get fresh air.

MORFELD: Thank you, Chairman Lathrop. Can we-- can we schedule my bills first from now on in the committee? I always feel like I'm going last. In any case, just a few different things real quick. So it's my understanding, in talking to some of the advocates, that protection orders are regularly dismissed early at the request of-- of the victim. And so that is something that happens. Also, respondent can request a hearing for renewal-- for renewal, so it's not always automatically granted, I think, as maybe what was a little bit suggested, without possibility of there being a hearing. The other thing, to the firearm prohibition, actually this gave me flashbacks, Senator Geist. You and I-- well, I worked with you a little bit on a potential amendment on the floor that would have made it line up with the federal firearms prohibition. But the bottom line is, is that didn't go forward. And so it's not always automatically the firearms are prohibited under Nebraska law. And so we will put together a fact

sheet on that because it's a little bit complex and-- and I don't want to get anything wrong. And I also know it's lunchtime, so--

LATHROP: OK.

MORFELD: --thank you, Chairman.

LATHROP: Senator Morfeld, thank you for your closing. That will close our hearing on LB118 and our hearings for this morning and for this after-- well, the morning hearings, and we'll see you back here in 35 minutes.

[BREAK]

LATHROP: It's about almost 10 minutes to do so I'm going to start it up while people trickle in here. I guess I'm reading it for the benefit of the three of you, and I know you've probably all heard it. Are we on the TV? I just did that on television. We're on NET? All right, good. Well, welcome, everyone. Good afternoon. I'm Steve Lathrop, the Chair of the Judiciary Committee and also the state senator from District 12. That includes Ralston and parts of southwest Omaha. Before we begin our hearings, I typically read sort of the ground rules and sort of some informational information. And I'm going to do that. You'll notice that the committee isn't here yet. They know it takes me a little while to read this. I'm sure they will all be safely in their seats by the time I get done. 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 consider taking advantage of these additional methods of sharing your thoughts and opinions. For 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 committee members, staff, pages, and the public. And 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 when necessary for you to attend the bill hearing in progress. 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 under consideration. The

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bill will-- the-- pardon me. 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 face covering 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 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 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 of an overflow room for hearings this year. For those hearings with large attendance, we request only testifiers enter the hearing room. We also ask that you please limit or eliminate handouts. Due to COVID concerns, we are providing two options this year for testifying at a committee hearing. The new option is 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, the submission of written testimony will only be accepted the day of the hearing between 8:30 and 9:30 in the Judiciary Committee hearing room. Number two, individuals must present their testimony in person and fill out a testifier sheet. Number three, the testifier must submit at least 12 copies of their statement. Number four, testimony must be 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 transcript just like if you testified in person. This will be included on the committee statement if all four of the criteria are met. And of course, you can testify in person. Persons attending a public hearing 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 and be sure to print legibly. Hand the yellow testifier sheet to the page as you come forward to testify. 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 include-- 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

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record, all committees have a deadline of 12 noon the last work day before the 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 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 statement followed by proponents of the bill, then opponents, and finally anyone wishing to speak in a neutral capacity. We will finish with closing statements by 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 any copies of your testimony, bring 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 you will not be permitted to read it. We will be using a three-minute, this is my favorite part right here, 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 last thought and stop. As a matter of committee policy, I'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 or stay in contact with staff. At this time, I'd ask everyone to look at their cell phones and make sure they're in the silent mode. As a reminder, verbal outbursts or applause are not permitted in the hearing room. Such behavior may be reason to have you excused. Since we've gone paperless this year, the Judiciary Committee in the committee, the senators will instead be using their laptops to pull up documents and follow along with each bill. And finally, you may notice committee members coming and going. This has nothing to do with how they regard the importance of the bill under consideration. But senators have other bills to introduce in other committees or other meetings to attend to. As many of you already know, because of the volume of bills that we have, we are on a 30-minute time limit. So when a bill is introduced, proponents will have 30 minutes, opponents will have 30 minutes. We'll take neutral testimony and then the introducer may close on the bill. That really hasn't become a problem, but it could be if we have a bill with a lot of people. So just make sure if that's going to happen and it looks like there might be more than 30 minutes' worth of testimony that you coordinate or some people won't have an opportunity to be heard. And

with that, I'd like the members of the committee to introduce themselves, beginning with Senator DeBoer.

DeBOER: Good afternoon, everyone. My name is Wendy DeBoer. I represent District 10, which is Bennington and parts of northwest Omaha.

MORFELD: Good afternoon. My name is Adam Morfeld. I represent District 46, northeast Lincoln.

McKINNEY: Good afternoon. Terrell McKinney. I represent District 11 in north Omaha.

GEIST: Good afternoon. My name is Suzanne Gaist. I represent District 25, which is the east side of Lincoln and Lancaster County.

LATHROP: Assisting the committee today are Laurie Vollertsen, our hardworking committee clerk, as well as Josh Henningsen, one of our two legal counsel. And our pages this afternoon, both UNL students, are Ashton Krebs and Samuel Sweeney. We appreciate their help as well as we move through five bills this afternoon, beginning with Senator Cavanaugh, who is here and ready to go. Senator Cavanaugh, you may introduce LB492. Welcome.

M. CAVANAUGH: Thank you. And I can talk for as long as I want, right?

LATHROP: We are going to put a time limit on that.

M. CAVANAUGH: Kidding. I was teasing. I-- I will be brief. Good afternoon, Chairman Lathrop and members of the Judiciary Committee. I am Machaela Cavanaugh, M-a-c-h-a-e-l-a C-a-v-a-n-a-u-g-h, and I have the privilege of representing District 6 in west-central Omaha. I'm here today to introduce LB492, which will create the Nebraska Integrated Juvenile Data Governing Body. This bill is very similar to a bill I introduced last year, but with a few changes that recognize the progress made at the Crime Commission with their data system and some additions to the governing body itself. It also gives a timeline for addi-- for the addition of the variety of data inputs. Overall, the purpose of the bill is the same, which is to create an integrated data system that can correlate multiple data sets from different departments and programs. With this correlation and integration of data, we will have a way to analyze the effectiveness of our programs and interventions. We will be able to determine if what we are doing across systems actually makes a positive difference for the youth we

serve. We will be able to see racial or demographic disparity in outcomes and assess whether the juvenile justice system is effectively processing cases. We've heard many times that the data we need to answer these questions largely doesn't exist in a usable format that is spread across different soil-- siloed systems and hard to obtain; that it is virtually impossible to correlate into a holistic picture. These are important questions to answer for the youth we serve and for the state budget. If an individual comes into contact with the juvenile justice system, the child welfare system, and has troubles at school, if those data points all stay siloed away from one another. If there's an intervention, step along that way that has an impact, we don't have a way to analyze that. This integrated data system will be able to tell us what works, what doesn't, and where we need to come up with new solutions. This means less kids falling into the prison pipeline and more kids leading successful lives. There are-- there are a few testifiers after me who will be able to go into detail and answer any technical questions you may have. I will reiterate what an opportunity we have in this data integration to analyze and improve our youth, our responsiveness to youth. I urge the committee to advance LB492 so that we can begin the work of ensuring every child in Nebraska has what they need to succeed. I hope that was less than three minutes.

LATHROP: That was perfect. We appreciate your introduction. Anybody have any questions for Senator Cavanaugh? I do not see any. Thank you for that, Senator Cavanaugh. We will take proponents of LB492. Welcome.

LINDSEY WYLIE: Thank you. Good afternoon. My name is Dr. Lindsey Wylie and I'm a researcher at the University of Nebraska-Omaha, with expertise in juvenile justice research, design, and data analysis. Thank you for the opportunity to speak in support of LB492. Please note that I'm currently speaking in my personal capacity and not for the University of Nebraska-Omaha or the University of Nebraska. LB492 creates the Nebraska Juvenile Information System, which will link individual data across multiple data systems for the purposes of research and evaluation. One of the projects that I dedicate my time to at the Juvenile Justice Institute is examining the effectiveness of state-funded and juvenile justice programs that involves linking multiple data sets to examine the trajectory of youth participating in community-based aid funded programs, including data from law enforcement, the courts, juvenile probation, and detention facilities.

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An integrated data system is an essential step in demonstrating how to best serve Nebraska youth in the child welfare and juvenile justice systems. Research demonstrates a significant overlap in child welfare cases and youth who are justice involved. Similarly, there is a relationship between educational predictors and outcomes, child welfare, and juvenile justice. Currently, Nebraska data systems are not integrated and there's not a formal automatic process for linking youth across multiple systems. This means that while we can generate descriptive reports using aggregate values such as the racial and ethnic composition of detention intakes within a given timeframe, the number of youth on probation in a given county or whether MIPs have decreased statewide, it's more challenging to answer complex questions that involve multiple agencies or system points. With an integrated data system, we would be able to answer questions such as what is the strongest predictor of youth who enter YRTCs? Should prevention efforts focus on early childhood education, child welfare programming, or diversionary policies? What is the relationship between foster care placement and juvenile justice outcomes? Are youth with one to two placements as likely to be on probation as youth with ten placements? Is initiative x effective at reducing racial and ethnic disparities across all system points? Is this intervention still effective if we compare youth who are involved in the child welfare system and those who were not? Although some agencies like the Nebraska Crime Commission and others I may not be aware, are currently linking data, and there have been other attempts in the past to integrate data, these efforts have been limited in some key ways. The first is in scope. The common data system that's currently being worked on at the Crime Commission involves integrating juvenile justice outcome data, court records, probation and detention for youth served only by community-based, aid-funded programs. This common data system is limited in scope to juvenile justice data without education or child welfare data. At other agencies, they may link data for purposes of their own reports, for example, probation examining court records for recidivism. Another is technology. In past efforts, the technology did not yet exist to match cases for multiple data systems, but currently technology will allow it. Another is efficiency. The current practice involves the time-consuming process of linking youth across separate data extracts, a process that may happen to the same cases multiple times because the data we link is not live data. An integrated data system would automatically link cases with a unique identifier prior to an extract allowing data and reports to be the most current. Yet

another is expertise and neutrality. The University of Nebraska-Omaha Juvenile Justice Institute was created to answer the state's juvenile justice related questions with a nonpolitical, neutral lens. An integrated data system managed by the university would ensure research questions are answered without agency bias. In closing, LB492 is the important next step for ensuring state-funded interventions and services are preventing and reducing negative outcomes for youth in our state. Thank you.

LATHROP: Any questions for Dr. Riley or Wylie? I have a couple. So I am familiar with what they're doing over at the Crime Commission. Is this something that can-- we can fold into that project?

LINDSEY WYLIE: The--

LATHROP: I realize it won't be at UNO but--

LINDSEY WYLIE: So what-- what they're working on at the Crime Commission is mostly with adult data. So they are working toward integrating and have created an algorithm to be able to connect those data systems so that the technology and the-- the science and the data is definitely an infrastructure that can be sort of the building block from which we can build this further and to integrate juvenile justice in with some of the technology and things that they've started over there.

LATHROP: If you-- and this would happen at UNO?

LINDSEY WYLIE: Yes, within the university.

LATHROP: OK. If it's at UNO, is it going to integrate with what they're doing at the Crime Commission with the adults? Or are we going to have another problem where the two systems need to somehow be integrated in the future?

LINDSEY WYLIE: I think what they're currently working on at the Crime Commission is the starting point that we could build off of. Of course, being housed within a government agency is not necessarily the same thing as being housed within the university, which is a neutral entity, being able to work with multiple agencies and not just allow one agency to have the--

LATHROP: I-- I--

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LINDSEY WYLIE: --decision-making power.

LATHROP: Sure, I can appreciate that. My next question is, I think the work that they've done in the Crime Commission has been funded by some kind of a grant from the Department of Justice. Do you have some possibility of securing some kind of a DOJ grant to do this work, or is this something that's going to require an appropriation to fund?

LINDSEY WYLIE: There are currently no grants available that fit this requirement or need that I'm aware of. There could be things in the future, but according to the-- the fiscal note, this would be money that we would request from the state to do.

LATHROP: OK. That answers my questions. Anybody else have a question for Dr. Wylie? I see none. Thank you for your--

LINDSEY WYLIE: Thank you very much.

LATHROP: --your testimony today and answering my questions. How many people are going to testify on this bill just so that we can alert the next introducer? Only one more person. OK, thank you. You may come forward unless you're an opponent.

JEANNE BRANDNER: Neutral.

***ASHLEY NEWMYER:** Good afternoon Chairperson Lathrop and members of the Judiciary Committee. My name is Ashley Newmyer and I am the Chief Data Strategist at the Department of Health and Human Services testifying in opposition to LB492. I would like to offer some technical considerations regarding LB492, establishing the Nebraska Integrated Juvenile Data Governing Body. Specifically, LB492 would require DHHS staff participation on this body and the regular production and release of our child welfare data to the University of Nebraska at Omaha (UNO) to integrate and create the Nebraska Juvenile Justice Information System. Under the bill, the Department would be required to set up a feed or regular secure submission of an extract of our child welfare data to the UNO Juvenile Justice Institute for integration with other data sets specified in the bill. The Department estimates that initially this work would require staff to participate in the planning process, including determination of child welfare data requirements, production of the extract file, and set-up of secure data transfer to the UNO Juvenile Justice Institute. For the

integration work, DHHS staff time would be needed to support coordination and provide data integrity assistance, as well as data quality information. Additionally, I want to highlight two operational considerations. The first is the need for clarification regarding the data expected from DHHS. The bill provides for the Directors of two DHHS Divisions-Children and Family Services and Public Health-to participate on the governing body, along with other representatives of DHHS. However, it is unclear whether these Directors' participation is meant to imply that data from those divisions, or even other DHHS divisions, is anticipated. We specifically request that only the Children and Family Services Division be included. Second, depending upon the type of data involved, there could be significant restrictions on DHHS's ability to provide information. For example, federal law prohibits the Department from sharing identifiable Medicaid data without a defined purpose directly connected to the administration of the Medicaid plan. (42 U.S.C. § 1396a(a)(7); 42 C.F.R. § 431 Sub. F; Neb. Rev. Stat. § 68-313). There are similar restrictions as to substance abuse treatment data (42 C.F.R. Part 2) and abuse and neglect data (45 C.F.R. § 164.512(c). With abuse and neglect data, for example, the Department would need to include notice of ongoing release in our client documentation. We respectfully request that the committee include these considerations in their deliberations.

***DON ARP:** Good afternoon Chairman Lathrop and members of the Judiciary Committee. My name is Don Arp and I am the Executive Director of the Nebraska Commission on Law Enforcement and Criminal Justice ("Crime Commission") testifying in opposition to LB492. The Crime Commission wants to bring your attention to a few issues. The overall goal of this bill is laudable. Access to ever-increasing amounts of data gives policymakers and agency administrators powerful insights into program operations and the impact of current and future initiatives. Further, there is no more sacred mission than looking out for Nebraska's youth, especially those involved in the juvenile justice system. I suggest that the bill's goals are obtainable without a new system or series of boards given developments at the Crime Commission over the last 30 months. Further, there is an issue based on the structure of the governing body, and a statutorily mandated contractual relationship that exists between some of the involved parties. The Crime Commission is beyond the mid-way point of its work on the Justice Data Transformation System or J-D-T-S. JOTS will bring all agency partners'

data sources together for the purposes of applied data integration of de-identified data. Think of JOTS as a justice data warehouse linking data sources across agencies. We received letters of support for the project from the Nebraska Department of Correctional Services, the Nebraska Board of Parole, and the Nebraska Center for Justice Research. As the Commission has worked on the project, it has received verbal support from the Probation Administration, the Foster Care Review Office, Health and Human Services, and the Department of Education. In support of the effort, the Commission has data agreements from law enforcement agencies across the state, the Nebraska Department of Correctional Services, and the Administrator of the Courts. A linking pilot test conducted last year of limited HHS and Probation datasets took five seconds to run, resulted in 14.5% more matches than previously possible and identified 37 more instances than simple matching had before. With the above developments in progress, I ask that before setting out to build a new system and establish a Nebraska Integrated Juvenile Data Governing Body made of some 20 members and at least three governing bodies, that the Commission be given time to complete the JOTS project and determine how it can be leveraged to address the issues envisioned by this bill. While JOTS will address the issues highlighted in this bill, the bill incorrectly considers it as solely a juvenile justice system per Section 5, 2(g) of the bill. This should be amended as JOTS also includes adult data. There is another technical issue I would like to bring to the Committee's attention that may need resolution via an amendment. Under this bill, the Juvenile Justice Institute serves as the manager of the Nebraska Juvenile Justice Information System and its director or designee serves on the overall governing body. The Commission is also represented on the body by three of its directors: The Director of the Community-based Juvenile Services Aid Program; The Director responsible for systems and research; The Director of the Office of Violence Prevention. The Crime Commission, as required by statute, currently pays the Juvenile Justice Institute at the University of Nebraska Omaha approximately $300,000 per year to conduct program evaluation work in support of the Community-Based Aid grant program. Herein we believe there is a conflict. The structure of this bill is concerning as Commission directors sit on the governing body and could be in a place to direct staff on research and practice issues, possibly affecting the Institute's work on the Commission's behalf. This may complicate the relationship between the Commission and the Institute. Clearly, the Institute is charged with managing the

system and will conduct research on the data set. Therefore, it is suggested that Neb. Rev. Stat. sec. 43-2404.02 requiring the Commission to contract with the Institute be removed from statute and the Commission be given the authority to utilize the $300,000 per year to secure program evaluation services from an outside vendor selected by a bidding process.

LATHROP: Neutral. Well, let's see any other proponents? Anyone here in opposition? OK, we'll take neutral testimony. Welcome.

JEANNE BRANDNER: Thank you. Good afternoon, Chairman Lathrop and Judiciary Committee members. My name is Jeanne Brandner, J-e-a-n-n-e B-r-a-n-d-n-e-r, and I am testifying today in a neutral position for LB492 in my capacity as deputy probation administrator of the Administrative Office of the Courts and Probation. LB492, as Senator Cavanaugh has informed the committee, requires creation of the Nebraska Integrated Juvenile Data Governing Body and the Nebraska Juvenile Justice Information System. The idea of pursuing a data warehouse and independent research center in Nebraska is a longstanding one. The Administrative Office of the Courts and Probation has been and will continue to be at the table for such discussions. The independent nature of a statewide data warehouse is significant. Multiple entities or programs will provide data. However, control of the warehouse and data would be outside of those who are subject matter experts with a working knowledge of such data. This data warehouse would not provide information for operational use, but rather for research purposes. There is still a need to address data ownership, as well as further discussion related to the legal and regulatory barriers to establishing such a warehouse and identification of possible solutions. As a branch and named party to the warehouse, we have some language concerns about the bill as drafted, would certainly be willing to meet with Senator Cavanaugh to further discuss these specifics. Thank you to Senator Cavanaugh for the introduction of this bill and to the Judiciary Committee for your leadership and work on behalf of youth and families in Nebraska. And I'm happy to answer any questions that you might have.

LATHROP: OK, thank you. I do not see any questions, but thanks for being here today.

JEANNE BRANDNER: Thank you.

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LATHROP: Anyone else here to speak in a neutral capacity? Seeing none, Senator Cavanaugh, you may close. And before you do, I will, for the record, indicate that we have one position letter. It is also in the neutral capacity. And we have written testimony as follows: Ashley Newmyer with the Department of Health and Human Services is opposed; and Don Arp with the Nebraska Crime Commission has likewise offered testimony in opposition. Senator Cavanaugh, you may close.

M. CAVANAUGH: Thank you very much and I appreciate the neutral testimony and I'm happy to work on language that every-- all parties can come to agreement with. This is to some of your questions, Chairman Lathrop, about where this sits. The reason that I approached it the way that I did as sort of backing up from experience with the Kids Count report that Voices for Children puts out every year. They draw down data from multiple state agencies and synthesize that data. And it is a huge project and labor of love and something that is very useful in that we as policymakers I know, oftentimes reference the data that is presented in that report. This is a similar opportunity for us as the Legislature to have more access to data, and we often rely on the university to do some of these projects for us. Additionally, from last year's version, we have added that the chief executive officer of the Nebraska Health Information Initiative, or a designee, is appointed to the-- the committee because NeHII, it's a shorthand name for it, already does this for healthcare data in this state. And they are the gold standard for healthcare data collections in the country and other-- other states come to us to-- to this entity, this nonprofit entity, that receives funding from the state to model after us. And so having them at the table, I think is really important to-- to the fidelity of the process. And I think it will speak to how we can utilize this just the way that we do NeHII. So that's my closing.

LATHROP: Very good. Any questions for Senator Cavanaugh? I see none. Thanks for being here today. We appreciate hearing from you and your bringing LB492 to us. That will close the hearing on LB492 and bring us to LB638, which is a committee bill from the Health Committee. So we have a little cross-pollination going on this afternoon. Welcome, Senator Arch.

ARCH: Thank you. Yes. I don't think I've ever, well, I mean, I think I did bring one bill to Judiciary. But yes, this is a-- this is a committee bill. Good afternoon, Senator Lathrop and members of the

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Judiciary Committee. My name is John Arch, J-o-h-n A-r-c-h, and I'm before you to open on LB638, which was introduced by the Health and Human Services Committee. LB638 is one of a series of bills to arise out of the recommendations of the Youth Rehabilitation and Treatment Center Special Oversight Committee. As many of you might recall, the YRTC Special Oversight Committee was created under LB1144 last session to-- in response to the crisis at the YRTC Geneva in August 2019 and other ongoing problems related to the YRTCs. I had the privilege of chairing the Oversight Committee this past interim serving along with Senators Lathrop, Pansing Brooks, Brandt, and seven other members of the Legislature. The sixth recommendation in the Oversight Committee's December 15, 2020, report was to effectuate the ability to track and report on youth discharged from the YRTCs, including services received and postdischarge outcomes. This recommendation really arises out of the fact that we honestly don't know what happens to juveniles after they are discharged from the YRTCs. The obvious question we need to ask is what is the long-term outcome of those youth who receive care at a YRTC facility? When a youth is discharged from a YRTC, the Department of Health and Human Services no longer has custody or supervision over many of the youth and accordingly, little ability to track how these youth/juveniles are doing after their discharge, or to evaluate the successes and the opportunities for improvement of the programming of the YRTCs. However, these youth continue to be under the supervision of the Office of Probation after their discharge. In working with Probation, we learned that they are already tracking much of the data we were interested in for juvenile probationers as a whole. And they have the ability to break that data down and separate out the youth who have been discharged from the YRTCs. LB638 requires the State Court Administrator to do just that and to report the data on the YRTC youth separately in its annual report of juveniles in Nebraska's justice system. This section of the report will include (1) rates of recidivism among YRTC youth; (2) the number of YRTC youth completing probation, the number of motions to revoke probation, and the number of probation revocations; and (3) the number of YRTC youth accessing services provided through state funding for the Juvenile Services Division, the types of services received, and the number of such juveniles receiving each type of service. The committee worked with Jeanne Brandner, deputy administrator of the Juvenile Services Division of the-- of the Office of Probation, to draft this bill. So I want to thank her for her willingness to help implement this recommendation in a way that's workable for the Court Administrator

and Probation. I do plan to submit an amendment for your consideration. Ms. Brandner suggested that we clarify in subsection (3)(b) that the report should include information on reentry probation. Additionally, the Inspector General of Child Welfare, Jennifer Carter, has expressed an interest in adding additional data to the reporting requirement. So I plan to work with herand Ms. Brandner to see if there are any other changes or additions that are appropriate to make. Finally, I'll just mention the Department of Health and Human Services is not testifying on this bill today because they don't want to take a position on something that we're asking another branch to do. However, they have indicated to me that this data will be useful to them as they continue to work on improving the YRTC programming and plan for the future of the YRTCs. Thank you for your consideration of LB638. And now maybe I can summarize so that everybody can understand--

LATHROP: OK.

ARCH: --what we're trying to do here. So as you know, for a YRTC youth, they-- they have an encounter with the juvenile justice system, exhaust all the-- all of the opportunities within the community, and then are-- a judge will order them to the YRTC, at which point then they move from the juvenile justice system to the Department of Health and Human Services system for the treatment care of the youth in the YRTC. At the-- at the end of the YRTC stay, then they-- then they go back to Probation, back to juvenile justice. So it's in that-- it's in the handoff on the front end and they're sharing some information there. But the handoff on the back end, then once they leave DHHS, they don't have-- they don't have the information. And the information is not so much the ongoing care of the youth or treatment of the youth, but rather it's really the evaluation of does the YRTC program work? Are we seeing good outcomes postdischarge from the YRTC when they go back to Probation? So that's-- that's what this bill is. It's-- it's to get-- it's to get juvenile justice and DHHS communicating, getting the information back. And as I said in my opening, Probation has let us know they're gathering this information already. So now what they'll do is they'll-- they will simply extract those YRTC youth that are identified and then can transmit that information so that DHHS can do some program evaluation for the program at the YRTC. So that's what the bill is.

LATHROP: That helped a lot.

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ARCH: OK. I think it was the hands, must have been the hands.

LATHROP: Some combination.

ARCH: Yeah.

LATHROP: But thanks for that introduction.

ARCH: OK.

LATHROP: Any-- Senator Brandt.

BRANDT: Thank you, Chairman Lathrop. Thank you, Senator Arch, for bringing this. When you say the youth do not leave HH-- or do leave HHS, if a youth is 17 and leaves the YRTC, they're still under HHS control. But if they're 19, that's when HHS loses them. Is that right?

ARCH: Well, yeah. Yeah, but they go-- but-- but in the-- the youth originally is in the juvenile justice system, comes under the direction and then goes back to the juvenile justice system. So it's in the-- it's in the handoff to Probation post-YRTC discharge.

BRANDT: And I don't know if you can answer this or maybe the following testifier, but the stuff that you have listed, are they going to drill down by-- by type of violation if they "recidivize"?

ARCH: I don't know. Somebody that follows me--

BRANDT: OK.

ARCH: --Jeanne may be able to answer that question for you.

BRANDT: Because I think that would be interesting.

ARCH: Yeah.

BRANDT: All right. Thank you.

ARCH: If they're collecting that data.

BRANDT: OK.

LATHROP: Just to be clear, in answer to Senator Brandt's question, I think there was a misstatement or I misunderstand something. They

are-- they are with Probation until they go to the YRTC. Then they're in HHS. Then-- then when they get discharged from the YRTC, they're back to Probation until they age out or until they've successfully completed probation.

ARCH: That's my understanding.

LATHROP: What we're after here is what are our outcomes after they come out of the YRTCs? Is everybody doing great or--

ARCH: Correct.

LATHROP: --small percentage of people doing great? And that tells us whether they're doing what we expect them to do.

ARCH: Correct.

LATHROP: OK, got it.

ARCH: All right.

LATHROP: Any other questions or clarifications from the Chairman of HHS? Seeing none, thanks, Senator. Appreciate it. We will take proponent testimony at this time. Welcome again.

JEANNE BRANDNER: Good afternoon again. Chairman Lathrop and Judiciary Committee members, my name is Jeanne Brandner, J-e-a-n-n-e B-r-a-n-d-n-e-r, and I am testifying today in support of LB638 in my capacity as deputy probation administrator of the Administrative Office of the Courts and Probation. As you just heard from Senator Arch, LB638 proposes an amendment to the annual Juvenile Justice System Statistical Report, which specifically pertains to information on juveniles who have been discharged from the youth rehabilitation and treatment centers. This term of probation following commitment is referred to as reentry probation. As proposed, recidivism rates, number of youth completing probation, rates of revocation motions, and the number of youth accessing services by type are data points currently capped and reportable by the Administrative Office of the Courts and Probation. However, as Chairman Arch indicated, we do request one modification and that is the word "reentry" be added before "probation" in line 7 and 8 on page 3 to make clear that the report relates specifically to probation you had previously committed to the facilities. Thank you to the Health and Human Services

Committee, specifically Chairman Arch, as well as legal counsel, Paul Henderson, and to the Judiciary Committee for your leadership and work on behalf of youth and families in Nebraska. And I'm happy to answer any questions that you might have.

LATHROP: Can you tell us where you would make that change one more time?

JEANNE BRANDNER: Yes. It is before "probation" in lines--

LATHROP: What page and line are you on?

JEANNE BRANDNER: It's page 3, lines 7 and 8.

LATHROP: OK.

JEANNE BRANDNER: I believe there's three instances where "probation" occurs. So "reentry" would occur before each of those instances.

LATHROP: Oh, got you. Just wanted to make sure-- is that the amendment that Senator Arch was referring to or is there another? Senator Arch is shaking his head in the affirmative. OK, perfect. Any questions for. Jeanne? I see none. Thanks for your work on this and your testimony today.

JEANNE BRANDNER: Thank you.

LATHROP: Any other proponents? Good afternoon.

JENNIFER CARTER: Good afternoon, Chairman Lathrop, members of the Judiciary Committee. Sorry, I'm so used to saying Health and Human Services that I got thrown off there for a second. My name for the record is Jennifer Carter, J-e-n-n-i-f-e-r C-a-r-t-e-r, and I serve as the Inspector General of Child Welfare. And we are here in support today of LB638. The Office of the Inspector General, as you know, provides accountability for Nebraska's child welfare and juvenile justice system through independent investigations, identification of systemic issues, and recommendations for improvement. We support the increased oversight and accountability within the juvenile justice system that this additional data would provide under LB638. I think the specific focus on the YRTCs is particularly helpful at this time after what happened, the crisis that developed at YRTC Geneva, the subsequent changes in the YRTC system, and now the planning that's

being done under LB1140. I think this could be very helpful to help identify trends, system improvement, or any needed changes. We would suggest, as Senator Arch mentioned, when we read the bill, we thought it might be helpful, and I'm assuming some of this data is already collected, what is the age of the youth when they transition out of the YRTC? How long have they been at the YRTC? And then where do they go after the YRTC? What kind of placement? And actually, to your point, Senator Brandt, I think knowing if they're duly adjudicated could be helpful. Because then when they leave the YRTC, HHS still has some responsibility for them. And I think that has implications for avail-- whether they can be eligible for Bridge to Independence or what kind of other independent living planning might be done depending on the age of the youth when they leave the YRTC. So I think all of that could be great information as we continue to try to assess the system. So happy to answer any questions. And thank you for your consideration.

LATHROP: Any questions? I see none. We were--

JENNIFER CARTER: Thank you.

***JASON HAYES:** Good afternoon, Senator Lathrop, and members of the Judiciary Committee. For the record, I am Jason Hayes, Director of Government Relations for the Nebraska State Education Association. NSEA supports LB638. Thank you to Senator Arch and members of the Health and Human Services Committee for introducing this bill. LB638 allows the expansion of the report compiled by the State Court Administrator to include information on those juveniles who have been discharged by the Youth Rehabilitation and Treatment Centers, or YRTCs. The report will be prepared in such a way as to protect the privacy rights of each individual youth. This report will illustrate details of recidivism among this group of juveniles. Also contained in this report would be the individual history of the juvenile's experience within the probation system. Similarly, this report is to include a record of all services received by the individual while in the YRTC system including the development of skills needed to transition back into the community. Finally, the report will provide accounting of the total number of youths receiving these services through the YRTC system. Moving forward, those making decisions on policy and performance at the YRTC sites will use the information gleaned from these reports to make much better decisions to serve these youth. The NSEA, on behalf of our 28,000 members across the

state, asks that you continue to work with key stakeholders in the judicial system including members of the Office of Probation who work directly with the caseloads of juveniles at the YRTCs. Thank you for your efforts to improve the delivery of services to the juveniles in the Youth Rehabilitation and Treatment Centers.

LATHROP: --pleased to have the Inspector General here. Thanks for being here. Any other proponents of LB638? Seeing none, somebody was moving. That's why I didn't-- any opponents? Seeing none, anyone in the neutral capacity? Senator Arch, you may close. He waives closing. We will have the record reflect we have no position letters, but we do have written testimony: one from Jason Hayes, NSEA, as a proponent of the measure. And with that, we will close our hearing on LB638. And that will bring us to Senator Matt Hansen and LB445. Senator Hansen, welcome.

M. HANSEN: Thank you.

LATHROP: Good afternoon.

M. HANSEN: Good afternoon, Chairman Lathrop and members of the Judiciary Committee. My name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I am before you today to introduce LB445, which changes duties required by law enforcement when administering custodial interrogations of juveniles. This bill makes two main changes. One, it strengthens existing notification requirements for when a juvenile is taken into temporary custody by adding that law enforcement notify parents of their child's location, where they are being taken and the reason they were taken into custody. The bill also includes a new requirement that law enforcement tell a juvenile taken into custody of the efforts to notify the parents. The second main change is that it adds language that says if a juvenile requests to speak to a parent or guardian, custodian, or attorney before-- before or in the course of an interrogation, the officers must interpret that as if the juvenile is invoking their constitutional right to an attorney and all questioning must stop until that arrives. This is my latest attempt at implementing this concept and is the third time I've introduced the bill. Over time, I've made changes to some model legislation to accommodate feedback from local law enforcement that I've met with over the various iterations of the bill to adapt to the needs of Nebraska. Research has found that youth are twice as likely as adults to falsely confess to crimes they never committed. This is why it is

vital that we tailor law enforcement practices to the development of young people to ensure that both of their rights remain intact and they provide law enforcement with reliable information when questioned. Time and time again, researchers have concluded that most youth simply do not understand their Miranda rights to counsel and to remain silent. Accordingly, these children do not exercise these essential rights and are thus left alone during police interrogation without assistance of counsel, a friendly adult, or their parents. Too often, the child's resulting statement is involuntarily or unreliable. It's more important than ever to update these procedures, as many young people are increasingly coming into contact with law enforcement in their daily lives at school and in their neighborhoods. Law enforcement officers, including school resource officers, need to be able to question young people knowing that the information they get for them is truthful and acquired in a way that is cognizant of how young people differ from adults. It is my serious belief that if a child during an interrogation by police officer asks to speak to a parent, they are in their own way invoking their constitutional right to remain silent, which is why the questioning should stop. Makes no sense to expect-- it makes no sense to me to expect someone we deemed too young to sign a legal contract to be able to handle their own criminal defense as if they were an adult. Other states have recently passed and implemented legislation that gets at the same goal. For example, in Missouri, children taken in custody are advised of their right to have a parent present during questioning. Similarly, in Colorado, either the child's parent or attorney must be present during an interrogation in order for their statements to be admissible. In Indiana, children cannot waive their rights without first consulting with a parent or an attorney. And in Illinois, police may not interrogate students on school grounds without a parent present. Requirements in LB445 fit within the same line of thinking that children are inherently unable to knowingly and voluntarily waive their constitutional rights under interrogation. This bill recognizes that when a child is asking for their parent they're admitting they are not able to interpret and understand those rights and need guidance from an adult. With that, I'll close and happy to take questions from the committee.

LATHROP: Any questions for Senator Hansen? I see none at this time.

M. HANSEN: Thank you.

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LATHROP: Thank you for introducing LB445 and at this time we'll take proponent testimony. Good afternoon.

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 as well as the Nebraska Criminal Defense Attorneys Association to strongly support LB445. Most importantly, notice to parents or guardians about that a juvenile has been taken into custody is just common sense. A juvenile who is under the care and control of their parents and their rights, as previously explained by the introducer, need to be interpreted through that parent's authority over them. It is absolutely essential for the child to have an opportunity to consult with a parent or guardian before they are interrogated in any manner by law enforcement. It is also the most common complaint of parents that I interact with about the treatment of their child by law enforcement, that their child was interviewed or interrogated without any notice to the parent that that was happening to their child, especially of concern when those children have vulnerabilities with regard to emotional or behavioral health or cognitive functioning, most of which is not obvious to law enforcement upon contact. Contact with the parent is also an appropriate reinforcement of the constitutional right to silence. The exercise of that right should never be threatened by a child's inability to understand it or to feel secure in exercising it. It also ensures that the child understands that they are safe. Being taken into custody by law enforcement is incredibly frightening to children. I would argue that consultation with the parent is much more likely to promote the interests of law enforcement in getting reliable and clear information regarding their investigation. It avoids potential misinformation coming from a child who is panicking and lying because they do not know really what their rights are, what their circumstances are, or the consequences of their statements due to immaturity and an undeveloped executive function. I would suggest a slight revision to Nebraska Revised Statute 43-281.01(3), which is on page 3, the first full paragraph of the bill. The burden should be on law enforcement to advise the child that they can request that their parent or guardian come and that no questions will be asked until they arrive as opposed to the language "If the juvenile requests." As a career criminal defense attorney and now advocate for juveniles charged with law violations, I can tell you that with that language, the issue would

then become whether the juvenile requested to contact their parents or not and that will be the crux of the litigation. With regard to litigation, LB445 would provide a bright line rule for all actors in the system: law enforcement, prosecutors, defense attorneys and judges about exactly what is required in Nebraska to use a juvenile's statement against them. It will absolutely streamline case management and reduce litigation on the issue. It's important to note that almost no investigations are actually a crime that is still in progress. There is time to get the parent there. There is almost never a bomb that someone is trying to discover the location of. Thank you.

LATHROP: OK. Any questions for Ms. Houlden? Senator Pansing Brooks.

PANSING BROOKS: Thank you for coming, Ms. Houlden, and for your opinion. Do you have that language that you could maybe--

JENNIFER HOULDEN: Yes.

PANSING BROOKS: --work with-- that we could give to Senator Hansen and-- and let the rest of us see at some point? And--

JENNIFER HOULDEN: Certainly.

PANSING BROOKS: Thank you very much.

LATHROP: OK. I don't see any other questions. Thanks for being here today.

JENNIFER HOULDEN: Thank you.

LATHROP: Good afternoon.

SPIKE EICKHOLT: Good afternoon. My light's already started, I noticed.

LATHROP: Oh, yeah, no, Laurie's on it.

SPIKE EICKHOLT: My name is Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t, appearing on behalf of the ACLU of Nebraska in support of LB445. I want to thank Senator Matt Hansen for introducing the bill. You've already heard a summary of it. I just want to highlight a couple of the points. It's a good, straightforward bill. It's only-- it only applies when a juvenile is in custody and going to be interrogated by law enforcement. So it's not every-- it's not the school resource

officer talking to the kid in the hallway about how his day is. It's when the child is suspected of something and his movement is restrained in any meaningful way and he's going to be interrogated or questioned somehow. At that point, the law already requires officer to advise the person being questioning of their Miranda rights. This adds an additional provision and protection for the juvenile, and that is the notice to the juvenile's parents or guardian. And then also the provision where the child's request to talk to a parent, guardian, or attorney that the law enforcement officer honor that request. There is an exclusion here where this provision doesn't apply for any reason if the thing that they want to question the child about is reasonable suspicion to think that the parent or guardian might be somehow involved in some sort of criminal activity that they want to question the youth about then this doesn't apply. So I would argue that the bill is fairly straightforward and it's a good bill. We would encourage the committee to advance it.

LATHROP: Can you tell me who you're here representing today?

SPIKE EICKHOLT: ACLU of Nebraska.

LATHROP: ACLU, OK.

SPIKE EICKHOLT: I didn't say before. I'm sorry.

LATHROP: Senator Geist.

GEIST: Yes. Thank you, Spike, for bringing this or for your testimony. I'm trying to read this quickly and figure out the answer to my question. But it's shorter if I just ask you. So if the juvenile's parent or guardian or custodial adult doesn't respond, doesn't come, what's the remedy for law enforcement at that point?

SPIKE EICKHOLT: If they don't come, I think that the way it works out is that they need to sort of make their request to notify the parent. If they can't reach that parent, if they can't notify that parent, their parent says I'm not coming down, the main connection is actually notify the parents. I think that prong of the bill [INAUDIBLE]

GEIST: Is-- is satisfied. OK.

SPIKE EICKHOLT: That's right.

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GEIST: So then the--

SPIKE EICKHOLT: If the youth-- if the youth said I want to wait until my mom comes down, then the bill doesn't allow questioning until the mom comes down.

GEIST: OK. OK, thank you.

LATHROP: Any other questions for--

GEIST: Could I just follow up one more?,

LATHROP: Oh, I'm sorry.

GEIST: No, I was thinking and I paused a little too long. So if the juvenile says that, wants Mom to come, Mom refuses to come or won't come or takes tomorrow, forever,--

SPIKE EICKHOLT: Right.

GEIST: --is there a point that the officer can continue or does that put everything on hold?

SPIKE EICKHOLT: If the bill is passed, it arguably put that on hold.

GEIST: OK.

SPIKE EICKHOLT: If the bill wasn't passed and we had that same situation in current law, maybe the officer could try to still proceed anyway. And then you have this kind of messy situation that Ms. Houlden talked about where if I represent the child, I'm going to file a motion to suppress or keep out their confession. And then we get into this sort of, the courts considering the totality of all the circumstances. In other words, by having this clear notice and opportunity for the child to request the parent be there, that's the test. That's the standard, not what time was it? Did the kid sleep last night? How old is the child? What's the child's mental development? What did mom actually tell you, Officer? All those other things that are out there that you take case by case. And that's what she meant by efficiency.

GEIST: OK. Thank you.

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LATHROP: Senator DeBoer.

DeBOER: You may have been answering some of this, but I can't hear you very well sometimes.

SPIKE EICKHOLT: Sorry.

DeBOER: So if the child says, yes, I want my mom to come and the mom is nowhere to be found, then arguably how long could the child be kept in custody in that manner?

SPIKE EICKHOLT: Well, if they have probable cause already to keep the child in custody, then they can just keep the child in custody depending on the crime, the age of the child, and take that child somewhere. If they want to actually question the child if the bill is passed, they need to wait until Mom's on the scene because child has requested Mom. Senator Geist asked earlier a similar question maybe, and at least the answer I gave her was, if you don't pass the law, that scenario is kind of addressed case by case. And it's not necessarily very efficient to litigate those things case by case. Right? In other words, if the child eventually talks, I'm going to try to suppress that child's statement. And I get into why did you wait just 30 minutes for Mom to come down? What did Mom tell you exactly, Officer, when you spoke to her on the phone? Did you tell the child what Mom said? You know, and all these things here, but if you have this advise notice and the opportunity for the child to exercise it, I think that's simpler.

DeBOER: But then what if-- what if the mom says I'll be there in 12 hours, then you got to hold the kid for 12 hours?

SPIKE EICKHOLT: Well, if they have enough evidence of probable cause to hold a kid, they're going to hold the kid. I've never-- the likelihood of that child somehow talking their way out of that scenario is probably not very likely. They can't keep-- you can't just keep somebody in custody indefinitely.

DeBOER: For questioning, right?

SPIKE EICKHOLT: For questioning. I mean, you can. You can keep them sort of in custody for time before you actually appear in front of a judge or a magistrate if you've got probable cause of the evidence. But generally when somebody is in custody or restrained, there's

already enough evidence the officer has to sort of suspect the child and wants to get additional evidence either to incriminate the child or maybe pursue other leads or find out more about the investigation.

DeBOER: So this could be quite a prolonged, I mean, I'm just-- I'm kind of-- I'm getting caught on this, like, the mom's at work. She can't come. She works wherever and she can't answer the phone during that time. She-- you can't get a hold of the parents. She's in Guam. I don't know.

SPIKE EICKHOLT: Well, that may be. There may be some situations where it is inconvenient. But, you know, I think that there's another issue. There's sort of this idea of family integrity, parental authority. I think if you ask any parent who doesn't practice law, do you think the police have to notify you before your child's questioned, I think most people will say yes. Someone should tell me. It's an adult questioning my child about something. Don't I have a right to know this? And really, why is it no?

DeBOER: I feel like we've had this bill before, but maybe I'm wrong. So what happens if the mom is in Guam and the aunt is watching? Can the aunt substitute for the mom if the kid insists--

SPIKE EICKHOLT: Yeah, because I think it says-- it says relative.

DeBOER: If the-- if the kid insists it must be mom.

SPIKE EICKHOLT: No, no, it does provide for an alternative--

DeBOER: OK.

SPIKE EICKHOLT: --relative, parent, guardian, custodian. I suppose a child could request mom and maybe they get the OK from the relative and then maybe you could litigate that. But I don't know that that's going to be a hard line to cross necessarily.

DeBOER: OK.

LATHROP: I'm looking at this and "relative" is stricken. On page 4, line 8, we say "juvenile's parent, guardian, or custodian" and "relative" is stricken.

SPIKE EICKHOLT: Oh [INAUDIBLE]

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LATHROP: I feel like we've had this conversation, too--

DeBOER: Yeah.

LATHROP: like if he gets in trouble with his brother and then they call the brother and the brother says, yeah, don't let him talk. I'll be down there in a minute. And they're actually involved in the same criminal activity, which may be why "relative" is stricken. I don't know.

SPIKE EICKHOLT: Because I think somebody suggested that before or something. That's actually current law now but somehow it's stricken. So that's current law that's stricken from 43-250. When you take a juvenile into custody, notify a relative. That's-- that's current law as it is right now.

LATHROP: Relative is not including.

SPIKE EICKHOLT: No, under current law is and this bill would strike that and narrow it slightly.

LATHROP: Right.

SPIKE EICKHOLT: And so I suppose that would be the situation--

LATHROP: It could literally be the calling the older brother who just got done holding up a liquor store with the juvenile. Right?

SPIKE EICKHOLT: Well, I suppose it could. I don't know. Again, this is current law, and I don't know that law enforcement actually asked to have that stricken for that reason. I think that Senator Hansen struck it to address this scenario that is kind of addressed here.

LATHROP: OK, well, we ask a lot of questions here, as you know. But Senator Pansing Brooks.

PANSING BROOKS: Thanks for coming, Mr. Eickholt. Could you talk about the part in here that deals with appointment of counsel or representation by counsel because I am-- I'm seeing a letter from the county attorneys saying that they think that the right's already represented in Nebraska Revised Statute 43-248.01 and that the new language is an overreach of rights not specified in the Constitution

and infringes on court's role to exercise constitutional responsibilities. Can you speak to that?

SPIKE EICKHOLT: I've not seen their letter and I don't know if I really understand the point. But what I think they're saying is that there's already a statute that provides that when law enforcement takes a juvenile into custody and the juvenile sort of may desire to consult with an attorney that the law enforcement must accommodate that right. Now, that's not-- that's not stricken by the bill. It's just broadened slightly to include parental notification prior to questioning. I mean, if a child or anybody is in custody requests a lawyer, that's it. A lawyer-- questioning stops and it doesn't resume until a lawyer is present or the child or the person being questioned takes it back.

PANSING BROOKS: And maybe they don't like before a custodial interrogation.

SPIKE EICKHOLT: And they might not, but, you know, that's the only time that the Miranda right protection is triggered is when you have a custodial interrogation.

PANSING BROOKS: Yes, but meanwhile, like in places like schools, I know that they take a kid into the principal's office, the police officer is standing there and they start asking the kid the questions. And then all of a sudden he says, well, yeah, I did it. I punched Johnny because he pushed me first and said I was fat or whatever.

SPIKE EICKHOLT: Right.

PANSING BROOKS: And so then all of a sudden they've admitted to this and all of a sudden they're in cuffs. I mean, that's-- that's the problem with children. And that's the problem with-- anyway-- all right.

SPIKE EICKHOLT: You're-- you're right. I mean, that's the problem when you have, not necessarily a problem but a situation that might happen with police in schools, police working with school officials, that kind of overlap or interplay between school officials and police questioning children regarding what could be discipline but turns into criminal stuff. And I think that's sort of what Senator Hansen is trying to do with the bill, is to provide for at least some sort of

line or opportunity or something where a parent is notified before we do cross that line and the criminal consequences and questioning of someone who's in custody.

PANSING BROOKS: And certainly as a parent, I would expect that from the schools and I would want it elsewhere as well. So I can understand that. The problem is that when you are a hammer, everything looks like a nail, including our Nebraska children. Anyway, thank you for coming.

SPIKE EICKHOLT: Thank you.

LATHROP: Senator McKinney.

McKINNEY: Besides this bill, has-- has there been any attempt to automatically restrict police or law enforcement officials from questioning or interrogating juveniles? Because when I read this and I think about it, I can't help but think about the Central Park Five and how they were juveniles and multiple individuals in that situation were coerced and without their parents around. And I'm just wondering, why would an officer feel comfortable interrogating a kid without some type of counsel or parent or relative in the room? Because it just doesn't seem constitutional. It just doesn't seem right.

SPIKE EICKHOLT: There hasn't really been a lot of statutory provisions to address that situation. Senator Hansen has introduced this bill before. Senator Patty Pansing Brooks did a bill that was passed that sort of provided that with school resource officers being in school, that at least some delineation or memorandum of understanding between the school district and the police department about when police and in what situations police are going to be questioning children versus when school officials might be doing things like that. But you're right, that situation does come up and it's litigated and the case law is perhaps not great for trying to keep those confessions out of court. And this is a step in the right direction.

McKINNEY: Thank you.

***JULIE ERICKSON:** Thank you, Chairperson Lathrop and members of the Judiciary Committee. My name is Julie Erickson and today I am representing Voices for Children in Nebraska in support of LB445. At every stage in our justice system, we should ensure that youth are held accountable with safeguards in place to ensure that our response

is measured and appropriate. Voices for Children in Nebraska supports LB445, because it will provide an age-appropriate protection for youth when they come into contact with law enforcement. By requiring developmentally appropriate language in giving Miranda warnings to minors and requiring that law enforcement to measures to notify a child's parent or guardian when in custody, LB445 will work to ensure that any child's waiver of Miranda rights is more likely to be made knowingly and intelligently. It will simultaneously ensure that parents or guardians are able to know and respond immediately when a child becomes involved with a criminal investigation. We are all, children included, entitled under the Constitution to a right against self-incrimination. The required reading of rights under Miranda v. Arizona1 is intended to balance the government's interest in investigating crimes and pursuing confessions, with the citizen's interest in understanding and accessing his or her constitutional protections. A custodial interrogation, by its nature, can be coercive - particularly if the individual under interrogation is a child. Children may be more likely to waive their rights without true knowledge or understanding of either what those rights mean, or what the consequences might be. Worse, children are substantially more likely to confess falsely to crimes they did not commit. Studies of exonerations have found that though 13% of adult exonerations involved a false confession, 43% of juvenile cases did. The younger the child, the more likely the false confession: one study found that of all juvenile wrongful convictions, 69% of children age 12-15 falsely confessed, compared to 25% of youth age 16 and 17.2 Generally, the younger the child, the more likely he or she is to accept responsibility for an act he or she did not commit.3 Desiring to please, or desiring to leave, the child may be willing to just "go along with" the interrogator, believing that agreement will end the interrogation sooner and make it all go away. Individuals who are unfamiliar with our justice system are often surprised to discover that police may interrogate a child without a parent's permission or even knowledge. They may not realize that custodial interrogations can go on for hours, without break or contact with a trusted adult. LB445 addresses this by requiring notice to a child's parent, guardian, or custodian. For a child, who may not understand the implications of a custodial interrogation, asking for a parent or other trusted adult to be present mirrors an adult's request for an attorney. The child is saying "I need help to understand what is happening here and what I should do", and under LB445, interrogation would cease until that help

can arrive. For all these reasons, we thank Senator Hansen for bringing this bill, and thank the Committee for your time and consideration. We respectfully urge you to advance LB445.

***AMBER BOGLE:** Chair Lathrop and members of the Judiciary Committee, my name is Amber Bogle (A-M-B-E-R-B-O-G-L-E) and I am the Executive Director of the Children and Family Coalition of Nebraska (CAFCON). CAFCON is a non-profit association comprised of 10 of the state's largest providers of children and family services. We serve Nebraskans in all 93 counties, providing everything from foster care and adoption assistance to mental and behavioral health services. CAFCON is in support of LB445. We thank Senator Matt Hansen for introducing this legislation. CAFCON supports LB445 which would change the requirements for law enforcement taking juveniles into custody or interrogating juveniles. The bill requires law enforcement to make reasonable efforts to notify a juvenile's parent or guardian that they are in custody, and requires that if a juvenile requests to speak to a parent or guardian before or during an interrogation that all questioning must cease until the parent or guardian arrives. CAFCON supports LB445 as it helps protect the rights of juveniles and their parents or guardians. I urge your support of this legislation and ask that you advance LB445 to General file. Thank you for your time and consideration.

LATHROP: I see no other questions. Thanks for being here. Any other proponent testimony on LB445? Anyone here to testify in opposition to LB445? Good afternoon.

STEVE CERVENY: Good afternoon, Senator Lathrop. Senators on the Judiciary Committee, my name is Steve Cerveny, C-e-r-v-e-n-y. I'm a captain with the Omaha Police Department, 505 S. 15th Street, Omaha, Nebraska, 68102. Thank you for the-- allowing me the opportunity to speak today. The Omaha Police Department cares deeply about the well-being of our youth, and we believe the topic of rights advisement in juvenile interrogation is an important issue. In most cases during officer interaction with youth, this proposal would not have an adverse effect. We routinely contact parents and guardians of youth who have been involved in lesser crimes. And during my time as captain overseeing the criminal investigation section, detectives have always contacted a parent or guardian during the initial stages of any school threat or dangerous situation involving students unless violent circumstances dictate otherwise. We do feel, however, this bill would

be problematic in terms of investigating violent crimes such as nonfatal shootings, carjackings, robberies, felony assaults, homicides, gang activity, and other dangerous crime. We believe it would also create a negative impact on law enforcement's ability to provide a safe environment for the public from potential repeat violent offenders. Our department ensures best practices by utilizing developmentally appropriate language every time we provide rights advisory and interview a juvenile suspect. Some of our specific concerns regarding this proposal include the requirement to repeat rights advisory multiple times, cessation requirements that would abruptly disrupt important interviews, and placing the responsibility of preventing evidence from being suppressed on the prosecutor by providing that any adult who was present on behalf of the juvenile during an interview does not have an adverse interest in the youth. In 2020, the Omaha Police Department investigated 37 homicides, 27 of those involved firearms. Four of those homicide victims were under the age of 19. Seven arrested suspects that were involved in some capacity were under the age of 19. There were approximately 135 nonfatal shootings, which included victims and suspects that were under the age of 19. Some of that involved gang activity. And we investigated numerous person robberies, carjackings, and juvenile sexual assaults involving youth under the age of 19. Again, in most cases that involve officer interaction with youth, this proposal would not have a negative impact. But for those fewer occasions that involve violent crime and juvenile suspects, this bill could be detrimental. Thank you.

LATHROP: Any questions? Senator McKinney.

McKINNEY: Thank you for your testimony. Wouldn't situations that involve violent crimes, in my opinion, I think that, you know, give more of a case of why you would need a parent or representation present because a youth committed a violent crime which could carry a heavy offense with long jail time. The list goes on. So I would just think logically, those heightened situations are the cases and situations where there is a definite need for representation and parents to be present instead of just allowing, you know, officers to just question kids to just say anything, because sometimes they're scared. They don't fully understand their rights. So wouldn't those type of situations give more of a case to why this is needed?

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STEVE CERVENY: I understand that. And I certainly agree with that to some extent. In terms of-- in terms of violent crime, there's a need to to weigh public safety versus this-- this type of proposal. And oftentimes a detective conducting an interview with a juvenile who may be 16, 17 or 18 years old is able to establish a rapport and obtain some information regarding violent crimes that can help properly detain a juvenile and get them services that they need, but also keep the public safe. So I would say that it's-- it's very important in those situations, from my viewpoint, to let those interviews continue to take place. We do use developmentally appropriate rights advisory forms specifically for juveniles. It uses appropriate language to explain and describe each right. And then it confirms that they understand that right separately, separate questions to make sure they understand that right. And at the very end, it asks them if they do want to have an attorney present. So it is different from an adult rights advisory. And if-- if a violent offender chooses to continue to speak with that officer, it can be very valuable information that we receive.

McKINNEY: I understand it may be valuable. But just the undue influence that a detective trying to build a relationship with a juvenile could have on that situation to me is where I draw the line saying, no, make sure a counsel is present, make sure a parent is present, because again, I repeat, I'll think about the the Central Park Five and what happened in that situation. And I'm aware of other cases of where it's happened, where a juvenile was coerced or influenced by way of an interrogating officer or detective, and said some things they shouldn't have said, ended up in prison for a long time. And I just think we need to protect-- if they committed the crime, they committed the crime. But we need to make sure that there's a balance and there's a line there to make sure that kids and youth aren't saying things they shouldn't say without parents or counsel present. And that's where we differ.

STEVE CERVENY: I agree. We all want to protect our children. We want to make sure that they're safe and we do the best that we can for them. But at the same time, we have a responsibility to keep the public safe and enforce criminal laws that are violent. And certainly law enforcement does not want to advance any case where there is any doubt. We certainly do not want to coerce anybody into any statement. The example, specific example you gave, I believe, from Central Park. That's the last thing that we want to have happen. And we-- we take

great measures to make sure that that doesn't happen. That everybody involved understand-- understands everything that's going on. And the-- the interview is-- is appropriate and we won't interview someone if they're not competent. And even after that investigation is concluded or during the process, sometimes in the investigation, we will consult with the prosecutors, the county attorney's office. And the collaborative decision is made whether to advance with this-- this case or not. So I think there are safeguards and measures in place to prevent some of the concerns that you bring up, Senator.

McKINNEY: All right. Thank you.

STEVE CERVENY: Thank you.

LATHROP: Senator Geist.

GEIST: Thank you. Thank you for your testimony. I think when we think about these situations, we automatically assume that the person that you're interrogating might be guilty of the crime. But isn't part of what you're doing trying to either eliminate this individual as a suspect or confirm if they're actually involved? So it's-- it's more than just us just assuming, OK, this kid is guilty, which is kind of what I guess my mind jumped to momentarily when you were talking. But can you speak to that?

STEVE CERVENY: That's absolutely--

GEIST: --part of the investigation?

STEVE CERVENY: --correct and accurate. Yes. Every investigator wants to obtain the truth and the facts of what happened. And if those facts reveal that the individual is not-- is not guilty or involved, and certainly that would be the goal is to make sure that we can find out what did happen, bring those that are responsible to justice, and help ensure public safety. So, yes, it would be-- that would be a large part of the investigative process to make sure someone is not wrongfully accused. Because for many reasons, ethically and legally, we're not going to wrongfully accuse someone.

GEIST: And additionally is are the officers that do this kind of questioning, are they specifically trained for this type of questioning?

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STEVE CERVENY: They are trained. They are trained. We have investigators assigned to specific units and they go through varying degrees of training, depending on where they're assigned. And our child victim unit, they work closely with many organizations who are highly trained to conduct interviews.

GEIST: OK. Thank you.

STEVE CERVENY: Thank you.

LATHROP: Senator Pansing Brooks.

PANSING BROOKS: Thank you for coming today. I appreciate it. So is that training happening all across the state, that high degree of training? Can-- can you let us know that?

STEVE CERVENY: I wish it were. I hope it is. I can't speak for other agencies.

PANSING BROOKS: That's our issue is really the-- and that's-- that's I think the whole problem is that we can't determine. You know, I think everybody has the best interests of the child, at least somewhere in their mind. But not-- but also, you know, there's-- there's something to the fact and we've seen it in various documentaries and other places that, you know, solving the crime is also a primary part of what is going on in people's minds as well. So and we don't always get it perfectly right.

STEVE CERVENY: Sure.

PANSING BROOKS: So I think that's the part is that I think it's important to err on the side of protecting the kid. That's-- that's what I'm concerned about. And that isn't to criticize police or county attorneys. It's just an issue that sometimes we all get it wrong. So, anyway, thank you for coming here today. We appreciate your time.

STEVE CERVENY: Thank you. We would agree with you. We strive to get it right.

PANSING BROOKS: Thank you.

STEVE CERVENY: And that's our main goal.

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LATHROP: OK, thank you.

STEVE CERVENY: Thank you.

***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 opposition to LB445. We appreciate the position of Senator Hansen reflected in LB445 however we have the following concerns: 1. We believe LB445 is too restrictive to account for all the parent/guardian/custodian and juvenile situations that arise for law enforcement upon contact and during investigations. The investigative process serves many purposes. While it does serve to collect evidence against someone responsible for criminal activity, it also serves to help rule out those who are not involved in that same activity. While custodial interrogation may be viewed solely as trying to obtain incriminating statements, taking voluntary statements following a freely, knowingly, and intelligently given waiver also provides an opportunity to offer exculpatory evidence. The investigative process requires, at times, time sensitive interviews of those involved with the investigation. If interviews get delayed, proper and sufficient evidence may never be recovered or obtained and victims or the public denied justice. 2. We believe LB445 will have unintended and unanticipated consequences because fact patterns and interactions between juveniles, parents/guardians/custodians, and law enforcement vary so greatly. The law currently provides constitutional safeguards throughout the judicial process. These safeguards help ensure the integrity of investigations by law enforcement. Neb. Rev. Stat. 29-115 provides for the suppression of statements. This allows a court to make an independent review of the statements made throughout an investigation and remains true to the separation of powers. The statute specifically allows a court to determine voluntariness of the statement as well as whether it adheres to the requirements of the fifth and sixth amendments of the U.S. and Nebraska Constitution. We believe courts are best entrusted with hearing evidence, applying the law, and making a ruling on admissibility accordingly. 3. The U.S. and Nebraska Constitution guarantee the right to counsel for someone accused and that right is already represented in Neb. Rev Stat. 43-248.01 as it is currently written. The new language is an overreach of rights not specified in either Constitution, and it infringes on a court's role to exercise its constitutional responsibilities to review all circumstances surrounding the obtaining of a statement. Independent

judicial analysis of statements guarantees legal analysis into every aspect of a statement and not just limited to one aspect as this statutory change would make. By making the law an absolute all-or-none determination on whether a statement may be used in court certainly will limit the effectiveness of investigations and at times compromise the safety of the public when the statement is a crucial piece of evidence and otherwise would be deemed constitutional by independent judicial review. 4. Law enforcement agencies currently have policies in place related to age, offense, and many other considerations in the context of Miranda and other applicable law. Perhaps a law requiring law enforcement to develop and apply such a policy would provide the uniformity sought and assure sound investigative practices and constitutional fealty.

LATHROP: Next opponent, if any. Anybody here in a neutral capacity on LB445? Seeing none, Senator Hansen, you may close. We do have one position letter in support, and we have written testimony from the following: Julie Erickson of Voices for Children is a proponent of the bill. Amber Bogle, B-o-g-l-e, the Children and Family Coalition of Nebraska is also a proponent. And opposed is Michelle Weber representing the Nebraska County Attorneys Association. Senator Hansen.

M. HANSEN: Thank you. First and foremost, let me invite questioning in the sense of I know this bill well. I'm actually heavily involved in the drafting, so I might not remember the questions you asked Spike, but I felt like I knew some of the answers. So if anybody has questions out there, by all means I will try and field them. Fundamentally what I'm getting at here and I'd like to maybe take a step back at 10,000 point view is in criminal law and especially in custodial interrogations, it's kind of the closest thing we have to like a magic phrase or like a password, where if you unequivocally say, I want to remain silent or I'm invoking my Fifth Amendment rights, it has to stop. If you unequivocally say, I want you to provide an attorney, there's protections. If you say something along the lines of I don't want an attorney, I want my mom, they can say, hey, you've waived your right to an attorney, we can keep questioning. And that's the situation we see and you see it. This is scenarios in which maybe it's not a whole lot of scenarios, but it's scenarios we do know where students are maybe being picked up on a warrant at school. Their parents are unaware that they're even being questioned by the police. And if they're not a student enough in criminal

defense, criminal procedure to know that they have to affirmatively say yes to the Miranda warning and affirmatively invoke those rights, they can get stuck in a scenario where, you know, they're essentially left out defending themselves. So that is what I wanted to say. I will say it's come up. I've introduced this, versions of this bill, a variety of times. And we left this two years ago, we were all in the Warner Chamber, and PCAN had testified in opposition and we said we were close. And we've worked with them and the Lincoln Police Department, where, if I understand correctly, both the Lincoln Police and PCAN are not taking a position on this bill. We couldn't get there with, as you saw with Omaha Police. And that's kind of where we're getting into even, I think, among police departments that there's a different view of how onerous this burden is or what can do. And I won't hold it up because it's [INAUDIBLE] I have my notes from the meeting with the legal counsel for the Lincoln Police Department. We went line by line through this bill again in December for probably the third or fourth time. I think we ultimately accepted probably 90, 95 percent of her suggestions. And that got them to where they, Lincoln Police, needed to be. I'm not necessarily sure if there's more we can change or more we can do without removing just kind of key core concepts from the bill. And with that, I'd be happy to field any questions.

LATHROP: Questions for Senator Hansen? I think you missed-- oh, Senator Pansing Brooks.

PANSING BROOKS: I like-- it was a good point, Senator Hansen, to say, no, I don't want-- I can hear so many kids saying, no, I don't want an attorney. I want to talk to my mom. And all of a sudden there's a trigger that they don't even realize that they have made a decision that they have made that they have no knowledge of. And I-- I just-- I want us all to be aware of how important and how easy that-- I think an adult would say, no, I don't want an attorney.I want to talk to my husband. You know, I mean, it's just you're panicked. You need somebody you love and you-- you just aren't thinking straight and let alone a child is certainly not thinking straight. So I really appreciate your bringing this bill again. Keep at it.

M. HANSEN: Thank you. And if I could respond to that.

PANSING BROOKS: Yes.

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M. HANSEN: I think about it in kind of the context of your juvenile--

PANSING BROOKS: Right.

M. HANSEN: --right to counsel and not the same, not hitting the same subject. But, you know, a lot of the opponents of your bill and proposal are like, well, the parents are there. The parents can defend them. The parents can be their advocates. They don't realize the parents don't necessarily even get called when there's a custodial interrogation going on. The kid could be sitting in a police station all day. The parents might only truly find out when they get home and there's a voicemail--

PANSING BROOKS: Yeah.

M. HANSEN: --you know, and they've already-- the kid's already been questioned for four or five hours. And that's the part that I think sometimes looking from the outside doesn't necessarily click.

PANSING BROOKS: Well, many of us have seen making a-- Making of a Murder, too, to see what could happen. So thank you.

LATHROP: All right. Thanks, Senator Hansen.

M. HANSEN: Thank you.

LATHROP: That will close our hearing on LB445 and bring us to Senator Pansing Brooks who will introduce LB568. Good afternoon, Senator Pansing Brooks. You may open on LB568.

PANSING BROOKS: Thank you very much, Chairman Lathrop, and hello, members of the Judiciary Committee. For the record, I am Patty Pansing Brooks, P-a-t-t-y P-a-n-s-i-n-g B-r-o-o-k-s, representing District 28 right here in the heart of Lincoln. I'm here today to introduce LB568, which removes truancy as a juvenile status offense under court jurisdiction and increases diversion opportunities for children with excessive absenteeism. This bill comes out of an LR393 study that I had last year to look at ways to reduce court involvement in excessive absenteeism. And I want to thank the judges, county attorneys, and school officials that all worked with-- and the people that work with diversion, judicial advocates for bringing their expertise and collaborating with me on the solutions discussed at our roundtable and found herein. The court may continue to address excessive absenteeism

from school as a part of disposition hearings. The bill further establishes that the goals of juvenile pretrial diversion programs include providing juveniles who have excessive absenteeism from home or school with services to address the needs of the juvenile and his or her family. A juvenile pretrial diversion program shall be offered to the juvenile when practicable, following a referral from a school, parent, guardian, or custodian in regard to excessive absenteeism. When the county attorney receives a referral from a school that a juvenile is excessively absent, the county attorney shall work with the school to refer the juvenile and his or her family to community-based resources available to address the juvenile's behaviors, provide crisis intervention, and maintain juvenile safety in the home safely in the home. LB568 also provides the State Board of Education may adopt and promulgate rules and regulations to carry out statutory provisions related to excessive absenteeism. Since my time in the Nebraska Legislature, I have been a member of the Nebraska Children's Commission and other groups that examine child welfare and juvenile justice issues to create better outcomes for kids. One of the things discussed frequently in these-- in these groups is the issue of status offenses or those behaviors for which a person, a child could not be charged-- a person could not be charged, but for the status of being a minor. According to the latest Voices for Children Kids Count report, almost 900 children were arrested for status offenses in 2019. Most of the children who end up in probation for a status offense are there because of truancy violation. Data provided to me by the Office of Probation shows that there were 935 status youth in fiscal year 2018-2019. Of those, 647 or 70 percent were truancy adjudications. For comparison purposes, only 15 percent of these cases were for minor in possession offenses. That's a lot of children going through our court system for truancy violations. When I saw these figures, I thought, no wonder I have been hearing so much about status offenses among juvenile justice stakeholders. It's also no wonder that the Children's Commission has made truancy change a top policy priority, which leads to the next question. Is a courtroom the best place for these kids? Judges and other juvenile justice stakeholders whom I have talked with across the state tell me that courtrooms are not the best places for these kids. According to the Annie E. Casey Foundation, one of the most well-respected organizations in the country on juvenile justice issues, quote, In some jurisdictions, status offense cases are referred to social service agencies or family crisis units that can offer young people guidance and support. Other jurisdictions rely on

the juvenile justice system, despite evidence that punitive responses to these types of behaviors are ineffective, unquote. The Council of State Governments released a report last September called, quote, Rethinking the Role of Juvenile Justice-- of the Juvenile Justice System, Improving Youth School Attendance and Educational Outcomes, unquote. This comprehensive analysis of South Carolina school attendance shows that, quote, Youth who become involved with the juvenile justice system missed an average of five additional days of school, a statistically significant difference, unquote. Let me-- let me repeat that. Pushing kids through the juvenile-- juvenile justice system actually increases the number of days in school that they miss. Solving school attendance in the courts is actually counterproductive to the goal of school attendance. Doesn't it seem absurd to punish kids for skipping school by placing them in a courtroom whereby they miss more school? I cochaired a bipartisan National Conference of State Legislatures committee with a conservative state senator, Whitney Westerfield of Kentucky, in 2017. We released a report entitled Principles of Effective Juvenile Justice Policy, which provides a best practices framework for states. This framework says, quote, Juvenile justice policies and stakeholders should avoid the unnecessary involvement of youth in the juvenile justice system, unquote, and, quote, encourage alternatives that divert appropriate youth from formal court proceedings, unquote. In supporting LB568, the Nebraska Commissioner of Education, Matt Blomstedt, says, quote, Chronic absenteeism is a key indicator of inequities in school communities. Nebraska, like much of the nation, experiences disparate rates of chronic absenteeism for students of color, students with disabilities, the economically disadvantaged, and English language learners. We must collectively commit to addressing the underlying causes of student absence. And this bill would support the creation of a culture of prevention and, and proactive courses of action, unquote. So I bring before you today a better approach. Every-- every expert with whom I've talked regarding this bill has agreed. Every single one has agreed that diversion is the best approach for these children. However, some have wondered what replaces the courts if, if we remove the status offense violation, i.e., the hammer. For the biggest answer to that, I ask you to take a look at the fiscal note on LB568. This fiscal note shows that probation would save $3.5 million in costs, $3.5 million in costs by removing these truancy cases from the courts. That money would be so much better spent on the kinds of diversion programs that LB568 would mandate. Through community-based aid, we

currently allot $6,048,000 for juvenile services. Of that, $1,158,000-- $1,158,083 goes towards truancy specific funding, according to research by Dr. Anne Hobbs from UNO Juvenile Justice Institute. So only 16 percent of the total juvenile programming funded through community-based aid goes toward truancy diversion. This means we can triple, triple the funding for truancy diversion with the passage of LB158. Great things are happening across-- all across our state with diversion programs and kids are being helped. We heard from the Chief Justice when he gave the state of the court's address, and he said that the work that we have been doing has been helping kids. It's been decreasing the number of kids within the juvenile justice court system. We are doing things that work and make a difference and cost less. There are still a few counties that do not offer diversion before you all ask me about that, that's true. But this will allow them to set up, have the money to set up programs and allow other counties to expand their diversionary programs, all while the kids get to go to school rather than missing time in court. More muni-- more money into the community aid will be great for our counties and great for our kids. Community aid has never been funded to the level fully intended by the Legislature. We can fix that with this bill and do better for our Nebraska children and families. And I've already talked with members of the Appropriations Committee to start helping to work with this to look at how to fix that appropriation and move it to community-based diversionary programming. Further, every stakeholder with whom I have spoken agrees that truancy is more often than not coupled with other problems going on in the home. In those cases, they should be going the 3a route where they can receive assistance from health and human services. Education is already specifically listed under 3a. Kids should not be the ones punished when the problem actually lies with the parents. In addition, as I stated earlier, courts will continue to be free of-- free to address excessive absenteeism should they so wish from school as part of disposition hearings arising from other matters and other infractions for which they're-- infractions with which they're dealing with the kids. The courts would not be entirely removed from involvement in excessive absenteeism tied to those infractions. Taken as a whole, LB568 reduces the risk of a juvenile coming into contact with the juvenile justice system unnecessarily. Nebraska's current approach to improving stool-- school attendance is reliant upon a court system that the evidence shows is not the best place for our kids. Addressing excessive absenteeism is a-- in a more constructive way through diversion and

deploying best practices will also free up probation to focus on those at-risk youth that come to the courts for offenses that actually need to be handled in the juvenile justice system. That's why I ask you to move LB568 out of committee. I want to give some specific thanks to Judges Gendler and Turnbull. Judge Gendler is here today to speak, and I'm very grateful for him for making that effort. And there were other supportive judges as well in our roundtable. I also want to give thanks to Jeanne Brandner of probation, who was integral in providing specific information, Laura Opfer and the rest of the Children's Commission for their dedicated and committed work; Dr. Hobbs for her research and expertise in this whole process creating the bill; Ms. Kim Hawecotte who will be here today. I want to thank her for her testimony and expertise and for coming down from-- from Omaha as well. Brian Halstead was integral from the Department of Education and I want to thank him for his draftsmanship, willingness to work with me on this, and his expertise. And finally again, to Commissioner Blomstedt for his support and the support of Nebraska Department of Education. We have had dedicated individuals working from the Children's Commission every day to help. And all of these people help address child welfare and juvenile justice and to help break the school-to-prison pipeline. And that's what we are doing by putting these kids into the system for truancy, which is generally the parents' fault, we are setting them up. We know that kids have a way greater opportunity to end up in the adult system once they start in the juvenile justice system. So I'm happy to answer any questions. Thank you for your time. I hope that you'll pass-- that we will all work together to pass this out of committee. Thank you.

LATHROP: I don't see any questions at this time, Senator.

PANSING BROOKS: Thank you.

LATHROP: We will begin with proponent testimony.

LAURA OPFER: Good afternoon.

LATHROP: Good afternoon, welcome.

LAURA OPFER: My name is Laura Offer, that's L-a-u-r-a O-p-f-e-r and I'm the policy analyst for the Nebraska Children's Commission. I want to thank Senator Pansing Brooks for that thorough introduction. On behalf of the commission, I am testifying in support of LB568. The

commission was created in 2012 following an extensive LR and HHS Committee investigation of Nebraska's child welfare and juvenile justice systems. We are a permanent leadership forum for the collaboration of child welfare and juvenile justice. The commission provides three branch leadership and community resource expertise to support transparent policy change at the state level. Truancy and status defense filings were specifically named a priority in 2019 by commission members. A small group of members and other stakeholders participated in a roundtable in 2020 with Senator Pansing Brooks regarding truancy filings. While there may be differing opinions about the best way to respond to school attendance problems, research is clear that the tenets should include collaboration, family engagement, a comprehensive approach, use of incentives and sanctions, and a supportive context. National standards also acknowledge and support the need for early identification and intervention for youth with school attendance concerns. National standards outlined three issues for education systems to consider when addressing excessive absenteeism. (1) ensuring young people with learning, mental health, sensory, speech/language, or co-occurring disabilities are properly supported. (2) Training professionals who first respond to absenteeism about family and community dynamics and other factors that can cause or contribute to absences, as well as the availability and role of screenings, assessments, and services. (3) Implementation of responses that match the reasons youth are absent from school and that aim to avoid court involve-- involvement, school suspension, or expulsion. In summary, the commission supports the overarching concept of expanding a robust school response and diversion opportunities to address chronic absenteeism. While this bill removes juvenile justice filing options, it is our understanding that options are kept open for filings on parents who are contributing to educational neglect through no fault of-- or through no fault of a parent. We are open to participating in continued discussions. I want to thank Senator Pansing Brooks and the Judiciary Committee for your leadership and work on behalf of youth in Nebraska. On behalf of the commission, I urge you to support LB568.

LATHROP: Very good. Thank you. Senator McKinney.

McKINNEY: Thank you. Thank you for your testimony. I just had a question. How many of the kids that you're seeing, you know, end up in the system because of truancy are living in poverty?

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LAURA OPFER: That's a great question. I don't have the exact statistics offhand, but I would say it's a good portion.

McKINNEY: All right, thank you.

LATHROP: I do not see any other questions. Thanks for being here and for your work with the Children's Commission.

LAURA OPFER: Thank you.

LATHROP: We run a clean ship around here.

LAWRENCE GENDLER: Oh.

LATHROP: Judge, welcome.

LAWRENCE GENDLER: Thank you.

LATHROP: Good to see you.

LAWRENCE GENDLER: Good afternoon. Thank you. Larry Gendler, juvenile court judge in Sarpy. I also help out in Cass. Senators and counsel, I've got a letter. I'm not going to go through it. I'll let you read it on your own time. I just want to highlight a few things and talk a little bit about Sarpy County and give you an idea of what the community resources or alternatives can look like. We have an alternative school that's funded by a traffic school. We also have a day and evening reporting center. And those kids can go there during the day or they go afterwards from three to six. That's the evening portion. We have tutors there for them. Some kids. If they can't get rides either to the alternative school or the reporting center will oftentimes be picked up by our sheriff's office in a plain cruiser with somebody in plain clothes who works at a detention center. And we're fortunate. And because of these alternatives, we don't have the numbers of truancy cases that other counties have. Senator Pansing Brooks and myself hosted a call with 18 county judges about a month and a half ago. And my relationship with them is through my role as project chair for the Through the Eyes of a Child initiative since it started in 2006. And I can tell you, as you probably know this already, they lack the resources that a lot of us here just take for granted. And I feel something like this would be a benefit to them because they've got nothing. And I think the increased monies that you heard mentioned here today can go a long way. The other thing I'd like

to mention is I think it might be beneficial if we change the regulation with the Department of Education and allow youngsters to start on their GED when they're 17.5. Right now they cannot do that until they're 18. And for a youngster who is stuck in a classroom, who's got maybe 5 credits and needs 20 to 30 more credits, they don't see the light at the end of the tunnel. So I think the earlier we can get them started on the GED, I'm not suggesting they get it before they're 18, but start on it before they're 18, I think would go a long way. I've come to this position reluctantly, I have to confess that; but I think our money can be better spent in other areas. So I support this option. Clearly, we need to do something differently. I think this can work. So with that, I'd be happy to open up to questions.

LATHROP: You know, I'm just going to make this observation. I was here when Senator Ashford took on truancy.

LAWRENCE GENDLER: Right, me too.

LATHROP: Big whole summer study, did a whole summer study. A lot of the same people were going, oh, my God, the biggest predictor that somebody is going to end up in prison is not getting a high school diploma. And so we're going to take this serious, by God, and we're going to do something about it. And then he did. And now we're kind of this is like going in a different direction, right?

LAWRENCE GENDLER: It is. And if it doesn't work, you can come back. Right?

LATHROP: Well, I'm--

LAWRENCE GENDLER: I just--

LATHROP: --likely not going to be here when you come back--

LAWRENCE GENDLER: Me neither

LATHROP: --the third time.

LAWRENCE GENDLER: Me neither But I just think it's an option we need to consider now, particularly with the money that's being spent and the outcomes that we're getting. There has to be a better way, at least in my view.

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LATHROP: So talk to me about that-- that young person that, not the one that has a physical ailment, because that's been the problem. And that's really where Senator Ashford's efforts got all balled up and where the criticism came from. But the-- the young person that just isn't going to school, mom, goes to work. Maybe it's a single-family home. Maybe mom and dad are both at work. And, you know, 8:00 comes around and the kid's on the street instead of at school. And if they're not in school, they're not learning. And if they're not learning, the things that that portends are, you know, being involved in crime, unemployed, in prison.

LAWRENCE GENDLER: It's--

LATHROP: Are we striking the right balance here?

LAWRENCE GENDLER: Yeah. It's important to identify these issues early. You know, we know early on if these kids are going to have problems based upon their efforts and performance and attendance in grade school. So getting on top of it then can help. Getting some resources can help. People learn differently today than they did 20, 30 years ago, and we're seeing that now with the pandemic. Some kids just excel with online learning. Some kids just excel at their own pace where they don't excel in the classroom. So a lot of these alternatives really are being observed en masse for the first time because of the pandemic. I think it's going to open up some different educational options that we have not considered as a system before. But I-- there are some youngsters, it's just really hard. You don't give up. You know, one other example I can talk about is Gretna. If you look at their statistics, every one of their kids graduate. They figure out a way to get them through the system and get them the credits they need. And they're a smaller system. I confess they don't have all the issues of other larger districts. But there's another good example of what a system can do when they put their mind to it.

LATHROP: So if this young person doesn't respond to a different approach, do we still have the opportunity to--

LAWRENCE GENDLER: We do, yeah, the 3a route, under the code through-- through no fault of the parent or through the fault of the parent they're not attending school. And as the senator said, you would have jurisdiction or authority not only over the child, but the parent or the guardian to try and work some magic.

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LATHROP: I confess I didn't read the fiscal note before this, before I came in here today and now I'm looking at it. I see $4 million. Do you know how the money is going to work in this situation? We have to appropriate money for this?

LAWRENCE GENDLER: I don't think-- I think there's-- take the money from probation. I just heard that figure today, $3.5 million. I hadn't heard that before.

LATHROP: I'll ask Senator Pansing Brooks in her close but.

LAWRENCE GENDLER: You know, a lot of these things are not costly. They're just labor intensive, getting somebody to connect with that youngster, getting somebody who can mentor that youngster, getting somebody who can tutor that one-- that youngster. A lot of it's the relationship that they can establish with somebody. And like I said in our day and evening reporting center, we've got kids that are knocking out two, three credits sometimes a week because of the relationships they've established.

LATHROP: Yeah, this sounds OK for Gretna. I don't know how it's going to work for OPS. I mean, just the sheer volume of children that need to be somebody connecting with them. But I'm not panning this bill at all.

LAWRENCE GENDLER: I understand. And I haven't had the [INAUDIBLE]

LATHROP: This is my second time around on this.

LAWRENCE GENDLER: I don't have the familiarity with OPS that others might, but we have OPS in our county and they're all part of the collaborative alternative school approach that we utilize. And it works.

LATHROP: OK. Senator Geist.

GEIST: OK, a couple questions. One, novice on the committee here, so what is the 3a route?

LAWRENCE GENDLER: Oh, sorry. So under the juvenile code, there are different subsections. So 3a deals with issues involving a parent or through no fault of the parent.

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GEIST: OK.

LAWRENCE GENDLER: So through no fault of a parent, the child may not be attending school, which requires court involvement or through the fault of a parent, the child [INAUDIBLE]

GEIST: It could be either/or.

LAWRENCE GENDLER: Correct.

GEIST: OK, is there a third a? No? OK.

LAWRENCE GENDLER: There's actually several clauses under 3a.

GEIST: OK, so one other thing. And so I can track with-- with how this works, because it sounds interesting, is when this child has been put in a diversionary program, is that like probation or?

LAWRENCE GENDLER: Well, it wouldn't be a probation officer, but it would be somebody assigned to work with them and have similar responsibilities. But they're not part of the court system.

GEIST: OK. And we-- do we have enough officers to deal with this problem?

LAWRENCE GENDLER: Well, ideally--

GEIST: I guess we have three point--

LAWRENCE GENDLER: --ideally you would expand the diversion program that exists. For example, in Cass County, we don't get too many truancy cases. There's a diversion program there, and they work hard to keep those kids in school and work with them to get their credits.

GEIST: All right. Thank you.

LATHROP: Senator Morfeld.

MORFELD: Thanks for coming, Judge Gendler. So talk to me a little bit about the fear that there's a lack of incentive to cooperate given the lack of the court system being as involved. What--

LAWRENCE GENDLER: You mean the lack of incentive of a youngster to cooperate--

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MORFELD: Yeah, well, I mean--

LAWRENCE GENDLER: --or a parent?

MORFELD: --the lack of there being like a court consequence, I guess, for not cooperating. I mean, there's some fear around that this is kind of giving them a little bit of an-- an out, I guess.

LAWRENCE GENDLER: Well--

MORFELD: You don't have that incentive.

LAWRENCE GENDLER: We have some consequences, but they're expensive and they don't always work. And removing a youngster from a home is a pretty expensive proposition and it doesn't always work. And when you remove them from the home and remove them from the environment, at some point they've got to go back. What have you done in the meantime to make sure when they go back that that environment is conducive to them staying on the right path?

MORFELD: Yeah.

LAWRENCE GENDLER: So it's a-- it's a very expensive proposition to remove youngsters from their home. I don't like to do it. I send very few kids to Kearney or Geneva. I only have one youngster out of state who came back. That was a psychiatric issue, long-term care necessary. Keeping kids at home is a much better way to approach things if you can do it. And if you can use the softer approach, even better yet. And you have to give folks room to fail as they succeed, that's just part of the process.

MORFELD: Yeah.

LAWRENCE GENDLER: You know, you can't expect perfection. So-- and from my perspective, most people want to do the right thing. These are difficult times. Kids learn differently. They're exposed to way more than they used to be. So the approaches have to be varied and they have to be different.

MORFELD: OK.

LAWRENCE GENDLER: I don't know if that makes sense but.

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MORFELD: No, it does make sense. And I don't disagree with you. I also prefer that we keep the kids at home. I just know that that's, from what I've heard, that's kind of the counter. And so I wanted you to speak to that. I appreciate it. That helps.

LATHROP: Senator DeBoer.

DeBOER: I have a similar question to Senator Morfeld's. If-- if I've got a student and you do create this alternative and that kid just doesn't find success there either, still skipping out, truant somehow, what would be the recourse then?

LAWRENCE GENDLER: I probably need to know more about that student. What's their history? Do they have an IEP? Do they have an addiction issue? What's going on in the house? Who's in the house? Who else are they being exposed to? All those factors play into what we decide to do as a system. So the fact that they're not going to school, that's a symptom. But I want to know more. And based upon that, I would try to figure out a response.

DeBOER: So is there adequate infrastructure here under this bill to investigate what it is that's going on with that kid and provide the kinds of resources for the variety of kids, the variety of issues that might arise?

LAWRENCE GENDLER: I think so. A lot of it is connecting with a healthy adult. Give me one healthy adult for a youngster and you'll see some success. And that's part of the problem. And so it's, as I mentioned, it's somewhat labor intensive. You're just trying to find the right match. And that can make all the difference. You know, this is anecdotal, but years ago I had a friend who became an officer in the police department. All his friends went to the pen. I said, what kept you out? He said it was a guy handing out gym towels at the north Omaha Boys Club. That one person made the entire difference in his life, and that's what a lot of these youngsters need. They need one person that they can latch onto that can make the difference for them. So that's what a lot of this is for all of us in the system is trying to find that one person that can make a difference. And they're there. Sometimes it's somebody at the school.

DeBOER: And-- and when we fail, because we will, so when we fail, we don't get the right person to that kid.

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LAWRENCE GENDLER: Well, you still have the option of filing on the parent through no fault--

DeBOER: Uh-huh.

LAWRENCE GENDLER: --or through fault of the parent if there's fault. You always have that option and a lot of these youngsters that aren't going to school are in the system because of other reasons. They've committed a crime. Other efforts have failed. So a lot of the youngsters that you may be describing are here for other reasons.

DeBOER: And I know one of the things when I was looking into truancy, like, there's a significant number where it's just they have to watch their younger sibling or they can't-- they can't get transportation or something like that. So arguably, this would be a better sort of way of handling those sorts of situations to get them--

LAWRENCE GENDLER: Absolutely.

DeBOER: -- the resources, right?

LAWRENCE GENDLER: Absolutely.

DeBOER: OK. All right, thank you.

LAWRENCE GENDLER: Thanks.

LATHROP: OK. I don't see any other questions.

LAWRENCE GENDLER: Thank you.

LATHROP: I just want to thank you for your involvement in this. You know, it really helps this committee, really helps this committee when we hear from the juvenile court judges, not just on this issue, but, you know, we've been involved in the YRTCs. And, you know, getting some feedback from juvenile court judges on whether what's happening, whether it works or doesn't work or where are the holes in our continuum of care. Those kind of things are very helpful for us, I think very helpful for the Health Committee. And I would encourage the juvenile court judges to communicate with the members of this committee and the Health Committee. But I also want to commend you for being here.

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LAWRENCE GENDLER: Well, thank you. I appreciate all you do too. The Legislature has been a big support of the juvenile court system, and it shows.

LATHROP: Yeah.

LAWRENCE GENDLER: So thank you.

LATHROP: Thanks. Any other proponents? Good afternoon.

KIM HAWEKOTTE: Got to put the glasses on. Good afternoon, Chairperson Lathrop and members of the Judiciary Committee. I am Kim Hawekotte, K-i-m H-a-w-e-k-o-t-t-e, and I am the deputy county administrator over juvenile justice in Douglas County. And I'm here in support of LB568 on behalf of the Douglas County Board of Commissioners. My testimony is coming around and I'm going to do a lot like Judge Gendler and I'm going to try to answer some of the specific questions that-- that I heard you-- you guys ask because the details are there. I'm going to say one thing before I get started and that is a mantra that we have used the past year in Douglas County, that when it comes to dealing with our youth, there's a saying that goes beneath every behavior is a feeling and beneath every feeling is a need. And when we meet that need, rather than focus on the behavior, we begin to deal with the cause, not just the symptom. And when it comes to school absenteeism, that's what we need to do. Senator Geist, you had asked about 3a cases versus 3b. Currently under our statute, excessive absenteeism is handled under a 3b, which means if it is adjudicated, it is probation and that accountability system that works with the youth. If it is a 3afiling that Judge Gendler was talking about, it then goes to Health and Human Services, which then would have the ability to provide services for the entire family and not just for the youth. Because we know with 3a cases, as I said in my testimony, there's four reasons, categories why kids don't go to school. We have to figure out what those categories are to get the right resource. Senator McKinney, you had asked about data. There is data in there. Douglas County, we have over 96,000 students. Of those 96,000 students, 13 percent of them miss 20 or more days of school. That is 12,500 kids in our county that missed. So when you think about if you have a court system that can handle that, I don't. We have to come up with other alternatives. Senator McKinney, you had asked in Douglas County, out of those kids that miss 20 or more days of school, 86 percent of them were eligible for free or reduced lunch. I also have some data in there that you can

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look at with regards to race and school attendance in Douglas County and also with regards to age. Couple of things also in my testimony, and I know I have one minute left that I do want to bring out. I support everything Judge Gendler said and the reasons for it. Two things: One, the state of Colorado created ten years ago, by statute, each judicial district has to have a family resource center to deal with these issues to keep it out of the court system and it's been successful. Second thing with regards to community-based aid, Senator Lathrop, I remember those times, too. It was supposed to be $10 million. A couple of things that I would recommend with regards to the increase in community aid was that this money be specifically earmarked, that it has to go through, go to truancy diversion programs. And second, we have to think about lowering the age. Right now, community-based aid is from 12 to 18 years of age. I got a lot of data when I look at it that kids are missing school starting at age 8 through 12. So if we're going to increase the funding, we have to get earlier-- may I finish?

LATHROP: Sure.

KIM HAWEKOTTE: We have to get to these youth earlier and use funding to create those prevention early intervention services when they are age 8 to 12. I would just add that and I'm open to any questions. And thank you for your time.

LATHROP: OK. Any questions for Ms. Hawekotte? I don't see any. Thanks for coming down and all you're doing up in Douglas County. Next proponent. Good afternoon.

SHELLIE COWAN: Good afternoon, Chairman, committee. My name is Shellie Cowan, and I'm a deputy Hall County public defender in Hall County. In Hall County, If it accurately reflects other rural Nebraska counties, the rural Nebraska county in rural Nebraska-- in Nebraska rural counties, diversion offices do not provide diversion services for children who miss school. Instead, the county attorney meets with parents and conducts what is called an attendance process hearing. And parents, parents and my clients describe this encounter as being just simply told, just get your kids to school. Now, there's no description of a county attorney evaluating what factors may be contributing to excessive absenteeism or what service may correct the problem. Diversion in Hall County is 80 percent successful, but yet it's not really offered or readily offered to our students who-- who miss

school and are trying to avert court involvement. Additionally, Hall County files on students based on the calendar year, i.e., the 20-day referral requirement straddles two school years. This is confusing because it's often-- because often two schools must be dealt with. So you're not just dealing with one. You're dealing with two schools, one of which was-- which is already completed its school year. Finally, excessive absenteeism addressed in juvenile court may not criminalize a child at this time, but juvenile records are used in considering sentences for adult offenders in the future. The system as it stands today exposes an otherwise inert youth to harsher penalties later as a result of court involvement regarding simple school attendance now. LB568 provides an elegant solution by incorporating diversion/restorative justice. Statute 43-276(2), which requires the county attorney to exhaust community services before filing against status offenders and 43-2404 and 43-2404.02 two, all of which are designed to provide alternatives in lieu an adjudication through juve-- through juvenile court system. LB568 allows students the option of diversion to take advantage of community services and avert involvement in the juvenile court system to correct their excessive absenteeism. LB568 also clarifies the 20-day referral requirement for calendar-- from calendar year to current school year, which will reduce referrals because the school districts will be able to focus on a single school year. That will cut our filings approximately in half. LB568 also will allow counties to fulfill the goals of diversion and restorative justice by lowering court involvement of children for simply missing school. It will provide these children necessary services and rectify the-- to allow them to rectify the problem, i.e., stay in school and have an opportunity at a better future to earn more money. It will reduce recidivism and it will reduce the costs and caseload burdens. Thank you very much for your time. Any questions?

LATHROP: Thank you for being here. Senator Slama.

SLAMA: Thank you, Chairman Lathrop. And thank you so much for being here today. I appreciate your work and taking the time to come testify today. Just from your experience, what's the number of truancies that trigger court involvement now? Do you know that offhand?

SHELLIE COWAN: Offhand, I think we have about 180. [INAUDIBLE]

SLAMA: [INAUDIBLE] what it would take to trigger getting the courts involved.

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SHELLIE COWAN: [INAUDIBLE]

SLAMA: How many times would a kid have to miss school to have the court get involved?

SHELLIE COWAN: Well, there's a 20-day--

SLAMA: 20 days.

SHELLIE COWAN: --referral requirement where the school has to contact the county attorney and let him know we have a problem with this kid attending school.

SLAMA: OK. And is 20 days, is that in a calendar year or semester? How does that break down?

SHELLIE COWAN: As the statute's currently written, I believe it's 79-201, it's-- it's-- it just says a year.

SLAMA: OK.

SHELLIE COWAN: So our county attorney has chosen to take that as a calendar year. So if that calendar year starts in November, he's counting November to November and it will straddle two school years. And so when we get our kiddos coming in, then we have to deal with two separate schools to try and rectify the problem.

SLAMA: Um-hum.

SHELLIE COWAN: And one school is literally saying, why are you dealing with us? Our school year is over.

SLAMA: And I mean, reasonably speaking, it could vary wildly from county to county, that interpretation of what a year is. Is that--

SHELLIE COWAN: That is correct.

SLAMA: OK.

SHELLIE COWAN: For example, I cannot tell you right now what they do in Gosper County, what they do in Douglas, what they do in Seward. I could not tell you that.

SLAMA: OK, thank you.

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LATHROP: I see no other questions, but thanks for being here and for sharing your experience in Hall County.

SHELLIE COWAN: Thank you, everyone.

LATHROP: Any other proponent testimony? Good afternoon.

ANNE HOBBS: Good afternoon. My name is Dr. Anne Hobbs, it's A-n-n-e H-o-b-b-s. I'm the director of the Juvenile Justice Institute at the University of Nebraska-Omaha. But my views today are my own and they do not represent an official position of the university. I guess I'd like to just kind of summarize the letter that you'll be getting. I'm a strong proponent of LB568 and the reasons are because too often our systems tried to force particular cases through court. The other reason I'm a strong proponent of diversionary programs and truancy programs is because the Juvenile Justice Institute currently evaluates these programs. And so over the roughly ten years that I've been the director, we've evaluated dozens of truancy programs. And what we know, with the exception of one over all of the years, is they do-- they are successful at working with youth and family and getting them to schools. However, also based on my experience, in order to be successful, diversion and truancy programs have to do a couple of things, right? First, they have to operate in the strength-based way that's trauma informed. Second of all, and maybe this one should have been first, they have to use an evidence-based screening tool. Right now, there's a tool called the school refusal instrument by Dr. Kearney at the University of Nevada. And the reason for that is it really identifies what's going on with that youth. Youth skip school for lots of different reasons. And if you use one approach, it really doesn't work. And so programs have to use an instrument that will help guide them. And then probably obviously then they have to respond to that in an individual way with that youth. So if a youth is skipping school because they're being bullied, they would need to offer some programming that corresponds with that versus if a youth is sitting home and playing video games. Historically and both research shows that programs that are punitive don't have good outcomes for youth. So that hammer approach doesn't work. But I'll get back to the hammer in just one minute. Also youth that have had the opportunity to complete truancy and diversion programs, they should be allowed to complete those more than one time. So there are lots of families, lots of needs that can be addressed through these programs. But I would like to just kind of-- wrap up by saying not every youth needs to go through a

program. Some can be handled informally. We know that even things like warning letters work much better than going through the courts, so. I'd like to close by saying I hadn't prepared to say this, but it occurs to me that as a parent of five children, the hammer under a 3(a) is actually a lot more daunting to me. If I go into a diversion program and they say, your son or daughter is going to be filed in court if you don't get them to this programming, I'm like, well, that's the consequence they'll get. But if they say that you're going to be subject to 3(a) filing as a parent, my incentive to get that child to that program has just shot up significantly. So I'll-- I'm happy to take any questions. And thank you, Senator Pansing Brooks, for your continued support in bringing evidence-based work and research into policy in Nebraska.

PANSING BROOKS: Thank you.

***CHRISTINE HENNINGSEN:** My name is Christine Henningsen and I am an attorney at UNL's Center on Children, Families and the Law (CCFL). CCFL was established in 1987 to serve as a home for interdisciplinary research, teaching, and public service on issues related to child and family policy and services. I have been with the CCFL for seven years and previously served as an assistant public defender in Douglas County. I am not speaking on behalf of the University, but was invited by Senator Pansing-Brooks to provide information and research in support of LB568. In order to be effective, numerous studies show student attendance interventions need to provide supportive services at the earliest possible point. Some states, like Nebraska also rely on fonnal court involvement to address absenteeism despite the fact that probation supervision has a limited impact on, and may actually increase recidivism rates for youth who have a low risk of reoffending. As lawmakers you must ask yourself the question, "should we continue to rely on formal court processing for school attendance issues when data and research show that such interventions do not have a positive impact on young people's educational success?" Student success and positive educational outcomes absolutely are important to the future of Nebraska, and research supports the association between high rates of absenteeism and poor educational outcomes. The U.S. Dept. of Education defines chronic absenteeism is defined as missing fifteen or more days of school each year, and the federal Every Student Succeeds Act requires collection of chronic absenteeism data in our nation's schools. Nationwide, rates of chronic absenteeism disproportion disproportionately affect communities of color and

non-English learners. Addressing chronic absenteeism is a priority in the Nebraska Department of Education state plan, and is a 5th indicator of school quality. LB568 does not propose to ignore the issue of chronic, absenteeism, but rather implement a smarter approach to improving attendance that yields improved outcomes for our youth and families. The Council of State Governments (CSG) released a report September 16, 2020 that highlighted key findings from a research study to measure the impact of juvenile justice involvement and probation supervision on school attendance. The research study was conducted in South Carolina actually found that youth placed on probation had more school absences during their first year of supervision than prior to being placed on probation. A similar study by the Washington State Center for Court Research in 2011 compared high school students who received truancy summons with youth who had the same number of unexcused absences and similar grades, but were not filed on. Similar to the findings in South Carolina, the youth in Washington who were filed on experienced more subsequent absences, received lower grades, and were more likely to drop out of school or be charged with a crime. As a state we are spending millions of dollars for probation supervision for youth who are chronically absent, but we don't even collect data to monitor whether or not that supervision is actually yielding the desired result of increased attendance. The problem with Nebraska's current approach to improving school attendance through the court system is that the financial support is targeted at the deed end of the system, rather than investing in early intervention, to address the situation before the situation before it becomes chronic. When invest substantial dollars in probation supervision with a poor return on our investment. Further, these cases clog the court system and do not allow probation to focus on higher-risk youth who do warrant system supervision and services. LB568 is designed to correct that issue by investing in community-based interventions that have proved effective to encourage and support school attendance. Nebraska has previously amended our compulsory attendance and juvenile laws to support earlier school and community-based interventions prior to filing a court case. In 2014, LB464 made changes to the school collaborative planning process, made referral to the county attorney at 20 absences discretionary, and made failure of the school to document efforts a defense to a 3(b) adjudication through LB464. While LB464 did result in fewer 3(b) filings, our Nebraska Supreme Court has interpreted the requirements of the school efforts to be simple documentation of automated letters sent and calls to parents that were

made. In re Interest of Reality W, 302 Neb. 878 (2019). The opinion did not require parent participation in the collaborative planning meeting designed to address the barriers to attendance. In 2015, LB482 required a county attorney to make reasonable efforts to refer a youth to community-based resources prior to filing a 3(b) petition. Likewise, our case law has set a low bar for reasonable efforts, finding that a community resource letter sent to the family to be sufficient. As a public defender, I saw first-hand the inefficient and ineffective process of 3(b) filings. The court process cannot even begin until the youth has reached 20 absences, at which point the problem is much more difficult to address. Parents and youth miss work and additional school days to attend court hearings. Oftentimes the disposition on the petition is not held for months after the petition is filed. In addition to the time delays in addressing the issue, probation is not designed to address 3(b) cases. Available dispositions for 3(b) and law vioLation cases are the same, with the exception that youth, adjudicated under 3(b) cannot be placed in secure detention or at YRTC. Youth on 3(b) cases can be placed on tracker, electronic monitor and be placed outside of their home. While juvenile court is rehabilitative in nature, many of the interventions require strict compliance with court mandates. Youth are closely monitored and are issued sanctions for noncompliance. Such interventions have been shown to push youth away from school and deeper into the juvenile justice system. While, Nebraska does not require probation to track educational outcomes for youth who are placed under their supervision, there is data collected on whether a child successfully completes probation. For example, according to the Administrative Office of the Courts, in 2018 there were 171 status cases filed in Douglas County and 116 that were adjudicated. Doing a simple search on the court mSTICE system, 61 of the 116 of the cases were still accessible, meaning the others have been sealed. Five of the youth were still on court ordered supervision as a result of the 2018 filing. In the remaining 56 the child was unsuccessfully terminated from probation after a lengthy probation tern1. That means that in nearly 50% of the cases adjudicated, we did not as a system achieve the desired outcome of increased attendance. Further, the youth now must face the collateral consequences that come with a juvenile court record. It is important that our Nebraska state dollars committed to addressing absenteeism are directed to the most effective and proven programs in order to make a positive impact on lives of Nebraskans. Thank you for your time.

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***AMBER BOGLE:** Chair Lathrop and members of the Judiciary Committee, my name is Amber Bogle (A-M-B-E-R-B-O-G-L-E) and I am the Executive Director of the Children and Family Coalition of Nebraska (CAFCON). CAFCON is a non-profit association comprised of 10 of the state's largest providers of children and family services. We serve Nebraskans in all 93 counties, providing everything from foster care and adoption assistance to mental and behavioral health services. CAFCON is in support of LB568. We thank Senator Pansing Brooks for introducing this legislation. CAFCON supports LB568 which makes important changes to Nebraska's law on truancy. The bill removes truancy as a juvenile status offense under the court's jurisdiction. The court may continue to address concerns of excessive absenteeism as part of a disposition hearing. LB568 establishes goals of the juvenile pretrial diversion programs. The programs will connect juveniles and their families with specific services to address the identified needs. When a county attorney receives a referral that a juvenile is excessively absent, they will work with the school to refer the juvenile and their family to community-based resources in order to address the concerns and maintain the juvenile safely in their home. CAFCON supports LB568 as it helps connect high-risk youth with services and diverts them from the juvenile justice system. I urge your support of this legislation and ask that you advance LB568 to General file. Thank you for your time and consideration.

***JULIE ERICKSON:** Thank you, Chairperson Lathrop and members of the Judiciary Committee. My name is Julie Erickson and today I am representing Voices for Children in Nebraska in support of LB568. Education is critical to children's growth into healthy, productive adults. School attendance is one among several factors that impact children's educational success. Efforts to ensure attendance are important but must focus on resolving obstacles to attendance for children and families in a supportive rather than punitive manner. Chronic absenteeism should be resolved with supportive services rather than providing a pathway deeper into the juvenile court or juvenile justice system. For these reasons we support LB568, which removes truancy as a juvenile status offense under court jurisdiction and reduces the risk of a juvenile encountering the juvenile justice system unnecessarily. Student success and positive educational outcomes absolutely are important to the future of Nebraska, and research supports the association between high rates of absenteeism and poor educational outcomes. The U.S. Dept. of Education defines

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chronic absenteeism as missing fifteen or more days of school each year. In Nebraska, during the 2018-2019 school year, 67,804 (22%) students were absent 10-19 days. While 16,252 (5.3%) students were absent 20-29 days, and 12,854 (4.2%) students were absent 30 or more days. LB568 does not propose to ignore the issue of chronic absenteeism, but rather implement a smarter approach to improving attendance that yields improved outcomes for our youth and families. As lawmakers you must ask yourself the question, "should we continue to rely on formal court processing for school attendance issues when data and research show that such interventions do not have a positive impact on young people's educational success?" The problem with Nebraska's current approach to improving school attendance through the court system is that the financial support is targeted at the end of the system, rather than investing in early intervention, to address the situation before it becomes chronic. Further, these cases clog the court system and do not allow probation to focus on higher-risk youth who do warrant system supervision and services. LB568 is designed to correct that issue by investing in community-based interventions that have proved effective to encourage and support school attendance. The juvenile justice system's goal is to provide accountability and rehabilitation to youth whose actions violate the law and endanger public safety. When possible and appropriate, youth should be diverted from the system as often as possible and have their needs met without being pushed into the juvenile justice system. This is especially true when it comes to youth who are referred to the court for being absent from school or other status offenses. Inappropriate juvenile justice system involvement been shown to have a negative impact on educational achievement and increase likelihood for behavioral health challenges. It is important that our Nebraska state dollars are committed to addressing absenteeism are directed to the most effective and proven programs in order to make a positive impact on lives of Nebraskans. For all these reasons, we thank Senator Pansing Brooks for bringing this bill and thank the Committee for considering this critically important matter. We respectfully urge you to advance LB568.

***JASON HAYES:** Good afternoon, Senator Lathrop, and members of the Judiciary Committee. For the record, I am Jason Hayes, Director of Government Relations for the Nebraska State Education Association. NSEA supports LB568 and thanks Senator Pansing Brooks for introducing the bill. The members of the NSEA know students should be in the classroom learning. Absenteeism is the number-one predictor - even

more than poverty - of whether children will drop out of school and walk down a road that includes a greater likelihood of unemployment, reliance on social welfare programs, and imprisonment. The NSEA promotes processes and statutes which emphasize prevention, effective interventions, community-based services and rehabilitation to decrease the phenomenon that is commonly referred to as the "school-to-prison pipeline" that can lead to future incarcerations. A student with excessive absenteeism should, in partnership with the family and school, receive community-based services to address the student's needs and behaviors to remain safely in the home and in the classroom learning. The NSEA, on behalf of our 28,000 members across the state, asks you to advance this bill to General File for consideration by the full body. Thank you.

LATHROP: Very good, Dr. Hobbs. Any questions? I see none. Thanks for being here. We have time for one more testifier as a proponent and then we are on to opponent testimony.

JENNIFER HOULDEN: Good afternoon.

LATHROP: Welcome back.

JENNIFER HOULDEN: Thank you, Jennifer Houlden, H-o-u-l-d-e-n, chief deputy, Juvenile Division, Lancaster County Public Defender, here for my office and the Nebraska Criminal Defense Attorneys Association. I could not more strongly agree with all of the testimony in support today. I'm going to try not to retread that. What I do want to emphasize is that there is no dispute that consistent school attendance is profoundly important for children and the failure to do that is a huge problem that will lead to future problems. But the solutions are not through the juvenile court system as it's currently designed. The 3(b) habitual truancy allegation is designed as a filing against the child, and the intervention through juvenile probation mirrors the structure of law violations. And with all due respect to all juvenile probation officers, the good intentions of county attorneys and juvenile judges, the questions designed to-- to get to the issue of what are we going to do without the juvenile court system to solve this problem, it's not solving the problem. We see strips of siblings from the same family come in on truancy filings. We see children come in on truancy filings from three weeks after they got off juvenile probation for truancy. The intervention model, which uses juvenile delinquency interventions, supervision, and support, does not

work for truancy because we need community-based solutions that focus on the family dysfunction. When you have a ten-year-old who has not gone to school for three months, I don't believe that directing the concern at the ten-year-old is a reasonable approach. These are family problems. We've seen the same families and those families need assistance and support, in collaboration with the school, for creative educational program opportunities and basic subsistence-level social support. We have kids not making it to school because the family doesn't have transportation, because the family doesn't know how to obtain a bus pass, because the family literally was at the hospital last night with the little brother's chronic health condition. We have to address basic social necessities for families and we have to rehabilitate families when it comes to school truancy. I regularly see children who are removed from the home, whose attendance improves, and then they're returned from the home and the truancy resumes. It's because it's a family problem. There are families that need help due to no fault of their own, and there are families that need help due to their own neglect, and the juvenile code absolutely provides adequate intervention and directed at the appropriate actor when we're talking about the fourth and fifth and sixth and seventh graders. I could not more strongly emphasize the need for early intervention. When you have a junior high school student whose normal daily life does not require going to school and has not for years, a juvenile probation officer checking their attendance is not going to solve that problem. Thank you.

LATHROP: OK, very good. Any questions for this testifier? Senator Slama.

SLAMA: Thank you. And thank you so much for taking the time to come testify today. I really did appreciate your perspective when we're talking about younger youth running into truancy problems. What's your interpretation of how LB568 would change things? If we're looking at an older youth, like a 16-, 17-year-old who really isn't facing the challenges that you described for those younger students but just decides, forget it, I'm not going to go to school, I'm not going to participate in the programs, like I'm done, what-- how would LB568 impact that and incentivize this kid actually showing up to school?

JENNIFER HOULDEN: What I have found through my representation of-- of those older youth is that this isn't good old-fashioned skipping school. This is a pervasive problem regarding motivation, a belief

that school is a tool for this youth. All of these kids have goals. All of these kids want to be successful under their own vision of their future and I think-- I-- I could not echo more strongly we need to connect them to education as a tool for their path. And I think that this bill has all the same resources available for those students, which is a diversion program. And it is about having some investment in their own path instead of just being told what to do all the time, and I think that we see those success with diversion because they're more creative, they're more flexible, and they would allow an older student like that to identify what their actual goals are and to receive support services for that.

SLAMA: Fantastic. And I do appreciate your-- you mentioning the diversion programs. Do-- what-- do you have an idea of what our current diversion officer caseload is? Is it relatively high, like how many kids are being assigned to these diversion officers?

JENNIFER HOULDEN: I certainly could not answer that.

SLAMA: OK.

JENNIFER HOULDEN: But we have a wealth of data in Lancaster County that is accessible that I could provide to the committee. But what I would say is probation officers are trained. And-- and this is evolving, but it's early in the evolution to be strengths-based. But diversion has always been more creative, more collaborative, and we looked at the family. And for a problem like this, that's why I think diversion is better designed to address the problem.

SLAMA: Sure. And with our probation officers, something that is a very big concern for us, both in Douglas County and statewide, is the sheer number of caseloads they have. Are-- do you see any signs of the diversion officers' caseloads getting to problematic levels? We don't need like a specific number, but do they already have a heavy caseload? Do we need more of these diversion officers?

JENNIFER HOULDEN: I mean, cert-- prob-- yes.

SLAMA: OK.

JENNIFER HOULDEN: I mean, the answer to that is yes. It's always yes.

SLAMA: Sure.

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JENNIFER HOULDEN: I don't-- I don't have access to that.

SLAMA: OK.

JENNIFER HOULDEN: But I think the answer to that is, definitely, yes.

SLAMA: Thank you so much. I appreciate it.

JENNIFER HOULDEN: Yep. Thank you.

LATHROP: All right. I don't see any more questions.

JENNIFER HOULDEN: Thank you.

***SARA KAY:** Chairman Lathrop and members of the Judiciary Committee: My name is Sara Kay, and I am testifying on behalf of the Nebraska County Attorneys Association in opposition to LB568. LB568 eliminates a critically important non-school based systemic response to excessive absenteeism ("truancy") and the direct, individual assistance children need to get an education. Please consider: 1. Juvenile Court interventions, such as for excessive absenteeism, do not criminalize a youth. Youth adjudicated in our Juvenile Courts for truancy do not receive a criminal record. They cannot be placed in secure detention. They cannot be placed at the highest level of care at the Youth Rehabilitation and Treatment Centers. They cannot receive a monetary fine. What they can and do receive are rehabilitative services provided by the Office of Juvenile Probation. Youth rarely require out-of-home placements for educational absenteeism alone. 2. The Legislature has already enacted significant restrictions on when youth can be placed outside of their home. Under Neb. Rev. Stat. 43-251.01(7), a youth adjudicated for habitual truancy can only be placed outside their home if (1) all available community-based resources have been exhausted and (2) maintaining the juvenile in the home presents a significant risk of harm to the juvenile or community. 3. By adopting LB568, the Legislature would be closing the door to an available intervention to assist juveniles with addressing their excessive absenteeism. We know that children who do not receive an education in the form of a high school diploma will generally have a lifetime of decreased earning capacity and opportunity, be much more likely to live in poverty, have health related issues, require some level of public assistance, and get caught up in the criminal justice system. Eliminating section 3(b) for absenteeism will have the

unintended consequence of increasing educational and economic disparities and disproportionality in Nebraska communities. Systemic intervention is an important prevention piece to avoid inequity and a lifetime of struggles and limited opportunities. 4. One of the tenets of the Juvenile Code is to "assure the rights of all juveniles to ... development of their capacities for a healthy personality, physical well-being, and useful citizenship." Neb. Rev. Stat. 43-246(1). Another purpose of the Juvenile Code is to "reduce the possibility of [juvenile's] committing future law violations through the provision of social and rehabilitative services to such juveniles and their families." Neb. Rev. Stat. 43-246(3). LBS68 runs counter to the Juvenile Code's stated purpose and intent. 5. Each truancy case is unique and to ensure success in addressing and resolving the cause for the excessive absenteeism, we need all possible tools and options available to our office so the appropriate course and services can be implemented. For those cases where delinquent behavior and mindset is the driving force behind excessive absenteeism, probation services under the court's supervision are the appropriate and most effective option once all community-based services have been exhausted as required under §79-209. Services offered under juvenile probation can include specific juvenile probation programs like Aggressive Replacement Training (ART) and more expensive services that may not be readily available or affordable under Community Based Aid grant funding like multisystemic therapy (MST). 6. While an educational neglect 3A case remains an option for court supervision of services,the Department of Health and Human Services is not the appropriate state agency to address absenteeism where it is primarily the juvenile's actions and mindset that impact school attendance. 3A cases look at improving and developing the skills of the parent, and while this is helpful in truancy cases,it is not focused on restructuring the juvenile's decision-making process and rehabilitating of the juvenile's behaviors. These cases can and should be used when the parent's faults or habits prevent the juvenile attending school, but they are not always appropriate and do not provide services like MST or ART that have been helpful in resolving truancy cases in the past. The NECAA welcomes a dialogue that could lead to more tools and services to address and assist in truancy cases, but we respectfully ask that tools, like court supervision and probation services, not be taken away. We of course will work with the committee and interested parties to look at changes and restructuring that can improve effectiveness of prevention services and reduce the

number of cases that are referred to the court system, but we feel it is important that we retain the ability to pursue court intervention for truancy cases where appropriate and where all community-based prevention and intervention services have been exhausted. Children need to receive personal attention and direct services, be held personally accountable, and be personally invested in their education. That's what the section 3(b) alternative provides, but only after community-based diversion and school-based efforts fail to correct the absenteeism issue. One of the positive messages in LB568 is the use of the term "excessively absent" in place of truant. The NECAA could support such are-definition.

LATHROP: We will go now to opponent testimony if anybody's-- anybody's here to testify in person, in opposition. Anybody here in the neutral capacity?

ELAINE MENZEL: 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. I'm here today on behalf of the Nebraska Association of County Officials. And while much of my testimony may appear that I would be here in support, I actually am in a neutral capacity, as I'll explain later. I was going to get into some of the great deal of the history about the funding and that type of thing, but I think what might be more respectful of the committee's time is if I go ahead and follow up by sending you a copy of the report that the Crime Commission has repaired-- or prepared within their juvenile office for both the community-based aid as well as diversion reports that their staff members have prepared, and that talks about the history. I will just note that it is 20 years ago that the community-based aid was created. Initially, it was called county-based aid, and the tribes have now been added to that to make it community-based aid. Importantly, I think it's also a good time to recognize one of the members who was really essential to the creation of that program, and that was Judge Gendler, so taking you back even a few more years. But what-- what I guess I would-- our-- what we would like to do is express to the committee and the Legislature as a whole our support for funding the community-based aid. This has helped counties and communities perform essential services throughout the state, as you have heard earlier in testimony. In 2019, an informal survey indicated that 80 counties and one tribe reported offering some form of a juvenile pretrial diversion program. It was an increase from 2013, when at that time there was only 57. In fiscal year 2019, the

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Community-based Juvenile Services Aid Funds, there were funded 250 programs through 71 counties and 1 tribe, and they awarded just over $6 million in total. I do want to let you know that for the next fiscal year or three-year term, they'll be appropriating not just based upon populations, but also upon the population number-- percentage of children under 18 in poverty and percentage and change in-- since 2010, and that-- that is nonwhite, so some important additional variables. Not able to completely support this legislation, as I indicated, because it's my understanding county attorneys have some concerns that have been expressed, as I understand, Senator Pansing Brooks's office and possibly to the committee as well. And I do also want to concur with Ms. Hawekotte that addressing the younger youth-- I see my time has expired.

LATHROP: OK. Well, we appreciate hearing from you, Ms. Menzel. Let's see if anybody has any questions for the county association. I see none--

ELAINE MENZEL: Thank you.

LATHROP: --but thanks for being here this afternoon.

ELAINE MENZEL: Thank you.

LATHROP: Anyone else here in a neutral capacity? Seeing none, Senator Pansing Brooks, you may close. We do have four position letters: one proponent, one opposed, and one neutral, and we also have written testimony that was provided this morning as follows: Jason Hayes with the NSEA is in support; Julie Erickson with Voices for Children is a proponent; Amber Bogle, B-o-g-l-e, Children and Family Coalition of Nebraska, is in support; Christine Henningsen, Nebraska Youth Advocates, is in support or a proponent; and finally, Sarah Kay with the county attorneys is opposed. Senator Pansing Brooks, you may close.

PANSING BROOKS: Thank you very much. Well, I want to, of course, give my specific thanks to Judge Gendler, who was so kind to come down today, and as you can see, he's really good at testifying and-- and clearly knows everything about juvenile justice and many other things, so I'm grateful for him. I-- I'm passing out another piece that Judge Johnson sent, and I want to thank him, regarding the Nebraska ranking. I think it's sort of interesting to see-- oh, shoot. Do you have a

copy of that? I think I left it up there. Thank you. I'm sorry. Thank you. So if you look-- if you look on the back and see what's happening across the nation, how-- how these kids are labeled in other states-- and we're in the last column, as a status offender-- others label them in need of super-- supervision, in need of services, in need of aid, assistance or care. I want to just speak briefly because it took me a little bit when I first got in the Legislature, since I didn't practice in juvenile justice, to understand that there are really two prongs for-- for a child to go. Either they go the 3(a) route, which is HHS, and they get services-- that includes abused and neglected children because the families need to be involved. It also includes kids that have been trafficked. We made that part of the law just recently. So kids that have been trafficked, abused, and neglected, and hopefully those that are consistently and excessively absentee, so-- because what's happened is in the law, it actually states that the parent is responsible for getting the kid to school and so-- but we're just going after the easiest thing, which is the child, instead of-- you know, we-- we-- we need to get the parent involved in all of this with excessive absenteeism, and that's part of our law, as already stated, so-- and then the other one is 3(b) that goes off through the criminal justice system, through the courts or the juvenile justice system. So it-- it took me a while to realize all that too, so when people talk 3(a) and 3(b), that's what that really means. OK, the other thing that I wanted to say is that I wanted to thank everybody again, fabulous Kim Hawekotte with her statistics. Dr. Hobbs continues to provide amazing research for our state and nationally on-- on-- on children and juveniles. I'm really grateful to all of them. You know, we have changed starting on Section-- I think it's Section 9, starting on page 15 to 17 of the bill. We changed the words from "truancy" to "excessive absenteeism." The goal is to change the verbiage, as well, to make sure that we don't look it-- at it as a crime or something that needs to be dealt with in the courts. Excessive absenteeism is a problem. We're going to deal with it through HHS and through-- through diversion. The money-- the money spent, the $3.5 million spent on probation, I've-- I've been talking, as I said, with Appropriations because there-- there's, you know, question about where this should have necessarily gone. But I felt that it really needed to go to Judiciary to explain-- to deal with the issues regarding the criminal justice system, so-- but we had put $10 million because we were guessing on how much. We didn't even have all the facts on what it was. It may be closer to $8 million. I've-- I've

been talking with Anna-- Senator Wishart and others, and they're willing to help us figure out how to get that switched over so that money will go to diversion. I'm very hopeful that this will help us get diversion across the state, especially in smaller communities. There are a lot of things that can be done pretty simply for these kids, and I-- I'm just really excited about this and I feel positive. And, you know, as-- as Senator-- as-- I think it was Ms. Hobbs-- Dr. Hobbs said sometimes a letter is sufficient. And sometimes it's not, but we have to go on. The courts still have the capacity to come in and deal with the kids, but they are not the first course. Thank you.

LATHROP: OK. I don't see any follow-up questions. That will close our hearing on LB568 and bring us to Senator Geist to introduce LB537. We're going to have you wait just a second while the room switches over and then we'll have you open on your bill, Senator Geist. Oh, no, no, I texted him too, [INAUDIBLE]. LB537, Senator Geist, good afternoon.

GEIST: It's only a quarter till 5:00.

LATHROP: I know, we're not used to getting to our last bill before 6:00.

GEIST: I know.

LATHROP: It's crazy.

GEIST: It is crazy.

LATHROP: Well, let's see how long this will last.

GEIST: Let's do. Let's do. All right. Thank you, Chairman Lathrop, and good afternoon, members of the Judiciary Committee. For the record, my name is Suzanne Geist, S-u-z-a-n-n-e G-e-i-s-t. I represent District 25, which is the east side of Lincoln and Lancaster County. I introduced LB537 for three crucial reasons: community safety, juvenile rehabilitation and judges' discretion and oversight. This bill strikes a balance between keeping the community safe from repeat violent juve-- juvenile offenders and the critical need to rehabilitate juveniles who break the law. After the tragic death of Lincoln police investigator Mario Herrera, I was approached by police and prosecutors from Omaha and Lincoln, as well as professionals working in the field of juvenile rehabilitation. What I learned was that recent changes to

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the juvenile justice laws that went into effect in 2019 rightly intended to reduce detention for low-risk juveniles. But it had resulted in some unforeseen challenges in which high-risk juvenile offenders could not or would not be detained, even when those high-risk juveniles' dangerous behavior results in serious safety concern for the juvenile and for the public. LB537 intends to bring balance back into the process by clarifying when a juvenile offender shall be detained, only in the case of the most serious felonies, and may be detained, in the case of moderate-risk behavior which could indicate a dangerous upward spiral, balancing community safety with rehabilitation. LB537 will close the unintended loophole, which a high-risk juvenile offender would simply waive a detention hearing and be released without a judge reviewing the case or ordering additional supervision options or detention. LB537 will make it clear to probation intake professionals that they have the discretion and flexibility in certain cases to detain a high-risk juvenile offender in order to allow a juvenile judge, a juvenile court judge to make the final determination. It's very important to keep in mind when we're talking about detention, we're talking about 24 judicial hours, the time it takes for a juvenile court judge to look at the fact pattern at hand and make a decision about whether to detain a high-risk juvenile or place them back in the community. This pause would also allow the juvenile to get much-needed services and be arraigned right away, where under the present sys-- system, those services may not be available for at least 30 days. LB537 intends to make our communities safer by giving juvenile judges and probation intake professionals the ability to, and discretion, to counterbalance detention with community safety and strengthen rehabilitation chances by stopping dangerous escalating behavior. Nobody takes joy in seeing a juvenile being detained if and when it can be avoided. There is validity to the argument that detention can be traumatic to a juvenile. That is undisputed. But LB537 inserts the realistic argument that there are some cases in which detention is much less traumatic than not breaking a terrifying cycle of running away from home or court-ordered placement, engaging in, witnessing or being the victim of serious and violent crimes. Juveniles engaging in high-risk behavior doesn't keep our community safe. Juveniles engaging in high-risk behavior doesn't improve the chances of rehabilitation for that child. Let's give our communities, our police and our high-risk juvenile offenders the pause it may take to allow a juvenile court judge the ability to best keep everyone safe. I thank you for your time and attention, and I would be

happy to take any questions. I'll also say that there will be those coming behind me that will have great, detailed answers to many questions you have. But I'll do the best I can.

LATHROP: OK. Senator Pansing Brooks.

PANSING BROOKS: Thank you. I've been att-- it's been so hard to get time to really talk with you. But I-- part of this bill that you're changing is a bill of mine that was from 2015-16 and deals with the fact that we have worked really hard to not put a child under 14 in detention.

GEIST: Yes.

PANSING BROOKS: We had a five-year-old and a nine-year-old brought in, charged with a felony. They couldn't even keep the, the, the, cuff-- cufflinks on the kids-- not cufflinks.

GEIST: Handcuffs. I know what you meant.

PANSING BROOKS: Yes. Anyway, the handcuffs on the kids, because they were so small. My concern about this, and what we did in all of that previous work, a bunch of this was, was Senator Krist's work that's being taken out, while we were here. And the-- my real concern about it is that I do not believe a child can have the requisite mens rea to be able to commit most of the crimes. And if something goes wrong, it's just as I talked about before, with somebody who's trafficked, somebody who is abused and neglected, most of those kids that commit a crime like that are generally neglected. So they should be going off to Health and Human Services. So to say that, that a kid that's 10 or 11 or 8 should be detained, I just can't believe that you actually feel that's what should happen.

GEIST: Well, what-- this is a narrow definition, and there are only certain cases where it shall be. There are many cases where it may be. The shall be is on the high-felony end of the spectrum.

PANSING BROOKS: So they don't really, you know that they don't charge children the same way they do adults. But I can talk to--

GEIST: Yes, there will be people behind me who can--

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PANSING BROOKS: They don't charge in the Class I felony, IA felony like they do with-- so anyway, we can talk to other people who have some--

GEIST: OK.

PANSING BROOKS: --knowledge. Thank you very much.

LATHROP: I don't see any other questions. I assume you'll be here--

GEIST: I will stay to close.

LATHROP: --to close. We'll look forward to hearing from the proponents, who may step forward at this time. Welcome. Good afternoon.

JASON WESCH: Thank you for having me and give me a chance to speak on this bill. My name is Jason Wesch, J-a-s-o-n W-e-s-c-h, and I'm the current vice president of the Lincoln Police Union. And I'm here on their behalf in support of LB537. The year 2020 was full of anger, frustration and tragedy for many people. For the Lincoln police, no day was more tragic than the day we lost one of our own. On August 26, investigator Mario Herrera was just doing his job. He was helping other officers search for a 17-year-old wanted for felony assault. While officers were trying to arrest the 17-year-old suspect, he shot Mario. Mario was taken to the hospital, but despite their best efforts, Mario died of his injuries on September 7. Sorry, it's a little hard for me to talk about. Mario was a husband, a brother, a father, a friend to everyone, and so much more. The circumstances leading up to his murder did not have to happen. The 17-year-old suspect in this case had committed violent crimes in the past, and had LB537 been a law last year, he could have been detained on August 26 instead of hiding from the police while armed with a stolen firearm. And what about the 17-year-old in this case? Would his life had been on a better path if LB537 had been a law in 2020? Maybe he wouldn't be facing a murder charge and a host of other serious felony crimes. Maybe he would have gotten assistance that he needed, started the process of turning his life around. Maybe he would be at home with his family and going to school. Any chance of that life may be all gone now. The union is not interested in locking up more juveniles, just the most dangerous, the most likely to reoffend and to harm someone. Most kids don't benefit from being detained, and we recognize that.

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But there are circumstances where judges and probation should have the ability to make that choice. The goal of this legislation, in my opinion, is safety. It strengthens, it strengthens the protection afforded to crime victims and could provide a different future for repeat high-risk juvenile offenders. If LB537 had been a law, would Mario still be with us now? I think so. I hope so. That's all I've got. I'm happy to answer any questions.

LATHROP: OK. Senator Slama.

SLAMA: Thank you, Chairman Lathrop, and thank you very much for being here today. Could you just give some examples based on your experiences of the problem LB537 seeks to solve when we have these juveniles under the age of 14 committing these acts? Could you just go into more detail about what you're seeing in the street?

JASON WESCH: I've been a police officer in Lincoln for 18 years, and honestly, I am really hesitant to send a juvenile, especially under 14, to detention. But if they've committed some violent crime, they, they've injured someone seriously, I do think they need to be in the system. They need to be detained just for the protection of the victim and for themselves. A case that I can think of is, that I was directly involved in, was a 14-year-old boy. For whatever reason, he stabbed three people with a screwdriver. Now, I can't go into the background, his mental health, any of that. But that's a person who clearly needs resources and, and wasn't getting them through his family structure for whatever reason.

SLAMA: And we're seeing escalating behaviors with these juveniles in some cases, too, is that correct?

JASON WESCH: Yes.

SLAMA: So starting out with a lower level, more like petty crime, stealing stuff and working your way up to stealing cars, more violent crimes, and then suddenly they are to the point where they can be detained and charged as an adult. Do you think LB537 would help nip those behaviors in the bud and give our law enforcement officers and our justice system the resources they need to effectively serve our juveniles?

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JASON WESCH: I do. And one of the reasons I wanted to bring up Mario's case is because it highlights just that. This is a child who maybe something along the way could have changed it for him and I wouldn't be here today.

SLAMA: Thank you very much. I appreciate that.

LATHROP: Any other questions? I see none. Thank you for being here--

JASON WESCH: Thank you.

LATHROP: --Officer. Next proponent. Good afternoon.

MARK HANNA: Good afternoon, Senator.

LATHROP: Yeah, welcome.

MARK HANNA: Good afternoon, committee members. My name is Mark Hanna, M-a-r-k H-a-n-n-a, and I'm here on behalf of the Douglas County Attorney's Office in support of this bill. First, I'd like to thank Senator Geist for proposing this bill. It means a great deal to my office. The way I see it is this bill does four things: community safety, gives more discretion to the Judicial Branch, it gives juveniles who are at serious risk of harm and to the community a pause, and four, it gives victims more of a voice. And by victims, not just people who are being assaulted, but also small business owners and different people in the community who are directly affected and indirectly affected. And I know this bill seems to be a little con-- there's some controversy to it. And I understand. And I think the best way to explain my position is through the many examples that my office has witnessed, because there's just a lot. We had one individual, 16 years old. He had three open dockets. His charges ranged from burglary, assault, false imprisonment, unlawful possession of a firearm. The juvenile court judge ordered detention at some point, got released, went to a foster home, went to shelters, ran from one of his placements, picked up by OPD, was brought to probation intake for made-- intake probation made the decision to let him go. Picked up new charges. We had another individual, two open dockets. They were two sexual assaults of random victims. The court ordered this individual, the PRTF failed, gets picked up for a new charge of arson. Intake probation screens them, lets them go. We had another incident. Two 14-year-old kids in the middle school are bullying another student.

They pushed that student down the stairs, kick him and punch him. They beat him up. Officers get called. They bring them, bring these juveniles to intake probation. They screened them out. The next day at school, what did the victim see? The perpetrators right next to him in class. The mother of this victim called our office, asking what's being done? Is there anything that could be done? Her son suffered traumatic brain injury and had to spend six hours a week in rehab. Those children were not detained. When they went in front of the judge, finally, weeks after, that judge stated that had this case been brought in in a detention hearing at the incident, he would have detained them. We have a 16-year-old working at Wal-Mart. In the break room, he forcibly touched another coworker's breast, forced his hands down her pants and digitally penetrated her. He was taken to DCYC, booked, but based on probation's intake assessment, he didn't score high enough for detention and he was sent home with AMGPS. When looking at the scoring, part of the reasons why he was released was because he had a job, the same job where he committed his offense. About two weeks ago, a 17-year-old in county court, because this bill doesn't just apply to juvenile court, it applies to all juveniles. A 17-year-old in county court, be 18 in June, he was charged with first degree sexual assault. He digitally penetrated a 14-year-old. Intake probation let him go. The judge on that case said that if he had heard these, those facts at that time, had he been brought in for a bond hearing, he would have set a bond on that juvenile.

LATHROP: I'm confident there will be questions, OK?

MARK HANNA: Yes.

LATHROP: But I've got to enforce that red light, if you don't mind. Senator Slama.

SLAMA: Thank you, Chairman Lathrop. And thank you, Mr. Hanna, for being here. Something that I'm sure will be brought up, and something that I, I appreciate are the alternatives to detention and the alternative options and different tools in the toolbox that we can use in juvenile, juvenile justice. How are those alternatives to detention working now and how do you expect that to change with LB537?

MARK HANNA: So right now we, we have some tools. Not a lot, but we have some. And they range from having zero curfew, having electro-- electronic monitoring, GPS, or shelter placements. And I think what's

important to note is when we're talking about these high-risk youth, shelter placements are not state or county operated, they're private facilities. So a juvenile court judge cannot order that same day that that juvenile can go to a private shelter. They have to be accepted first. And the problem that we're seeing is not many places are accepting these high-risk youth. We have electronic monitoring and GPS. But I ask this body, what does that do? We have too many juveniles cutting their electronic monitoring or just going out and about and just ignoring it. The electronic monitoring, yes, someone might know where the juvenile is. It's not the county attorney's office, it's not probation right away. In fact, our office rarely gets all of-- any time a juvenile runs, we don't know all the time right away. In fact, probation usually gives them many, many, many chances. So based on that issue, myself and some counsel in my office, we discuss, OK, well, there's electronic monitoring with titanium bracelets. Let's try that. Let's see if that made a difference. Again, juveniles are cutting. We had a case of a 12-year-old who had 16 misdemeanors, 12 felonies, 20 missings, and admitted to gang affiliation beyond those services. He stole a vehicle, intake probation released. Stole another vehicle, intake probation released. Stole another vehicle, intake probation released. Robbed a pastor with a knife to steal the money from the church, intake probation released. Ordered pizza with another juvenile, goes out to the delivery person--

LATHROP: Mark, we can't have you go through every--

MARK HANNA: Sorry.

LATHROP: --your entire--

MARK HANNA: My point is with that particular case was that 12-year-old told case professionals that he knew he couldn't be detained and there was nothing to stop him. So EM GPS, shelter, none of that would have made a difference in that case.

SLAMA: So where is-- so given that this juvenile was 12 years old, was there anything that the court could have done to escalate that beyond intake probation and release?

MARK HANNA: No.

SLAMA: OK.

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MARK HANNA: The juvenile court judge could not hear the case, and that's what this bill does. It gives the juvenile court judge the ability to hear the case.

SLAMA: All right. Thank you.

LATHROP: I want to ask you some questions, if I can, just to, just to see what the current system is, what this would change and why you think it's necessary. And maybe start with the children that are 12 or younger. Right now, and I'm looking at this bill that says-- I don't practice in juvenile court, by the way, so you certainly have more background on this than I do. A child 12 years of age or younger shall not be placed in detention. This would qualify that and say "unless you find"-- so tell me, you bring a 12-year-old in right now and what happens to them?

MARK HANNA: So say a 12-year-old commits a felony offense. They'd be brought to intake probation. Intake probation would release them back home, they would not go in front of a judge.

LATHROP: OK, what's the intake probation, what are they supposed to do, run some risk assessment?

MARK HANNA: They do. So they run a risk assessment that has several different factors. And then, but in regards to this 12-year-old, it wouldn't matter, because all they could really do is either put them in the shelter where the odds of that happening is very slim-- they're private entities and probation can't force shelters to accept them-- or electronic monitoring and EM GPS.

LATHROP: OK. We're going to put up an exception in here: unless the child poses a severe threat to the physical safety of other persons, the community, himself or herself.

MARK HANNA: Yes.

LATHROP: How often is that the case?

MARK HANNA: You know what, we've had in the past couple of years, at least four or five of these types of juveniles. So they're not happening too often, but when they do happen, they are severe. We had a 12-year-old stab someone.

LATHROP: Right. I'm going to ask him not to tell war stories.

MARK HANNA: I--

LATHROP: Because I think you can answer my questions--

MARK HANNA: Yes.

LATHROP: --without that. And I, and I believe that there are problems behind every one of the things you're talking about. I'm just, otherwise you got--

MARK HANNA: I understand.

LATHROP: --a million of them. And lawyers love telling them--

MARK HANNA: Yeah.

LATHROP: --right? So in the current process, if, if now we say "unless," so is every child then going to go before a judge to have a judge determine whether they will remain in detention or is that still going to be done by a probation intake person?

MARK HANNA: So it depends. So in this particular bill, there are some shalls and there some mays.

LATHROP: I'm just talking about the under 12.

MARK HANNA: So the under 12-year-old, if they are, if they do pose a severe threat, they will be detained.

LATHROP: Who's making that call?

MARK HANNA: So it would be intake probation at that time.

LATHROP: So--

MARK HANNA: And it would be based on--

LATHROP: Mark, it sounds like when I'm listening to you talk about this bill, you're, you're critical of intake probation and saying they are letting too many of these kids out. And all I'm wondering is do we now pick juveniles up, leave them in detention and they're going to

have the, the juvenile court equivalent of a bond setting or an arraignment?

MARK HANNA: So that, there's a twofold question there. First, am I critical of intake probation? Yes. The tool that's being used is not validated, not accredited, not reliable. Second question is, are these juveniles then being picked up and being put in detention brought in for, in front of a judge? Yes. Those juveniles who propose a severe risk will be brought in front of a judge within 24 hours.

LATHROP: But that would, that would have to be everybody if we no longer rely on juvenile probation intake.

MARK HANNA: No, because now--

LATHROP: At, at some point assessment has to be done or we throw everybody into that bucket and say--

MARK HANNA: Correct.

LATHROP: --we're all going in front of a judge.

MARK HANNA: So that's why we have the main section. So in the main section of the bill, that's why there's, there's two sections.

LATHROP: OK.

MARK HANNA: The juveniles that shall be detained, and those are the juveniles, if you look at page 2, lines--

LATHROP: I got it.

MARK HANNA: --27 through 31.

LATHROP: OK, well, then let's talk about the shalls and the mays.

MARK HANNA: OK.

LATHROP: Currently, if you're over 12, then you, then you are going to be, well, what's the standard right now?

MARK HANNA: So right now the standard is seriously threatened. So if a juvenile seriously threatens, then intake probation can detain those juveniles and then they would go in front of a judge.

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LATHROP: Seriously threatens what?

MARK HANNA: The physical safety of the community, members of the community.

LATHROP: So the only reason you can detain a juvenile currently is that the juvenile probation intake does their assessment, includes-- concludes that you are a serious threat to the safety of the community?

MARK HANNA: Yes. And they can take into account whether or not the juvenile has had a failure to appear within the last year.

LATHROP: Wait a minute. My iPad is listening to what we're talking about. Siri is, Siri is looking things up for me. I'm sorry, you-- can you answer that question again?

MARK HANNA: Yes. They can also be detained or probation can take into account whether or not they've had a failure to appear in the last year.

LATHROP: OK, and then if they are detained, then they go in front of a judge and the judge will figure out under what circumstances they can no longer be detained or under what circumstances will they be detained.

MARK HANNA: Correct. Also at that hearing, the judge can also place different things. They can start to do by doing an arraignment, which speeds up the process for any serious offenders and services. So they could do the psych-- if they're detained, they can do the psychological or chemical dependency or psychiatric evaluation. They can start the process right then and there at that detention hearing.

LATHROP: OK. That's the current system.

MARK HANNA: Correct.

LATHROP: Instead of having that assessment done by intake and sorting people out, whether they're a flight risk or risk not to appear or a risk to the community, we're now going to have a may and a shall?

MARK HANNA: Correct.

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LATHROP: And the shall, all this assessment stuff doesn't matter.

MARK HANNA: Correct.

LATHROP: We're going to-- these people are going to-- these youth are going to be detained.

MARK HANNA: Correct.

LATHROP: Who's fit in that bucket?

MARK HANNA: So that--

LATHROP: What category are you-- what category are you creating for the people who shall be detained?

MARK HANNA: In the most simplest words possible, the extreme dangerous children. So those are the children charged with kidnaping, murder, assault on an officer, robbery, arson, sexual assaults, manslaughter, they're those types of cases.

LATHROP: Well, that's not just it, though, is it?

MARK HANNA: No. So you also have the cases of the juveniles who are at risk by picking up a felony while they're missing or on the run.

LATHROP: So it can be a minor offense that's-- what do you got-- how much do you have to steal to get to be a felony? Is it $1,500?

MARK HANNA: Off the top of my head, I don't know.

PANSING BROOKS: I think it's--

LATHROP: I thought you would be the one guy that would know.

PANSING BROOKS: I think--

LATHROP: They're nodding their heads [INAUDIBLE]. So if--

MARK HANNA: [INAUDIBLE]

LATHROP: --if I'm a runaway and I steal $1,500 worth of stuff from--

MARK HANNA: Yes.

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LATHROP: --Von Maur or wherever I'm at--

MARK HANNA: Yes.

LATHROP: --I will then be-- I shall be detained.

MARK HANNA: Yes.

LATHROP: If I'm retained under those circumstances, how long before I'm standing before a juvenile court judge?

MARK HANNA: Twenty-four hours or less. It's 24 hours--

LATHROP: And where am I being detained at?

MARK HANNA: Well depending on your state, so-- or county. So in Douglas County, it would be the Douglas County Youth Center.

LATHROP: OK. Within 24 hours I'll be in front of a juvenile court judge.

MARK HANNA: Judicial hours, yes.

LATHROP: Will I have a lawyer at that point?

MARK HANNA: In Douglas County, the answer is yes.

LATHROP: And at that point, what's going to happen at that hearing?

MARK HANNA: So at that--

LATHROP: Am I-- I'm 24 hours away, they've just picked me up--

PANSING BROOKS: Just say Douglas County?

LATHROP: --I'm now going from the detention center to juvenile court and--

MARK HANNA: So at the--

LATHROP: Go ahead.

MARK HANNA: --detention hearing, the state will have an opportunity to be heard. The state will then tell the judge the facts of the

circumstances that happened. If there's any history, we will relay that to the court, and then the defense counsel will then have an opportunity to speak with the juvenile before the hearing. And they will present to the court their evidence. This is the facts, this is what the juvenile believes. This is the social structure and the family structure that the juvenile has. And the court will then take into consideration all of those facts and information determining their decision.

LATHROP: And what can happen? What's, if I'm the juvenile, what's the worst that can happen? They just keep me at the youth center indefinitely?

MARK HANNA: No, it definitely will not be indefinitely. So what would happen if the worst thing that will happen is the court will then do a detention hearing. They'll say, you're detained, and you're detained pending something. So it's usually an adjudication. But what we have the judges doing now is they're setting the case up for detention reviews all the time. So this case is actively being reviewed. Not only is it actively--

LATHROP: But what-- let me, pardon me for interrupting, but if if they're reviewing my detention--

MARK HANNA: Um-hum.

LATHROP: --what's changing if all I'm doing is sitting down at the, at the detention center?

MARK HANNA: So the hope is, and what we've been doing in Douglas County is evaluations are taking place and being ordered at detention hearings. So at the detention review, the defense attorney can show up. The judge can say: Judge, we have the psychological evaluation, this is what's being recommended, or a psychiatric evaluation. Judge, he really-- this individual needs to go to a psychiatric facility. Then we can do that.

LATHROP: Mr. Hanna, is that, is that order to a psych facility going to happen before the adjudication?

MARK HANNA: The referrals can be done, but it has, the placement has to be after the adjudication. Yes.

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LATHROP: OK, so that sounds like it's going to take a long time. Like, things don't happen in a couple of days up there, right?

MARK HANNA: Correct.

LATHROP: So if I need a psych evaluation or I'm in the detention and the judge says, well, you're going over to the Youth Center for detention. And by the way, I think you probably need a psych evaluation, and they can do that even before I've been adjudicated.

MARK HANNA: Yes.

LATHROP: OK, so that assessment is going to take a month?

MARK HANNA: Or less. The Douglas County center has been doing a good job. I know there's different pushes to make them go faster. But, yes, I believe there is a statute that does state that probation has to do it if they're detained within 30 days.

LATHROP: OK, then I'm off to wherever the psych facility is, Boys Town or somewhere?

MARK HANNA: Or the recommendation could be in-home services at home.

LATHROP: OK. And the may bucket is what? What do we doing that-- how do we change current law with the, with the may? The detention of the juvenile may-- the physical safety of persons in the community would be threatened.

MARK HANNA: Yes.

LATHROP: Necessary to secure their presence at the next hearing.

MARK HANNA: Yes.

LATHROP: So we can just leave them over at the detention center for until their adjudication hearing?

MARK HANNA: No. So it's, those-- so if we, if there's a juvenile that's picked up and you know they have a significant record of running away, their parents have filed 20-plus missings. They leave their court-ordered placements. You know they're not going to show up for their next hearing, then they get detained and then within 24

hours go in front of a judge to see what can we do to ensure that this juvenile is at his correct placement and that he can make it to-- he or she can make it to their next hearing? So it's not a detainment. We're not talking about them being detained a month, a week. What I'm saying is I-- what this bill does is lets the judge, the expert in this field, determine all the factors and determine what can we do to help this juvenile right now so that they're just not running around doing whatever in the streets, stealing cars, committing more crimes and not being safe.

LATHROP: So one of the, one of the options is if the juvenile-- you may detain the juvenile if he's been arrested for something other than a felony. So I'm going to say stealing gum--

MARK HANNA: OK-

LATHROP: --over at the Walmart, and the probation officer or, yeah, the probation officer didn't know where he was at.

MARK HANNA: Yes. And that's in the mays section. And what I think that the mays section does a great job is, is in criminal justice, you want to look at the case specific. So this gives the probation officer, when they're reviewing the case, looking at all of the facts, and it gives them the opportunity to look at the history. So you have a juvenile who got picked up for stealing gum, but there's-- what is his history like? Is he always running away from home? Is he stealing cars and driving them and crashing them? What is going on to leading these types of behaviors? And if the probation officer can see a pattern, that he's, he or she is going on a dangerous path or is in a dangerous situation and says that, listen, we need a judge to make a determination as to where we go from here, then yes.

LATHROP: OK, I asked those questions because I legitimately don't know--

MARK HANNA: I understand.

LATHROP: --and I didn't understand the difference between where we were before. But before, under what circumstances today can a judge detain somebody?

MARK HANNA: The judge, for the most part, can only detain an individual if it's in the matter of the immediate, urgent necessity of

the commu-- so a judge can only detain if the juvenile is a serious threat to an individual and if they have missed a court hearing within the last year.

LATHROP: So I can be, I can be out doing all kinds of mischief with a handgun, and as long as I'm good about showing up for court--

MARK HANNA: Essentially, yes.

LATHROP: OK, that helps me. Maybe it helps others, I don't know. But I appreciate your answers to my questions. I'm sure it will provoke a lot of people that are sitting behind you in their comments, but-- Senator Brandt.

BRANDT: Thank you, Chairman Lathrop. Thank you, Mr. Hanna, for, for appearing today. It may be clearer to him than what it is to me. So today a police officer picks up a juvenile with a gun for whatever reason. So then that juvenile goes to a detention facility and sits there until probation or your office, or does the officer? Who determines the charge, is it the officer or your office?

MARK HANNA: So there's a couple of questions in there. So the way it would work now, if the juvenile gets picked up for possession of a firearm, they would go to the facility and meet with the intake probation right then and there.

BRANDT: So he doesn't even go to a jail cell?

MARK HANNA: No.

BRANDT: So he goes to meeting room?

MARK HANNA: Intake probation, yes.

BRANDT: OK. So the officers, officers take him to an interrogation room or a meeting room, and then all the magic happens there, right?

MARK HANNA: Yeah. You have intake probation who meets and then they use their scoring tool, and they then determine whether or not they felt it was necessary for them to detain the juvenile or to release him on something else.

BRANDT: So let's assume you're saying today a lot of these kids get released, but let's say it's serious enough the kid gets retained.

MARK HANNA: Um-hum.

BRANDT: So then at that point, he gets booked into your juvenile facility--

MARK HANNA: Yes.

BRANDT: --until a judge can see him.

MARK HANNA: Yes.

BRANDT: OK, so the system sort of kind of works today. I mean, it's-- there is a method. But a violent kid that shot somebody or--

MARK HANNA: Yes.

BRANDT: --all sorts of things.

MARK HANNA: Yes.

BRANDT: And so when they put him in that cell, then your office gets involved.

MARK HANNA: Correct.

BRANDT: Right, because--

MARK HANNA: So the next-- so then what happens next morning is we get the police reports, we charge him and we file a petition with the court. And that same day they go in front of a judge.

BRANDT: And then at that point, the judge would determine the detention, PRTF--

MARK HANNA: Shelter.

BRANDT: --YRTC, whatever, whatever is available to--

MARK HANNA: More or less.

BRANDT: But that's out of your--

MARK HANNA: Correct.

BRANDT: That's in the judge's purview. So now we're going to enact this law. So the same 16-year-old now comes in, we put him in the jail cell and he's going to wait there till your office and the judge who's making the determination that just based on what the law is here. So the police officer said, the police officer said this, this is a Class IA or whatever we've got here. And that's enough then to hold him in the jail cell. That's enough then that your office and the judge gets involved. That's enough to keep probation out.

MARK HANNA: Yes.

BRANDT: OK, that's, that's what I'm looking for. Last question, how big is your juvenile detention facility? Are you going to have, are you going to need more beds with this law?

MARK HANNA: My honest answer is, I don't know. I don't think so. I mean, this law has been changing constantly and frankly, with the juvenile court law, or juvenile laws, as it should. Because as we know, things are developing, things are changing all the time. And with juveniles, we have to be up-to-date. So we have the same facility right now that's been used for the current law and the law before that and the law before that, and it's to my understanding it's been fine so far.

BRANDT: Because I come from a place where we don't have any juvenile detention facilities. They are going to have to put them and tie up a sheriff's deputy and drive to Lincoln is probably the closest one for my four counties down there, because it's always a problem to have a juvenile. So what they're looking at is a much different scenario than what the--

MARK HANNA: Understood.

BRANDT: --are looking at.

MARK HANNA: And my response to that is, would I rather have a sheriff take time out of their day and drive a juvenile who is extremely dangerous to a different county to be placed or have the people of my county suffer and have additional things happen because we've had businesses lose tens of thousands of dollars from just repeat offenders going through the same business.

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BRANDT: OK, thank you.

MARK HANNA: Thank you.

LATHROP: Senator DeBoer.

DeBOER: Thank you, Senator Lathrop. Thanks for your testimony. I thought I had it, now I think I'm a little confused again. Let me see if I can go through this with you. So under current law, goes to intake, run their assessment, score is super scary kid. They think, we've got to retain this one.

MARK HANNA: Yes.

DeBOER: So they-- he goes to juvie, some kind of juvenile detention.

MARK HANNA: Yes.

DeBOER: How long can he stay under current law in that juvenile detention before he sees--

MARK HANNA: Still 24 hours.

DeBOER: Still 24 hours. So that doesn't change anything.

MARK HANNA: Correct. Twenty-four judicial hours, just want to make that clear.

DeBOER: Yeah, OK. So then, same scenario, what changes under this law?

MARK HANNA: So and that's why I wanted to get some of those examples. For example, the child who had two sexual assaults on the record and then got picked up for an arson, juvenile intake-- the problem with the assessment, it's just not reliable. It's not validated. Any person can do it. I think if we give every person in this committee that assessment on the same situation, you all come up with different scores.

DeBOER: So, so--

MARK HANNA: So we have that juvenile who is a danger--

DeBOER: Wait, let me stop you for just a second. You say the assessment is a bad assessment.

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MARK HANNA: Correct.

DeBOER: Can we solve the whole problem by changing the assessment tool and getting a better assessment tool?

MARK HANNA: You know, I don't think so. And I, I don't know, because that has been a problem that we haven't done. And I think that when you look at the letters of support we have the Nebraska Psychological Association in support of this bill, and they're in support of this bill for a reason. So a lot of things that isn't-- hasn't been taken into account in the previous law or the current law is a lot more factors. And what this does is it looks at a kid from every angle and more the totality of circumstance, which is what we want with juvenile court. We want the judge, the pathfinder to know all of the facts and everything that's going on. I see no harm in making a judge hear all the evidence, whether it's about the crime, the family situation, the socioeconomic situation. I think that's all important.

DeBOER: So, so, OK, so imagine I now have a fabulous new instrument, hot off the presses, best thing. Do we need to have this "shall retain" if we already, if we have this really good instrument that's going to get us to figure out the really scary situations and, and get the kids? Do we need it or do we not need to [INAUDIBLE]?

MARK HANNA: I don't even know if that exists.

DeBOER: Well, OK. But let's say it does.

MARK HANNA: And I don't think it does.

DeBOER: OK.

MARK HANNA: But let's say it does, OK.

DeBOER: Let's say it does, for purposes of this argument. So, so what I'm trying to say is, are we really-- is the root of the problem really that we're just not able to determine where those really scary cases are? Because, you know, I could do something less than a Class I or IIA and still be a real problem.

MARK HANNA: Right.

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DeBOER: Right? You could, you could catch me doing something minor, you have a sneaking suspicion that I've got an intent to go about and do something terrible, and a better assessment might get that. Whereas kind of having a list like this doesn't necessarily get at that then.

MARK HANNA: Correct.

DeBOER: OK. So then the other question I have, because I really-- OK, under this bill, can you detain-- I don't know how to say this, can you ever detain a juvenile for more than 24, I'll say new hours, right? So does this add 24 hours while they're waiting to see a judge, or does it ever add more than that?

MARK HANNA: So this bill does not change anything in terms of requirements on when to see a judge. This does not change anything.

DeBOER: So the only thing it's doing is providing more information to the judge?

MARK HANNA: Yes. And letting the judge hear about the case beforehand, which does so many wonderful things in juvenile court.

DeBOER: So instead of, so instead of catch and release, it's catch-- I heard the branding of pause, so we're going to have this 24 hour pause that--

MARK HANNA: And by pause, not everybody [INAUDIBLE].

DeBOER: No, I mean, I haven't heard lots of people talk about it. But go ahead.

MARK HANNA: What I meant by pause was we put a pause on what the kid is doing and let the judge give this kid the services he needs at that time to stabilize. Because as we know, these children, when they're doing these high-risk things, there's something else going on. We need stabilization. So that's what I meant by pause.

DeBOER: OK, so can that pause ever be longer than 24 hours?

MARK HANNA: Yes, only if they're picked up on a Friday, because of courts are on Monday.

DeBOER: Twenty-four judicial hours.

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MARK HANNA: Yes.

DeBOER: All right. Well, that cleared nothing up, but it cleared up a lot of things, I still [INAUDIBLE].

MARK HANNA: And I know it's a complicated bill, so if anyone has any questions--

DeBOER: No.

MARK HANNA: --please, I'm more than willing to sit down and answer any questions.

DeBOER: I appreciate this. Thank you.

PANSING BROOKS: I haven't talked.

LATHROP: What?

PANSING BROOKS: I haven't asked a question.

LATHROP: Oh, I was thinking it was your bill.

PANSING BROOKS: No.

LATHROP: No, no, I'm sorry, Senator Pansing Brooks.

PANSING BROOKS: This is Senator Geist's bill.

LATHROP: I apologize. Actually, it should be very evident to me that it's not your bill, but [LAUGHTER] I knew you had an interest in it.

PANSING BROOKS: I do have an interest.

LATHROP: We'll let Senator Pansing Brooks ask some questions.

PANSING BROOKS: Thanks very much, Chairman Lathrop. So thank you for coming. I guess you talked about changing the assessment tool. You talked about saying that probation isn't doing their job. But of course, if that's true, that's the state. I mean, they aren't here to defend themselves, so I don't know if that's true. It's your word versus no one's right now. So what I-- and I'm, I'm frustrated because we have worked on this. We have used best practices. Yes, there are some dangerous kids out there. And I am sorry. And I feel so-- I feel

terribly for the Herrera family. There's no question. I appreciate the Lincoln Police Department union person that came in, but we, we cannot over-- over-police, over-collect children because one's going to slip through, because we're going to get too many who are innocent in that regard. So to say that probation, i.e. the state, is not doing their job and therefore we have to arrest children and bring them in, to me, it's just totally the wrong thing. And that's what we continue to have. Why aren't you coming in with a bill to force probation to do their work rather than coming in and saying children must be detained? We've got under 12, so how young should that be? A five-year-old? Because in my children's elementary school in kindergarten, there was a little boy who digitally assaulted another little girl. So should that little boy have been arrested and detained and held in detention?

MARK HANNA: Potentially.

PANSING BROOKS: Oh, potentially?

MARK HANNA: Yes.

PANSING BROOKS: Thank you. OK.

MARK HANNA: And frankly, this is why I want this bill, is because the juvenile court judge needs to hear the evidence and everything. Because in that case--

PANSING BROOKS: OK, so we--

MARK HANNA: --and I would like to respond because in that case, if that juvenile has a history, gets detained, what can the judge do at that point? The judge can ask the questions, what can we do to get him out of detention and put him in a safe environment? Because should that child who sexually assaulted their classmate go to school and sit next to that classmate again? My answer is no.

PANSING BROOKS: OK, well, there can be other situations, they can move the child out of the class. It doesn't have to be that way. The reason that we've dealt with this before and created it was that the kids under 12 would go to the 3A and they would be dealt with by Health and Human Services. They cannot create the mens rea, a child of five-- have you met a five-year-old child?

MARK HANNA: Yes, and--

PANSING BROOKS: A five-- excuse me. A five-year-old child cannot create and does not have within them the ability to have the mens rea to the guilt to make a decision that they are going to go for it. And if you say that a child of five has the ability, I--

MARK HANNA: I'm not saying that.

PANSING BROOKS: OK.

MARK HANNA: I'm saying that. What I'm saying is community safety matters, the safety of the victims matter.

PANSING BROOKS: Absolutely.

MARK HANNA: And in this particular case--

PANSING BROOKS: We agree to that.

MARK HANNA: --the 3A side is-- the, the problem is for a county attorney to file a 3A case, that's on a parent. And for us to do that, we need an affidavit. And for us to give an aff-- who writes that, who gives up that information? So the problem, it's about--

PANSING BROOKS: So go after the child, not the parent?

MARK HANNA: For a 16, 15, 14-year-old kid.

PANSING BROOKS: You're saying 12 and 5 so--

MARK HANNA: So in this particular provision, if you look at the language and what we--

PANSING BROOKS: I am looking.

MARK HANNA: --did here is we tried to make a tiered system. So you have the juveniles who just threatened, the juveniles who seriously threatened and then severely threatened. And then--

PANSING BROOKS: A child of 12 age or younger shall not be placed in detention unless--

MARK HANNA: Severely threatened.

PANSING BROOKS: So you're saying a five-year-old.

MARK HANNA: Yes.

PANSING BROOKS: And we had a five-year-old. We purposefully change this because we had a five-year-old and a nine-year-old. We went through all of this four years ago because we determined that they could not create the mens rea, the guilt, the criminal intent to commit that crime.

MARK HANNA: Listen, I agree with you. Five-year-olds, 99.9 percent do not belong in detention.

PANSING BROOKS: And you know what? Let's just, if we put them all in prison, then they'll grow up and we don't have to deal with them anymore.

MARK HANNA: That's not what this bill does.

PANSING BROOKS: OK.

MARK HANNA: And I know it's being a little contentious because you did the previous bill and the law. And I appreciate that. And what we did in making this bill was take all of that into account. That's why we tried to do this tier system. So a five-year-old being detained, the odds of that happening is most likely going to be never under this law.

PANSING BROOKS: It's happened in Nebraska. It happened just recently. That's why we brought this and made this change in the statue.

MARK HANNA: I understand that, but the odds of that happening is extremely, extremely slim. But frankly, the odds of that happening over the odds of a 14, 15, 16, 17-year-old committing a stabbing, a strangulation, an assault, a robbery, drive-- motor vehicle homicide is far greater than that even happening. All this bill does, it doesn't give the state any more power.

PANSING BROOKS: Yes, it does.

MARK HANNA: Juvenile probation is part of the Judiciary Branch. It does not get the Executive Branch any power. All it does is gives the judge the ability to hear the case and do services.

PANSING BROOKS: All it does--

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MARK HANNA: At that detention hearing-- sorry. At that detention hearing, you'll get arraignment. That will happen right then and there. You'll get the judge ordering preadjudicative services right then and there. You'll get the judge setting a detention interview and a pretrial very soon, so those cases get heard by the court for adjudication a lot faster.

PANSING BROOKS: And I love the verbiage. A pause for a month, a pause.

MARK HANNA: There's no--

PANSING BROOKS: A pause for a month.

MARK HANNA: No, be-- the only time that will happen for a month is if a juvenile court judge orders that. And if a juvenile court judge orders for the juvenile to remain detained, then they should be remain detained because of their risk that they pose.

PANSING BROOKS: Or--

MARK HANNA: I mean, how do I-- the reason I'm here, Senator, is because I worked in juvenile court. I practiced these cases and I had to see parents and victims face-to-face. And they tell me, why is the state not doing anything? Why is this happening? I'm here because I felt it was my job and duty as a prosecutor representing the state to do the best I can for these individuals. And I understand that juveniles being in detention will potentially hurt them. I get that I'm trying to do a balance here. And that's exactly what the Nebraska Psychological Association wrote in their letter of support for this bill. I'm trying to find a balance. And yes, there are some extreme cases out there and I agree with you, but we're not disagreeing on that. And I actually did appreciate your older bill, and you used some of the logic behind that in trying to create this tiered system here. So what this bill does is letting a judge hear the case faster, sooner, more services and protecting the community.

PANSING BROOKS: So this is-- have you, what have you seen in the past two years? Because this bill has only been law for two years.

MARK HANNA: Every--

PANSING BROOKS: What is it that's happened that has significantly changed things within two years?

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MARK HANNA: Every scenario that I previously mentioned happened within the last two years. That's-- most of them happened last year--

PANSING BROOKS: OK.

MARK HANNA: --in 2020. So we had this juveniles being released.

PANSING BROOKS: And what about prior to that? Didn't happen?

MARK HANNA: Not as much--

PANSING BROOKS: Because what I'm hearing from the, the Supreme-- the Chief Justice is that our numbers are going down, that we're doing better. We're detaining fewer people. Those are the goals.

MARK HANNA: Correct.

PANSING BROOKS: The goals of the state

MARK HANNA: Absolutely.

PANSING BROOKS: Including safety.

MARK HANNA: But the question is the goal of detaining less. You can detain less by not arresting juveniles for committing serious crimes. That reaches your goal. The goal is to have the proper juveniles detained. And that's what we're trying to do in this bill.

PANSING BROOKS: OK, I just have one more question. You said something about no attorneys in Douglas County--

MARK HANNA: No, I did not say that. I said--

PANSING BROOKS: OK.

MARK HANNA: --they will always have an attorney in Douglas County.

PANSING BROOKS: Oh, always. I thought you said there were not, and I was--

MARK HANNA: No.

PANSING BROOKS: OK.

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LATHROP: Then we'd have another thing.

PANSING BROOKS: Another giant issue.

LATHROP: We'd be here for a little more conversation.

PANSING BROOKS: We'd be for a while.

LATHROP: Yeah, we'd be here a while. Any other questions--

PANSING BROOKS: Thank you. Thank you for your time.

MARK HANNA: Thank you.

LATHROP: --of this testifier? I very much appreciate you answering the questions, informing the committee, telling us why you're a proponent. And with that, we will hear from the next proponent.

MARK HANNA: Thank you.

LATHROP: Yes. Thank you, Mr. Hanna.

AARON HANSON: Chairman Lathrop and honorable members of the Judiciary Committee, my name is Aaron Hanson, A-a-r-o-n H-a-n-s-o-n, I'm here on behalf of the Omaha Police Officers Association, 13445 Cryer Avenue. Before I go into my thoughts, I want to, I want to try to connect a few concepts that I think came up that are unique, probably more so to the frontline responders than to the prosecutors. I oftentimes have to put out officer safety bulletins on the young people that Mr. Hanna was referring to, to let people know, hey, we have this young juvenile offender on the run. They've cut their monitor again, they've run again, they've run from group home again. If you find them, please contact me. Please contact the probation officer, contact me. As luck would have it, normally that happens at 3:00 a.m. or after midnight. And then there will be a conversation that will be had with the intake officer. And if that conversation doesn't go well, you'll call the intake supervisor and you may keep going up the chain. What we consistently hear from those professionals is when it comes to the 12-year-old repeat offenders, we have no options. We cannot detain under any circumstances, and I think that's been clear. For the over 12-year-olds, we often hear, again, we have no option. There's risk to property, there's risk to the juvenile themselves for engaging in the behavior. And I can tell you this, the, the operational definition of

risk to the public is extremely broad. It's, it's much more conservative than you would think. And so I wanted to kind of draw that connection. So I think this bill, LB537, will give intake more confidence to make those tough, real-time decisions when it is a high-risk kid. I am a police professional, I'm 20-- in my 24th year, soon to be 25. I'm a dad. My kids are 20, 18, 15 and 10. My kids are the range of kids that I oftentimes, unfortunately, deal with at work. I'm gonna put my police hat off. I can't make it, you know, it's not going to be off the table, but I need people to understand that it's a very scary reality, not only for these juveniles that are engaging in these repeat violations and these repeat crimes escalations. I talk to the parents. They're scared, they're frustrated when their kids are constantly running, engaging in increasing levels of crime. There's nowhere to put them. There is nowhere secure to put them that they can't run from in this area, other than Douglas County Youth Center. And I talked to a mother who actually had to ram a stolen car off the road driven by another juvenile offender because her juvenile probationer daughter was in the car. She had to damage her car to ram that car off the road because her daughter repeatedly would run away and run away and run away. And there was nothing that the system could do, even though she asked repeatedly, detain my daughter so that we can figure out what to do next. I'll answer any questions that you have.

LATHROP: Senator Slama.

SLAMA: Thank you, Chairman Lathrop. And thank you, Sergeant-- sergeant or lieutenant, we had this discussion yesterday?

AARON HANSON: Well--

LATHROP: Used to be sergeant.

AARON HANSON: Here it's lieutenant, out there it's sergeant.

SLAMA: I really do appreciate you being here today and your perspective. When you say there's nowhere else to put them, can you give us, like, a real world perspective of what that means, beyond your example that you really briefly touched on it? Mr. Hanna talked about the GPS tracking, the shelter placements. Are those not working as intended or--

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AARON HANSON: We see repeatedly, and again, I'm talking about these high-risk kids. I'm not talking about the majority of the kids out there. We repeatedly see these high-risk kids foiling these surveillance capabilities, somehow cutting off a titanium ankle monitor, I still don't know how they do that. Wrapping them in tinfoil so many times so that they cannot send a signal, running repeatedly away from the group homes only to have us take them right back. Because, again, the only criteria under current law is you have to be able to prove that they are a risk to public safety. Again, that's under the current, under the current culture, that's a, that's a far reach. These kids that are the high-risk ones that constantly run, there is nothing in this community that I have seen that can hold them. We've recently sent one kid out of state, they're ready to send him back because he has been so assaultive to their staff. It's, it's a serious situation.

SLAMA: And would you characterize LB537 as cutting back on the tools available in juvenile justice? Or would you say it gives us a little bit more discretion to get these youth the services they need?

AARON HANSON: I think LB537 will make certain lines bright in terms of the most serious crimes. And I think LB537 will give intake officers more confidence, give them more guidance to be able to make those decisions on a case-by-case basis, especially in collaboration with that kid's actual probation officer. Don't take my word for it. Go talk to the social workers dealing with the high-risk kids. Go talk to the probation officers dealing with the high-risk kids. They are just as frustrated. Go talk to these people in addition to the prosecutors and the police, and you will hear similar themes of frustration.

SLAMA: Themes of frustration because there's no other options for those youths once you've exhausted those already in place?

AARON HANSON: Not only no additional detention options for these youth, but on a larger level, we want these kids to succeed. We want them to, to be healthy. We want them to successfully graduate and progress from juvenile probation. We're not seeing that with these high-risk kids. We're seeing them picking up more and more serious crimes and then progressing into the adult system. The vast majority of us are parents. And we want these kids to do well, and under the current system, unfortunately for the most high-risk kids, it's only making them worse in many cases.

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SLAMA: Thank you.

LATHROP: Is your hand up?

DeBOER: Yes.

LATHROP: OK, Senator DeBoer.

DeBOER: So it looks like the "shall detain" applies to 1A, 1B, 1C, 1D, 2 and 2A felonies, which I have to tell you, I don't have them all memorized. But I imagine you probably know what a lot of them are.

AARON HANSON: Yes.

DeBOER: So are there any of those classes of felonies where we wouldn't say-- what I'm trying to get at is can a kid be arrested for one of those and maybe not be a severe risk that they will do something again? Can it be a situation where they did a one-off or, you know, something like that?

AARON HANSON: That's a great question. I think that's possible, and I think that looking at that juvenile's individual story, their fact pattern, family life, the support system they have at home, I trust the judges to look at those fact patterns and say this is a one-off, send them back home. Or this is maybe a two-off, send them to a, a group home. That doesn't define the kid in and of itself, the child in and of itself, but it's enough of a warning flag to say, OK, time out, let's make sure that our next step is carefully taken.

DeBOER: So in that situation, then it looks like this would detain the child for the 24 judicial hours.

AARON HANSON: Judicial hours, yeah.

DeBOER: Yes. To determine then or to get that more information to figure out whether or not they were releasable or not. Is that kind of the structure of it?

AARON HANSON: I don't know if it's a matter of releasable or not. I think it's, it's a matter of how are we best going to-- how are we going to best do two things: provide appropriate services to this young person, but then also counterbalancing that with that insurance

policy for the public. How are we going to counterbalance those? It maybe a combination of a zero curfew and a ankle monitor? It may be--

DeBOER: What is zero curfew?

AARON HANSON: Zero curfew may is you cannot leave. You can't leave your house unless you get permission. You could go to school if your parents allow or your probation officer allows. You could be detained at your house. It could be, it could be a curfew in general. There are so many different options that would be case-specific, and I trust the judges to be able to make those final calls. But only because they've heard both sides of the equation. They've heard an advocate for the juvenile and an advocate for, for the state.

DeBOER: So, so I've gone on some ride-alongs with you, and I've been in other circumstances where we've seen some kids who are getting into a lot of trouble. I mean, they are habitually getting into a lot of trouble. Would detaining them, I mean, it seems like if they're system-involved already, those wraparound services should already have been, have come from some other source and they must be failing. So is this going to, to provide anything new in those situations?

AARON HANSON: Senator, that's, that's a great question. And I think that this bill, as important as I think that this bill is to pass, I think this bill begs the next question, and that is do we have appropriate, secure options for high-risk kids across the state? Whether it is in the preadjudication point in the process or when they're, once they're on probation and maybe need another pause, if they're escalating, to slow them down and give them services. I don't think that answer is, is yes right now. I think that, and I tell you why, I have sat in homes in some of the poorest parts of Omaha and I have sat in half-million dollar homes not far away from my own house. And I have heard the same stories shared by parents, and I've seen the same trajectories with high-risk juveniles. And in both cases, the common denominator is that the options have become so limited that it has become dangerous for the community and not only the kid. And I might add that half-million dollar house I sat in, that young man was recently murdered. And that was in my community, the community I live, and this is goes across every community.

DeBOER: Thank you.

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LATHROP: Is your hand up?

PANSING BROOKS: It is.

LATHROP: OK. OK, I didn't know if you were waving at me.

PANSING BROOKS: I am waving.

LATHROP: What was happening. OK. Senator Pansing Brooks.

PANSING BROOKS: OK, thank you for being here, Lieutenant Hanson.

AARON HANSON: If you say it three times, it's official.

PANSING BROOKS: It's true. It's God's truth at that point. So it's my understanding that, I mean, with the hideous, horrible case for that wonderful man, Officer Herrera, that there was an adult warrant for felony assault, that there was also a juvenile court warrant for running from Boys Town. So I don't know how this bill would have helped in that case anyway.

AARON HANSON: Well, I see it differently. I've reviewed that case on public databases. And I saw a repeat sequence of absconding juvenile warrants, out-of-home placements, absconding juvenile warrant out-of-home placement. And I, and I believe that in at least one of those cases and maybe more that one of those absconds scenarios happened in Omaha. And it's tough for us in Omaha, we don't want to lose an officer for sure, but we, we've been-- our officers have been shot at by juveniles in similar situations to that young man. I never figured it would initially-- it would ultimately happen in Lincoln, but it did. But it just as easily could have happened in Omaha, that's where he fled from.

PANSING BROOKS: Well, we all agree that somebody like that needs to be off the streets, so that-- but the problem is that then once we open up and make changes after we've made real positive change that the Chief Justice has spoken about. This was just two years ago, which has barely given us time to see the benefits of that change. But I think from what I've heard from the Children's Commission, from the various groups there, that probation is doing a good job. So and the judges have the ability to see and judge what to do in a situation. So, you know, I think we need to reopen the Lincoln Regional Center, these-- a lot of these kids to have a mental health issue. And we're-- just to

say, oh, we're going to open up the ability to go after these kids and detain them, that doesn't necessarily get to the root of the problem or present a fix.

AARON HANSON: Senator Pansing Brooks, I, first of all, if this was an appropriations bill to build a safe, secure mental health facility for juvenile, high-risk juvenile offenders or juveniles in question or juveniles in general, I would be your biggest ally. I would be first in line to testify.

PANSING BROOKS: Well, good. Next year.

AARON HANSON: But let me, let me make sure we're clear when we talk about statistics. We can, we can be proud all day long of reductions in detention rates. But at some point, we have to remember that we also, while those numbers were happening, there was also a 61 percent increase in homicides. We've also seen spikes in violent crimes from juvenile offenders. And I can tell you, because I've dealt with, rarely, rarely, rarely do I wake up and read a name of a juvenile offender engaged in one of those violent crimes that I don't know immediately and know his mom or have heard his name. And Senator Pansing Brooks, you, I have to give you credit. You bringing the rehabilitation argument to the forefront has been crucial. And I thank you for that. As someone that engages in mentoring and I want to work young people into skilled labor trade jobs, your rehabilitation emphasis has been extremely valuable.

PANSING BROOKS: But?

AARON HANSON: But we need to bring it back, we need to just swing that pendulum back just enough. Because unfortunately, we are seeing some unintended consequences and, and again, this is not a law enforcement tool. I'm not asking you for this to put more cases on people. I'm asking for this to keep our communities safer and to give these most high-risk kids a better chance. I hope you believe that when I say that.

PANSING BROOKS: I believe you believe it. Thank you for your time.

LATHROP: OK, Senator McKinney.

McKINNEY: Just sitting here listening, I know I wasn't in for the full hearing, but it kind of, you know, relates back to the 90s for me when

a lot of individuals were coming in front of, you know, legislatures and things like that, trying to be tough on crime. And in my opinion, that was a fail-- it just was, it, it didn't work, trying to be tough on crime and trying to do what you're, you know, what this bill would do. I think, you know, I understand that, you know, there are some youth in the community that repeatedly do stuff. But I just don't see this as the solution to getting to the-- to solve this problem.

AARON HANSON: Well, Senator McKinney, I, I remember those years. I mean, I was hired in the police department in '96. I remember those discussions. I can tell you that I think that today, especially-- I can't speak for all law enforcement but law enforcement that, that find commonalities with, with my views and with prosecutor Hanna's views, this isn't a lock them up and throw away the key approach. Again, don't lose sight, this is 24 judicial hours and then the judge decides from there. It's about letting probation intake feel confident that they can make a decision that's not in violation of, of, of statute. It's about more options. It's about one-size-does-not-fit-all. And, and I think, unlike the 90s-- I have bought into many of Senator Pansing Brooks's concepts that she's fought so hard for. I believe in the rehabilitation option, but we have to have a way to slow the momentum when we see it on the upswing.

McKINNEY: I don't know, I just, I know a lot of these kids that end up getting killed and that end up in the system, and as-- I'm, I'm not here to try to defend anything they do, but I grew up in that environment and it-- to me, I just don't see this as a great solution. I'll just say that, because I'm just, I have firsthand experience with everything you're stating. I've been shot at, I've been-- I could sit here and just go through the list of all those things and been in that environment. And I don't think this is taking into account that type of experience and that type of trauma. And I think it would be-- getting arrested as traumatizing, sitting inside of a cell is traumatizing. And I'm not going to say they should be doing what they're doing, some of them. But I just don't agree with this.

AARON HANSON: Senator McKinney, I agree with you. And I think-- I was listening closely to Senator Geist on her opening statements. I agree with you, being in detention is traumatizing. But you have to ask yourself, what is more traumatizing, being in a cell for 24 judicial hours or going right back out in the street to either engage in violence, a victim of violence, witness of violence? I've seen some of

the conditions these kids live in when they were on the run. And it is not good, and it breaks my heart. And I think about my kids in those situations, and I cannot imagine the pain that these parents are going through and the trauma that that is causing on these kids long-term.

McKINNEY: Would you be willing to acknowledge that the legislation passed in the 90s created this symptom and this, and this effect? The, the effect of it all is it goes back to legislation in the past where you have families without fathers, you have homes that are broken up. It's so-- the drug laws and all that, that is the problem. And we don't solve that, we don't, we don't right the wrongs of the past by doing stuff like this.

AARON HANSON: Well, you and I could have a long discussion, and I hope we will someday, about things we're leaving on the table when it comes to young men especially, and young women, that do find themselves incarcerated under supervision. I do think there's more that we should be doing. So I agree with you on that.

McKINNEY: Thank you.

LATHROP: I don't have any questions.

AARON HANSON: Thank you.

LATHROP: You know what, maybe I do have one. This is, this is the part of the bill that we haven't talked about, which is on page 2, 17-20. You don't even need it in front of you. We generally don't have kids under the age of 14 in the YRTCs, and this would allow for placing kids in the YRTCs if they, somebody decides they pose a significant risk to the physical safety of other persons. And I'm a little troubled by having, say it's a 12-year-old go out to Kearney and now be in a, in an environment with an 18, 17-and-a-half-year-old kid.

AARON HANSON: Yeah, so, so first of all, I, I--

LATHROP: Maybe you can't speak to that. If you can, I'd like to--

AARON HANSON: Well, I don't, I don't disagree with that concern. I'd like to think that DHHS has-- I would hope that they would have it within their ability to safely keep kids separate in those type of situations. I'm not an expert in that area and so--

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LATHROP: OK,

AARON HANSON: I can tell you this that's not the biggest issue for me.

LATHROP: [INAUDIBLE]. We spent a bit of time on the YRTCs and send, sending a very young child out there to hang around with older children, I think it's got to be a huge PREA risk of some kind, but I wanted to throw that out there in case some--

AARON HANSON: That's not a part of the bill that I am as focused on. I understand why it's in there, because ultimately a kid does have to go somewhere. And to Senator Patty Pansing Brooks's point we discussed earlier, there's not a lot of other options in the community right now.

***BRUCE PRENDA:** Chairman Lathrop and members of the Judiciary Committee: My name is Bruce Prenda, and I am testifying on behalf of the Nebraska County Attorneys Association in support of LB537. Please accept this letter to be included in the official hearing record. In 2018, LB670 was enacted in the interest of reducing reliance on juvenile detention and developing a system of juvenile detention alternatives. The alternative approach was grounded in a national juvenile detention alternatives initiative (JDAI). However, LB670 (2018) has proven to be too sharp of a systemic change. We advised at the time and remain convinced that what was needed was a careful and deliberate incremental change in the juvenile detention landscape, consistent with detention alternative principles. We also cautioned against the bill's considerable legislative interference with judicial discretion to do what is in the best interest of the juvenile based on the history, character and condition of each individual juvenile brought before the Court. Today, the failures of LB670 (2018) can be linked to an increase in violent juvenile crime, particularly robbery, burglary, and firearm-related offenses in Nebraska's largest jurisdictions. Therefore, LB537 is a vital legislative correction, consistent with juvenile detention alternative principles, but recognizing and weighing more equally the interests of public safety, juvenile safety, and law enforcement safety. It is not fair to ask law enforcement to repeatedly arrest and detain juveniles, many of whom are armed and dangerous. Each instance of re-arrest is more difficult to perform and carries greater risk to officers and individuals than the last. LB537 is a modest approach to restore a degree of judicial discretion in decisions involving juvenile detention and will greatly

assist law enforcement. The NeCAA strongly encourages your SUPPORT for LB537.

LATHROP: OK. I think that's all the questions we have for you. I think we'll go to opponent testimony. We just spent an hour on proponents. I realize a lot of that was questions, sorry. But I think we probably covered the ground, too, I got to believe. So let's move to opponent testimony. I violated my half-hour rule by about 30 minutes.

SLAMA: Oh, it's just Friday.

LATHROP: Good evening.

JENNIFER HOULDEN: Good evening. Jennifer Houlden, H-o-u-l-d-e-n, chief deputy Juvenile Division, Lancaster County Public Defender's Office, here on behalf of my office and the Nebraska Criminal Defense Attorneys Association to strongly oppose LB537. Three minutes is inadequate to identify the grave harm that the changes of LB537--

LATHROP: Hang on a minute, you're going to have to get closer to the mike. You got a couple layers on.

JENNIFER HOULDEN: OK, I'm going to take my mask off for this one, I think.

LATHROP: Yeah. Thank you.

JENNIFER HOULDEN: OK, I want to hit some high points. I'll certainly take question. This is hugely regressive of decades of work that have culminated in recent legislation, as well as legislation dating back 10 years, as well as the Office of the Court Administrations and Office of Probations Nebraska Juvenile Detention Alternatives Initiative. This is founded on long-established data that you can safely reduce the use of secure confinement without impacting public safety and that youth placed in detention are at risk for higher adverse outcomes in all domains. Most of my concern revolves around any mandatory detention based on grade of offense. It creates a schedule including felony 2A as above. And with all due respect, this committee has previously heard misleading testimony about the nature of Class IIA felonies and above, as if they're the worst of the worst, that they're kidnaping and murder. Those crimes are extremely rare in all communities in Nebraska. And F2A felonies include innocuous crimes that could not possibly require detention. Real life examples are

purchasing $10 of weed and splitting it with your friend, taking candy from a Parks and Rec shed in a Lincoln park, giving one of your mom's Xanax to your friend, and the colloquial bully who says: Give me your lunch money in a scary voice. That's robbery. These are much more common charges for juveniles to be charged with. Theft crimes. What used to be considered a joyride of a car worth $5,000 is a felony. And this creates a scheme in which these kids, who it may be their first contact with the juvenile justice system, are mandated to be detained. Twenty-four judicial hours can be from Thursday, 3:00 a.m. till Monday at 3:00 p.m. If that kid does not make the detention list in the morning, and I'm speaking of my day today, they will not necessarily get into court, and that harms the kids. High-risk offenders are being detained. A risk to community safety justifies detention under the current scheme, as does missing court. We are catching all of these kids that are being cited in inflammatory examples. They are being detained. They are being detained for long periods of time looking for appropriate treatment. And these are children. And rehabilitation needs to be the focus. If you only use criminogenic intervention tools such as locking kids up, locking kids up, then they flow automatically to the criminal justice system because that's how they've been treated their entire time. I would like to raise just a couple of examples that waivers of detention hearing only result in continued detention and that there are overrides in the assessment tool. Thank you.

LATHROP: OK, any questions? Senator Slama.

SLAMA: Thank you, Chairman Lathrop. And thank you for making the time to testify today. Just based off of the extensive proponent testimony we've just had, we've had several examples outlining where the system isn't working, where these youth aren't being detained, where the GPS tracking is getting cut off their legs, they're running away from shelters, and there is no other option. There's no other place to put them. So what alternatives should we have? Where, where are these systems-- how can we make up for the shortcomings in these systems to face the problem that we do have?

JENNIFER HOULDEN: Well, I think on the margins, there's always going to be examples. I don't think any statutory scheme can be perfect and--

SLAMA: Shouldn't we have a system, though, that ensures that those youth that are on the fringes, that are falling through the crack,

cracks have a way to-- the, the courts have the discretion to detain them if necessary?

JENNIFER HOULDEN: The court always has the discretion to detain a youth who is exhibiting a risk to community safety, sexual assault, possession of a weapon, assault--

SLAMA: But that's tough to get to. We just heard several examples of that not being tenable. The reasoning to detain a youth to where these kids who are flight risks are heading out from shelters, they're avoiding the system. Shouldn't we have a safety net in place to ensure that those juveniles can get the resources they need, that they're not currently getting?

JENNIFER HOULDEN: On a couple of points. Juvenile detention is not a safety net. It's not psychiatric treatment, it is not behavioral health intervention. It's not a time-out. It is not a pause. Juvenile detention serves the purpose of jail for children. And I would dispute that the examples that are provided of sexual assaults not being detained and weapons offenses not being detained are in any way indicative of the system. I agree that if there are problems with the instrument, but there's also the ability to override in the instrument. And I do not think that the answer in our system of laws is to overcorrect and on the backs of first-timers with nonviolent, nonserious offenses, which I think we can all argue that taking the candy from the Parks and Rec shed is a nonserious offense that doesn't require detention. We don't overcorrect and grab everyone and detain everyone. That's what this bill does, in my view, is creates categories that are going to not permit a child who does not need to be detained, who will be traumatized by that detention, who must be detained, must be detained. And I think that to do that is ignoring all of the evidence that we have been using and integrating into our juvenile code for 10 years. And I do not believe that lowering the age to YRTC, that age has been in place since 2013, there is no evidence that that's warranted that's been presented. We have heard inflammatory examples that, that make everyone upset. And I understand that. But I think from a policy standpoint, I'm concerned about the lower-risk kids that are necessarily grabbed by this too.

SLAMA: Sure. So obviously, you have concerns with the mandatory detention part. Do you-- are you a little bit more open to the concept with these kids beyond the high-level felonies having that option, the

expanded option for detention, something additional to put in the juvenile justice toolbox?

JENNIFER HOULDEN: Well, what, what tool are-- I guess what part of the bill are you asking about?

SLAMA: I'm talking now about the first section, expanding the juvenile detention to mandatory for the high-level, high-level felonies, the more restrictive part saying that if detention is deemed necessary, it can be used. So expanding it beyond what the current definition is.

JENNIFER HOULDEN: I would absolutely oppose any detention to the protection of the self of the child, which is included in this bill. That's what hospitalization is for. Do I-- I do object to all of the expansion in this bill to be clear.

SLAMA: OK, so you object to-- got it. Thank you.

JENNIFER HOULDEN: Yes.

LATHROP: Senator DeBoer.

DeBOER: So under the current system, do we have a catch and release for all 12-year-olds and under?

JENNIFER HOULDEN: Catch and release for all 12-year-olds and under, is detention currently permitted for 12 and under?

DeBOER: It isn't right?

JENNIFER HOULDEN: It is not.

DeBOER: OK. So if I catch a 12-year-old, the 12-year-old is in crisis, is going to hurt someone if they're released, what happens?

JENNIFER HOULDEN: I think that you're presuming a lot of things by saying a 12-year-old is going to hurt someone if they're going to, if they're released.

DeBOER: I'm, I'm feeling very strongly that might happen.

JENNIFER HOULDEN: OK. And presumably that would be based on probable cause for some sort of law violation of violence.

DeBOER: Sure. Yes.

JENNIFER HOULDEN: I would submit that that child should be screened by a mental health professional at a psychiatric inpatient facility to determine what the cause is, because a 12-year-old, looking at that behavior of a 12-year-old, the lens of criminal justice isn't the proper lens and it's not the proper intervention.

DeBOER: So in that case, you'd think that the appropriate place for the child would be some sort of commitment or something?

JENNIFER HOULDEN: I think an evaluation by a person, a psychologist, a psychiatrist, someone well positioned to evaluate what would cause a 12-year-old to act in this way is a appropriate intervention into that kind of behavior of a 12-year-old.

DeBOER: OK, so now let's say a 16-year-old. You got a 16-year-old who has gotten, let's say, herself involved in the wrong group of friends, and she is getting into a lot of trouble and she is, let's say, suspected to be the trigger woman of the local gang, i.e., you think she's been involved in some murders, some shootings before. But you can't, you don't really know. It's just kind of a thing. So you have these suspicions, right? OK. Now you pick her up and she's committed an act, some kind of violation with a gun. You've got her, she had a gun. Now what do you do with her? She goes into booking or whatever they call it--

JENNIFER HOULDEN: Juvenile intake.

DeBOER: Juvenile-- thank you. They take the whatever instrument they're going to use on her and they then decide, OK, she needs some services, but then does she go out, even though she knows-- they know she needs some services, does she--

JENNIFER HOULDEN: This is all very fact-specific. I've never seen a juvenile contacted with a firearm released. I've only seen them--

DeBOER: OK, that's helpful. So when they have a firearm, they're not normally just released?

JENNIFER HOULDEN: Absolutely not.

DeBOER: This is very helpful, thank you. OK, so--

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JENNIFER HOULDEN: The law is the one thing I know, I can, I can address some examples of how charges and process work. Certainly that, that, that situation doesn't happen. That, that individual does not get released. That individual also has all of that information of the suspicions given to juvenile probation and added to a long narrative form that's used in the screening tool. So it's, the screening tool is not a narrow look like the rules of evidence, for example. The screening tool is wide open: parents, school, prior mental health, law enforcement information that's not even necessarily relevant. All of that information is known.

DeBOER: And they have that in the immediate moment. They have all of that information available in some--

JENNIFER HOULDEN: It is like a session that happens, where law enforcement contacts the intake of juvenile probation, they meet, all of this information is processed. It's hours long, hours long, meeting with the parents, meeting with the child, bringing in law enforcement information, the arrest here. Their-- they can, all names are linked in law enforcement records so they can look at prior contacts, prior associates, and it takes a number of hours. And all of that is considered. And there are also overrides where even if we say, oh, your score is a nine, this says you should go to shelter, we think that mom, what mom said about what you said about the weapon that you were going to go get is enough. We're going to override you and detain you. So there's plenty of room. And that is what I see. That is my practice, is what I see. I've never seen a juvenile contacted with a firearm or even charged in relation to a firearm that was released at the intake phase.

DeBOER: OK, that's very helpful. So then who-- what are the, who are the professionals that are performing that intake session?

JENNIFER HOULDEN: So the Juvenile Probation Department has an intake team where there's a supervisor, a number of officers that attend highly specialized training with these risk tools, which they are state probation forms and they're all trained. And obviously it's a state agency. So they're generally used. I do think that the intake team might have a couple members who are credentialed with some sort of behavioral health or mental health. But juvenile probation officers attend a phenomenal amount of training to be able to assess what we might think looks like risk and isn't risk or what we might notice,

but is actually risky. So there's usually at least two probation officers. Law enforcement is always involved because they sort of summon juvenile probation, parents are coming. Information is coming from all of that.

DeBOER: So based on your experience and your knowledge of these intake officers, are you relatively confident that they can determine who is a severe risk to the community and who is a severe risk to themselves and who is not either of those things?

JENNIFER HOULDEN: I absolutely have confidence that they can determine who was a risk to the community. I think risk to self is an entirely other zone of concern and that juvenile detention is not the appropriate, because they do not provide any treatment services. It's detention. What I will say is we see, we see kids detained for concerning behaviors related to infraction-level offenses, related to reckless driving, related to theft. That has-- but when they look at the total picture, the current system looks at is this kid a risk to the community, not what is the grade of the offense. The entire--

DeBOER: Yeah.

JENNIFER HOULDEN: --juvenile court scheme looks at what does this kid need, what's going on with this kid? Not did they commit a Class IIA felony.

DeBOER: So that was my concern. You heard me talking to the police officer before about the various felonies that are included in that category and whether or not there might be a circumstance in which someone has been accused of one of those or brought in on one of those classes and then really be benign.

JENNIFER HOULDEN: Absolutely, I have a list of-- these are real, these are all real-life examples that I have provided. Burglary, taking candy from the park shed.

DeBOER: Yeah. So, OK, so that-- all right, I'm gonna let someone else ask questions, if there are any and I might have another one. Thank you.

LATHROP: Senator Pansing Brooks.

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PANSING BROOKS: Thank you. Thank you so much for being here, Ms. Houlden. I just want to reconfirm. Right now, judges have the ability to detain a juvenile, isn't that correct?

JENNIFER HOULDEN: Of course.

PANSING BROOKS: OK, so, you know, this is talking as if they don't have the ability. And they do have the ability.

JENNIFER HOULDEN: They do. And, and if they-- probation has the ability and regularly exercises it.

PANSING BROOKS: OK. So if probation doesn't detain a youth, can the attorney, the county attorney, come back and file a motion to detain and bring it to court?

JENNIFER HOULDEN: Yes. And they do.

PANSING BROOKS: Yes, exactly. So that, I mean--

JENNIFER HOULDEN: And that would happen at the charging phase. So the intake phase is maybe 24 hours before. But if the prosecutor that morning and the kid was cut loose and sent to shelter, if the prosecutor looks at the police reports, they file a motion for immediate detention is what it's captioned and it's filed and it's set for hearing and--

PANSING BROOKS: I, I appreciate that your discussion about the fact that this is rolling back all of those practices that are going on across this country.

JENNIFER HOULDEN: And what I will tell you is that I, I've been before this committee a lot in the past couple of weeks, and I am reentering juvenile justice. It's been about a year and a half. And all of the training that I've been involved in with national providers that are setting best standards are lauding the work that we are doing here in Nebraska. They are talking about the reforms since 2018, they are talking about the Juvenile Detention Alternatives Initiative as demonstrating how we can adequately protect community safety without secure detention being used as the only tool.

PANSING BROOKS: And this is part of the problem with term limits. There were only three people on this committee in 2017 that heard all

this before about best practices, what we were going to try to do. Attorney counsel Henningsen, Senator Morfeld and I were the only ones that heard all that testimony and discussion before. Now, all of a sudden, with a whole new change of Judiciary, we're trying to roll back these significant changes that were made, supported by Pew nationally. All sorts of-- NCSL, all sorts of national organizations are supporting this work and all of a sudden we're supposed to roll it back when there are other alternatives. The judge can act, the probation can act. And if they have a problem with what probation is doing, then they need to go talk to probation.

JENNIFER HOULDEN: And probation really does have a good tool. It can always be improved, certainly. But I do think that we are at the beginning of what will be shown to be an effective intervention into law violation behavior without additional trauma to children in our current scheme.

PANSING BROOKS: Thank you very much, Ms. Houlden.

LATHROP: Isn't the problem, isn't the problem that the judge never gets the chance to exercise discretion unless the youth is detained in the first place? If probation says we've done our assessment, you can go home, put a monitor on and, you know, stay at home and don't leave the house, the judge, the judge doesn't weigh in because it's all happened before the first time that the young person appears at the courthouse.

JENNIFER HOULDEN: The county attorney the morning after that intake has the ability to review and seek immediate detention. So the next look is the county attorney. Kid gets arrested 10 p.m., juvenile detention says, you know what, he's going to go stay with dad instead of mom. It was a big fight with mom, but dad's here. We have a good plan. County attorney looks at it in the morning, charges it and files a motion for immediate detention that gets sent to the, sent to the judge that day. So there is an intervening step, which is the prosecutorial discretion of the county attorney.

LATHROP: OK. Senator Slama.

SLAMA: Sorry. I really do appreciate your perspective on the time line. This is just out of my curiosity. So if that detention hearing

is waived, how does that change the time line, because the defense has the chance to waive that detention hearing, right?

JENNIFER HOULDEN: I waive detention hearings when I would rather have a hearing in 50 hours that I could actually have adequate time to investigate and develop potential less restrictive placements.

SLAMA: So then what kind of turnaround time are we looking if that does give way for getting youth detained if need be?

JENNIFER HOULDEN: Oh, you mean if the county attorney wants--

SLAMA: Yes.

JENNIFER HOULDEN: --the child detained? I have seen those set the same day. I certainly, again, with all due respect to everyone, I think that a county attorney motion for immediate attention is taken seriously and set for hearing.

SLAMA: OK, thank you.

JENNIFER HOULDEN: Yep.

LATHROP: I think that's it.

JENNIFER HOULDEN: Thank you.

LATHROP: Thank you for your testimony. Next opponent.

MONICA MILES-STEFFENS: All right, it's still afternoon, correct? Almost evening. So good afternoon, Senator Lathrop and Judiciary Committee. I want to thank you for the opportunity to be here today. My name is Monica Miles-Steffens, Monica M-i-l-e-s-S-t-e-f-f-e-n-s, I am juvenile justice coordinator with the Juvenile Justice Institute at the University of Nebraska at Omaha. I do need to clarify that the views I'm sharing today in this testimony are my own and do not represent an official position of the university. And today I'm testifying in opposition of LB537. I would support a lot of the comments and things that have already been shared about the opposition and a lot of the questions that this committee has already asked. So I'll try not to, I'll try to bring up some different points. I do think it's clear that we have kind of a language barrier problem right now. We all value community safety and accountability, and we want

young people to have long, healthy lives. But we are kind of not talking the same language when we're talking about accountability and community safety. What we need to do is really look at the science and the data that tells us how to achieve these values. And the historical approach of locking youth up does not work. In the report, A Roadmap to the Ideal Juvenile Justice System, juvenile justice leader Tim Decker states: The cost of incarceration and other coercive or punitive measures have often been tolerated because of perceptions that an approach-- that approach enhances control and increases public safety, even though there's substantial evidence to the contrary. So decades of research to support this also show that youth being locked up in detention produces long-term detrimental outcomes. They're more likely to drop out of school, they're more likely to use substances, they have deeper involvement in the system, and they exacerbate mental health conditions and there are higher rates of suicide in detention centers. Furthermore, youth of color nationwide and in Nebraska are disproportionately overrepresented in the juvenile justice system. While Nebraska has made great strides in increasing diversion opportunities, community-based services and reductions in detention, youth of color have not realized those successes at the level their white counterparts have. And by mandating offenses that must be detained and criminalizing runaway behavior, youth of color are sure to suffer even further. I want to take just a minute to, to talk about there's been this question around detention being a pause for young people. And detention is not a pause. As you can see, all of these different things are results of detention. They don't get services right away. Alternatives to detention are working around the state, and you can see that in the reports done by the Juvenile Justice Institute. And finally, probation officers receive a lot of training and have discretion to override the tools you heard from Miss Houlden. Currently probation-- the Office of Probation is getting their tool validated. And I would encourage you to look at the data reports that probation does release as it relates to their detention utilization of those overrides of alternatives and those different kinds of things. I also support, Senator Brandt, as you recommended, this really impacts rural areas in the, in a very significant way. Our detention centers are all located on the eastern part of the state, Madison, Lancaster, Douglas and Sarpy County. So any law enforcement or anyone anywhere else in the state has to travel, youth are traveling six, seven, eight hours across the state in handcuffs if they have to go to detention.

So it's essential that we not put any youth in detention unless absolutely necessary.

LATHROP: OK.

MONICA MILES-STEFFENS: I'm happy to answer any questions.

LATHROP: I don't see any questions, but thank you for being here and your patience and waiting your turn.

MONICA MILES-STEFFENS: Yes. And Dr. Hobbs was unfortunately had to leave, but she also did an evaluation of the tool several years ago. It wasn't a full validation. And so if you have any questions, we're both happy to be a part of any further discussion.

PANSING BROOKS: I have a question.

LATHROP: OK, Senator Pansing Brooks.

PANSING BROOKS: Could you get us a copy of that, the whole committee, or could they--

MONICA MILES-STEFFENS: Yes.

PANSING BROOKS: --or the link, send the link to us or something?

MONICA MILES-STEFFENS: We absolutely can do that.

PANSING BROOKS: And you're fabulous to come down and wait this long on a Friday. Thank you.

MONICA MILES-STEFFENS: Thank you.

LATHROP: Well, now I got a question.

MONICA MILES-STEFFENS: OK.

LATHROP: So I have to tell you, I'm sitting here and feeling like we're making a fact decision based upon testimony from two sides. And we're not judges here. We need, we need to know what the facts are so that we can make a decision. And we're left with, at least I am, with-- in a place where I hear from a public defender there's not a problem, the tool works. People override it, the right kids are detained and the other ones are released as they should be. And I hear

prosecutors and law enforcement from Omaha say, it's not working. We're letting these dangerous kids out and they're committing and endangering our community. Now, I'm sitting here thinking, I don't know what the facts are. I know that we have what sounds like a fact question about whether this works or it doesn't work. So here's what I'd like to know, is anybody-- can anybody show me data that suggests that the kids who are not detained are going out and, A, getting killed because instead of detaining them, we put them back out on the street where they got shot before they could get the services they need. That would be important to me. Or are they actually committing serious offenses while they're out because the tool that we're all relying upon and the people who are supposed to be making that call got it wrong and now we've got young people who are catching a homicide charge because we didn't keep them and send them somewhere to get care?

MONICA MILES-STEFFENS: Right.

LATHROP: Right?

MONICA MILES-STEFFENS: Really great.

LATHROP: So is there a way to sort that out so that we're dealing with facts and not trying to take sides in what is a fact dispute in my estimation?

MONICA MILES-STEFFENS: Very good question, Senator. So I think we have to be careful, too, that we're blurring a lot of different discussions around what happens to the course of a youth as they are engaged in the juvenile justice system. The tool that we're talking about at the point of intake that probation uses is a very moment in time tool. It's designed to determine if there are risks to community safety or a risk to flee the jurisdiction of the court at that moment in time. They don't have time at 3:00 in the morning to gather lots of the other types of information needed that the court uses later on. That information is gathered when probation is ordered to do a predisposition investigation, the mental health or substance use evaluations. All of those different kinds of things happen at the point of the judge ordering that either preadjudicated or at adjudication. And so we have to be careful that we, we're kind of blurring a lot of those things together when we're talking about the risk that these kids pose to the community. They, they can pose

different types of risk throughout the course of their time that they're engaged in the juvenile justice system. The risk tool that probation uses at intake is recommended as best practice. The Annie E. Casey Foundation, you heard Ms. Houlden talk about the JDAI Initiative, we're fortunate in Nebraska to have one tool administered by probation. Many states around the country have 93 counties and 93 different tools administered by lots of different people. And so our statute is very clear that probation uses that tool to be able to-- or that probation uses that tool consistently. To, to get to the, the data that you're talking about is somewhat difficult. But what you can look at is probation's recidivism reduction. They have about a 20 percent recidivism rate. I think the report just came out that it's actually coming down a couple of points since their last report. The tool is designed to have flexibility and override, so probation could give you that data. And I would encourage you to maybe reach out--

LATHROP: We may have to. I have to tell you, your answer to my concern is we got a great tool. And my question is I'm hearing people say that you do and I'm hearing people say you don't. And I'd like to know if kids are getting killed because we've released them when we shouldn't have, or are they going out killing or getting involved and picking up a heavy felony that's going to land up in our Department of Corrections because we didn't hang on to them and get them into, you know, a proper placement, proper care, rehabilitation.

MONICA MILES-STEFFENS: Yeah, I don't have that data readily accessible, but I'm not aware of any of those major kinds of things.

LATHROP: One of the, one of the things, one of the things that I'm struck by while we're hearing this, and this is one of the more consequential bills the committee has taken up this year, so we're taking the time on it. But one of the things I'm struck by is that letting someone out without having to be detained at all isn't always a good thing, right? Somebody, somebody-- we could be letting somebody out and they get shot four hours later or they go out and then they engage in some activity and catch a, a heavy felony that lands them in the Department of Corrections for a first degree homicide. It's not just about whether we're, we are recognizing the importance of young people's liberty, it's are we intercepting them and getting them to the right place before more bad stuff happens that's going to ruin their lives. And to me, I'd like to know if this tool works. If you think it works and you think it works and all the kids that are

allowed out don't cause problems or don't get more problems or don't get killed, I'd like to know it. Because Mr. Hanna here, who's been down here on three different bills, is telling me that some of these kids are getting out and they're getting, they're, they're involved in things that make them necessarily pick up a heavy felony. And now they're headed to the Department of Corrections when juvenile court might have been able to take care of it. And I honestly sitting here, I have no way to know who's, who's telling me the information I need to, to-- that's going to help me come down on one side or another of this what seems like a dispute.

MONICA MILES-STEFFENS: Right. We can get you the report that Dr. Hobbs did, and that will help answer some of those questions, I think.

LATHROP: OK. Senator McKinney.

McKINNEY: This, this conversation is frustrating me. I would like to say that, you know, kids are getting killed and getting arrested, ending up in these situations because they live in a community where this society, this country and this state has refused to provide any resources and opportunity to them. This problem was created by our society, honestly. And we're vic-- and these kids are ending up in these situations as victims of homicide, because we get, we got people in the Department of Corrections that would like to come to us and propose to build a $230 million jail instead of devoting $230 million to north Omaha. That's the problem that we're having here. These-- I think when we think about bills like this, we need to really fully analyze the racial impact that this type of legislation has on my community, because a lot of the kids we're sitting here talking about live in District 11 and come from my community. And they, they just are not born criminals, they are not born going into the criminal justice system. It's a, it's a symptom of a society failing a community and then trying to just lock them up and thinking that's, that's the solution. We, when we think about legislation, especially with the criminal justice system, when it comes to juveniles, we really have to point out the facts that this state, this country, this society has failed those kids. Is it right to go kill somebody? No. Is it right to go commit a crime and pick up a gun? No. But you don't know what it's like to walk away from school and get shot at. I do. That makes you take a gun to school. It's not to go shoot up the school, it's to try to get home safe. These kids aren't doing these

things just because. It's multiple factors that go behind this and stuff like this is just wrong. Thank you.

LATHROP: OK, thank you for being here. You're it, Spike.

SPIKE EICKHOLT: It's all so exciting. Good evening, 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 ACLU of Nebraska opposed to LB537. I'm handing-- having handed out to you something that I saw actually in the rotunda yesterday or what the area of-- what do the call the, not the rotunda, but sort of the central area, is the Voices for Children, sort of Kids Count, Nebraska, which looks like court data on a variety of different things. And they got a couple of pages that sort of deal with some of the things that might kind of give you an idea of how we're doing as a state. It talks about detention rates, the number of kids in the YRTCs, how many kids, youth are charged as adults. And all the numbers have been trending down consistently in the last 10 years. I mention that because if you look at this statute that has to be amended and you look on the actual, not the green copy of the bill, but in the statute books, it's been amended every couple of years. And I support as many of those changes that were done. Many of my defense attorney members practice and promote in juvenile court. I don't. The ACLU supported many of these changes, but we admittedly took a secondary role to that. So I was sort of observing a lot of the changes, you all know I'm here in front of this committee regularly, and I have been for years. But what this bill is asking you to do and what the proponents are asking you to do is really just sweep away a lot of the changes that have been done. And they're asking you to do it based on anecdotes and examples and instances. And if you look at the numbers, the objective way an-- how we have done in juvenile justice, we're doing fairly well. I would submit we've seen some positive results. And of all the things this committee has struggled with in the adult, juvenile criminal court system and other things, this is one area that we seemingly are doing well, or at least better than we were years ago. When the Chief Justice gave his State of the Judiciary, he talked about juvenile justice and he touted the fact that-- the number that I'm quoting is on page 300 of the legislative journal. He said, quote, The number of detained youth has been reduced by 18 percent this year and the use of congregate nontreatment placements, such as group homes, decreased by 10 percent for fiscal year 2019-2020. And importantly, recidivism rates for juvenile probation has, have also improved over the years from a high of 29

percent in 2010 to its current rate of 19 percent in 2020. I don't work with the chief in scripting messages. He said that. He's, he's talking about the juvenile probation data, the recidivism rate. And I don't know if that captures what you asked for earlier, Chair Lathrop, about kids getting picked up and then getting released and getting shot or reoffending. I assume if it's a reoffending, that would be a recidivism number, right? That would be something that would move that result. I can't say. But what I can say is I would urge this committee to be very cautious about doing this because there are shalls, there are mays. And it just really undoes a lot of the work that was done with Senator Krist was here, Senator Pansing Brooks picked up, what Senator Vargas did a couple of years ago. And it's just, it's again, it's just being asked to be done, well, not being disrespectful, many of the members of this committee are first getting their initial exposure to this area of the law.

LATHROP: Senator DeBoer.

DeBOER: So we've heard testimony today that we missed some, right? That there are kids that we have missed. They've, they've gone out and done something, and if they were detained, we might not have missed them. And, yes, you mentioned they're anecdotes, but there's some.

SPIKE EICKHOLT: Right.

DeBOER: So what I'm trying to figure out is what's the best way to get at that remainder? And I hear you saying that it's not this, it's not this bill where we have a shall detain for a list of felonies. But, but then what? If not this, then what? Because I think if we had-- I think if Senator Geist heard you come up with the magic answer and it wasn't her thing, I think she would say, I don't care what's on my bill. If you've got the answer, I'm willing to do it. So if not this, then what?

SPIKE EICKHOLT: You asked this earlier, maybe it's just a simple question of changing the screening tool, of somehow tweaking that a bit. All I know, or what I can say here, and it's not dodging the question, but there is this group, a work group called the JDAI, the JDAI group you've heard talk about. It's Juvenile Detention Alternatives Initiative, it was done with the administrative office of the courts. Senator Krist was on it, various professionals, some of the people that may have testified today spent years on this. And

Senator Pansing Brooks picked up some of that effort. I don't know if you were on the JDAI group at all? She was. Picked up-- we looked at this and talked about these things. And that is-- a lot of those ideas from that group are now in statute. If there are some kids that are getting lost, as Ms. Houlden said before, I don't think we should overcorrect and just scrap everything without even talking to the professionals about how we got here and what do we need to do differently. What kind of answer can you give to these situations so that, that Lieutenant Hanson and others talked about? That's maybe the legitimate way to do it, not simply say, well, here's a bill that creates a three-tier system where we have a pause here and there that just are a bunch of, not being disrespectful, platitudes and slogans that have an alternative to some things that we don't like to hear. That's one response. Secondly, I do want to just say this, because someone had mentioned it before, the Officer Herrera killing, this bill would not have-- doesn't speak to that. There was an arrest for that youth through the juvenile court, there was an arrest warrant from the adult court for that youth. I happened to represent a witness who was involved in the underlying case involving that youth. And I'm not saying anything that's not public, but what I'm saying is it wasn't a question where that kid fell through the screening tool or there wasn't authority for the juvenile court to hold them or something like that. And in some respects, and perhaps admittedly, I do it when I testify against bills, you're given examples, you're given compelling stories, but I would urge you to sort of at least trust your predecessors on this to a certain extent, to kind of trust the people who spend time here on the subject and study it. And I'm admittedly not one of them. As I said earlier, I'm just-- I kind of watch this committee work in this area of the law and the body adopt these changes, and this really, really undercuts a lot of that. I mean, that's my long-winded response.

DeBOER: I'm sure we'll continue to work on this. Thank you.

LATHROP: Senator Slama.

SLAMA: Thank you, Chairman Lathrop. And thank you, Mr. Eickholt, for being here today. I appreciate your perspective, but I would contend that we're not looking at scrapping everything that's been done. I, I think we had some great testimony today to outline a lot of the great results we've seen as a result of our juvenile justice statutes. I think this moves the pendulum, moves the argument to get to those

youth that Senator DeBoer mentioned that were falling through the cracks. And I would challenge you if there's data available that goes beyond just youth detention, youth recidivism, I think that's very helpful data. But I'd love to see numbers that are more in depth on outcomes. And when it comes to institutional knowledge, a lot of these statutes that we're talking about were just implemented in 2017. So there really isn't any institutional knowledge yet about the results of these bills, because we're at-- we're the ones who are on the front end seeing the results and examining where we need to go from here. So from your perspective, I would like to just build off of Senator DeBoer's comment and say if there's a way to catch these youth that are obviously falling through the cracks, I get they're anecdotal, but they're happening. I challenge any of the groups that came and testified in opposition today, please give us your ideas, because this is an issue that I think we can all agree, agree and see is happening. We just have different discussions on how we can get there and different ways of interpreting the data and what's a successful outcome for these young people. That's all I had.

LATHROP: I do have one more observation, which is when I am thinking about this on page 2, line 29 and 30, we're going to create a group that are, they're going to be held in detention. That necessarily means unless Senator Pansing Brooks's bill passes, that these kids aren't going in front of a juvenile court judge the first time, they're going, they're going in front of a county court judge--

SPIKE EICKHOLT: [INAUDIBLE].

LATHROP: --for an arraignment.

SPIKE EICKHOLT: [INAUDIBLE].

LATHROP: --and bond setting and not juvenile court judge to have somebody do an assessment and see what they need to start through the, through that process. We're starting them out in adult court.

SPIKE EICKHOLT: And that's, and that can be for a first-time offender. I mean--

LATHROP: I mean, they can still motion into juvenile court.

SPIKE EICKHOLT: They can still motion into juvenile court, but, you know, one of the things that I heard talked about with the JDIE [SIC],

when they're charged in adult court first, they're held in juvenile detention. And that for whatever reason, and the, the child psychologist will tell you, just has such a profound psychological and profound criminal impact on, on youth. That's the goal, is to avoid that and not just start out with it on the first one. And this law change that's proposed would allow for a first-time offender to have it happen to them.

***JULIE ERICKSON:** Thank you, Chairperson Lathrop and members of the Judiciary Committee. My name is Julie Erickson and today I am representing Voices for Children in Nebraska in opposition of LB537. When youth are struggling, how our system responds matters. We can either get it right, or compound the damage done. Decades of research has shown that what works in combating juvenile crime are thoughtful responses aimed at changing underlying beliefs, engaging family and community around a child, and providing positive solutions. In direct contrast, time and again we have seen that detaining juveniles does not work. Voices for Children in Nebraska opposes LB537 because it reverses several years of progress in juvenile justice reform. LB537 provides that youth under 14 may be placed at YRTCand youth under 12 may be detained if they pose a significant risk to the physical safety of themselves, others, and/or property. Detention is not and has never been a rehabilitative response or the right answer for children at risk to themselves. When we place a young person in detention who is already suffering - from a mental health disorder, addiction, or history of trauma - we compound that suffering rather than resolving it. Without demonstrated benefit, we expose the child to: Worsened mental health and increased rate of suicide; Increased likelihood of juvenile recidivism; Decreased likelihood of returning to school and completing education; Increased likelihood of going "deeper" in the system; Increased likelihood of adult recidivism and incarceration. Detention is not just a bad place for low-risk, no-risk, or mentally ill youth; it is arguably the worst place. Further, in Nebraska, our total annual admissions to juvenile detention facilities have fallen dramatically through concerted efforts and investments in alternatives. LB537 undoes several of the juvenile justice reform efforts done by the Nebraska legislature. LB537 would increase our overall juvenile detention admission numbers, subjecting our kids to the unintended harms of detention. When a child acts out, society has a choice in how to respond. How we choose to structure our system and investments has real and lasting consequences for kids and

communities. We thank the Committee for your time and consideration on this important matter and we respectfully urge you to not advance LB537.

***ELENA SALISBURY:** Chairman Lathrop and members of the Judiciary Committee, my name is Elena Salisbury and I live in Legislative District 27 in Lincoln. Thank you for the opportunity to share my testimony today. I am testifying in opposition of LB537 introduced by Senator Geist. I am deeply concerned about this legislation and the possibility of lowering the age at which it is acceptable to incarcerate children. The proposed bill states that children under the age of 14 shall not be placed with or committed to a youth rehabilitation and treatment center "unless the juvenile poses a significant risk to the physical safety of other persons". However, there is no definition in the bill of what constitutes a risk to the physical safety of other persons. How exactly are we planning to enforce this - leave it up to law enforcement to decide? Decades of data proving racial discrimination by law enforcement leads me to believe that this bill would be much more devastating to communities of color than to white families. Youth of color are already overrepresented in Nebraska's juvenile justice system, there is no need to exacerbate the existing problem. Another proposed change by Senator Geist is opening up the possibility of putting children younger than twelve years old in detention if they "pose a severe threat to the physical safety of other persons, the community, or himself or herself'. Yet again, there is no definition of what this threat would need to entail. Twelve-year-old children are exactly that - children. I cannot possibly think of a situation in which we would need to incarcerate a pre-pubescent child. It is common knowledge among criminal justice professionals that human's brains are not fully developed until the age of 25. What good could be possibly be doing by throwing children in detention facilities before they even have the capacity to understand the long-term consequences of their actions? The history of the Nebraska's Youth Rehabilitation and Treatment Centers is deeply worrying as well. There have been multiple documented cases of staff sexually abusing children as well as serious violence and suicidal behavior. Putting children in an unsafe environment where they are vulnerable to abuse at the hands of adults only makes the problem worse. How can you expect someone to heal in an environment like that? As a licensed clinical social worker who works with system-impacted people, I know firsthand the trauma that leads to

involvement with the criminal justice system. Most of the children who engage in criminal behavior grew up around physical abuse, emotional abuse, drug use, domestic violence, and have had a parent go to jail or prison. Research has shown that incarcerated juveniles also have high rates of unmet health needs. Forty-six percent of newly detained juveniles have urgent medical needs requiring immediate attention. Seventy percent of them have at least one psychiatric disorder. We cannot incarcerate our way out of this problem. We need to think of different ways to care for children who are deeply, deeply traumatized and are acting out in ways that have been modeled for them their entire lives. Youth should be held accountable for their actions, but in developmentally appropriate ways that will allow them to grow into healthy adults while also promoting community safety. We need to emphasize access to treatment, trauma-informed care, referral to community services, and ongoing case management, not incarceration. Lowering the age at which we can detain children in Nebraska is dangerous and cruel. I encourage you to vote no on LB537 and resist the continued criminalization of youth. Thank you for your time.

***LARRY W. KAHL:** Good afternoon, Chairperson Lathrop and members of the Judiciary Committee. My name is Larry W. Kahl and I am the Chief Operating Officer for the Department of Health and Human Services (DHHS). Please accept my written testimony in opposition to LB537 which would allow commitment of children as young as eleven years old to the Youth Rehabilitation and Treatment Centers (YRTCs) if they pose a significant risk to the physical safety of other persons. DHHS recognizes the importance of age-appropriate programming for high-acuity children. However, there would be significant challenges to serving this age group with existing facilities and programs. LB537 would have significant programmatic and financial impact, requiring additional treatment, staffing, and facilities for the YRTCs to provide the appropriate level and type of services for this age group. The development of children under age 14 is vastly different from their older peers. It would be problematic to place these younger children in the same living spaces as the older teenage group. Age-appropriate treatment for these children would differ from what is currently offered to the existing YRTC population. Education would need to account for a new group of students with different educational needs and employ more teachers to address those needs. Additionally, DHHS would likely need separate facilities and to employ more staff for those facilities. We respectfully request that the Committee not

advance LB537. Thank you for the opportunity to provide testimony today and if you have any further questions please don't hesitate to reach out.

LATHROP: OK. I don't see any other questions for you. Do we have any other opponents? I think we're done. Senator Geist, you may close. And as you approach, I will for the record, we have five-- pardon me, three propos-- position letters. Two proponents, one opponent. And we have written testimony. First from Bruce Prenda with the Nebraska County Attorneys Association, he is a proponent of the bill. Larry Kahl with DHHS is an opponent of the bill. Elena Salisbury is also an opponent, not representing anyone but herself; and Julie Erickson is an opponent, she's speaking for Voices for Children. You may close, Senator.

GEIST: Thank you. One of my harder closings, I think. Senator Lathrop-- actually first I'll address Senator DeBoer. The problem that when I was approached about carrying this bill was that kids are being missed, and I don't take this lightly. And I, I know I'm new to this committee and I know I'm not an attorney, but I care about our community. And when, when I am approached by law enforcement that see this and tell me they see this in Lincoln, not every day, and Omaha almost every day, but in Lincoln weekly. And it seems to me if, if law enforcement is approaching someone and maybe I'm just the one to take it because I'm-- I feel strongly that we're missing something. And if, if, if we are, and I believe we are, then I feel I have a responsibility to bring it forward. I can tell you that the second time that I did a ride along with Sergeant-- I know he'd like to be lieutenant, but it is Sergeant Hanson, a young man had just been shot the night before who he had known since he was 14. And he watched this pattern happen over and over of arrest, release, arrest, release, arrest, release. He was a very popular young man and he was shot. And that ends up being a trend that they watch as these young men and women are arrested and released and, and their crimes then escalate. And at what point are we going to give a tool-- this is just a tool. We're willing-- I'm willing to tweak this so that it's more narrow. I don't want-- most of you know me pretty well. I don't want to put young children in jail, I don't really want to put anyone in jail, to be honest. But what the damage this is perpetuating on a community, we've got to, one, help the community; two, help law enforcement help the community. But my ultimate goal is what about these people that are falling through the cracks? And that it is happening. And Senator

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

McKinney, I'm with you 100 percent. I don't want to lock people up and throw away the key. I will be Senator Pansing Brooks's number one fighter to get a place that we can put people who are suffering from mental illness that don't have to be incarcerated. I am 100 percent behind that. I also think we need some medium-range places that are safe and secure that we can put juveniles so they don't have to go to detention, but they can get evaluated. But at this point, we don't have that. But we need a tool to help keep these individuals safe so they don't continue that upward spiral of, of crime. So they don't end up like that young man did, because that is the end result of that kind of lifestyle. And so that's the heart that's behind this. It's not to wipe away what you've done, because I totally respect it. I'm on the same page in many, many arenas, but I think we're missing something. And that is the heart of what this is. And I have-- I'm willing to work with anyone that will help me make it better to help give a tool in this fight. So with that, I will close if you have any questions.

LATHROP: OK. I don't see any questions. No. Thank you.

GEIST: Thank you.

LATHROP: That will close our hearing on LB537 and our hearings for the day. And with that, we are adjourned.