

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

DeBOER: Good afternoon, everyone, and welcome to the Judiciary Committee. My name is Senator Wendy DeBoer. I represent the 10th Legislative District in northwest Omaha and I'm the Vice Chair of this Judiciary Committee. We'll be having-- starting off by having members of the committee and the staff introduce themselves and we will start with our committee counsel.

JOSH HENNINGSEN: Oh, committee counsel Josh Henningsen.

ANGENITA PIERRE-LOUIS: Angenita Pierre-Louis, committee clerk.

BLOOD: Good afternoon. Senator Carol Blood, representing District 3, which is western Bellevue and southeastern Papillion.

HOLDCROFT: Senator Rick Holdcroft, District 36, west and south Sarpy County.

DeBOER: We are getting started right away, but I'm sure some of the other senators will be here in just a few minutes. Also assisting today our committee are the committee pages, Logan Brtek from Norfolk, and she is a political science criminology major at UNL, and Isabel Kolb from Omaha, who is a political science and prelaw major at UNL. This afternoon we will be hearing five bills and we'll be taking them up in the order that is listed outside of the room. On the tables on the side of the room, you will find blue testifier sheets. If you're planning to testify today, please fill one out and hand it to the pages when you come up. This will help us keep an accurate record of the hearing. If you do not wish to testify but you would like to record your presence at the hearing and your position, please fill out the gold sheet, which is also on the side of the room. Also, I would note the Legislature's policy that all letters for the record must be received by the committee by noon the day prior to the hearing. Any handouts submitted by testifiers will also be included as part of the record as exhibits. We would ask if you have any handouts that you please bring ten copies and give them to the pages. If you need additional copies, the pages will be able to help you with them. Testimon-- testimony for each bill will begin with the introducer's opening statement. And after the opening statement, we will hear from any supporter of the bills, then from those in opposition, followed by those who are speaking in a neutral capacity. The introducer of the bill will then be given the opportunity to make closing statements if they wish to do so. We ask that you begin your testimony by first giving us your first and last name, and please also spell them for the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

record. We will be using a three-minute light system today. 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 will ask you to wrap up your final thoughts. I would like to remind everyone, including senators, to please turn off your cell phones or put them on vibrate. With that, we'll have the two senators who have just joined us introduce themselves.

GEIST: Suzanne Geist, District 25, which is the southeast side of Lincoln and Lancaster County.

DeKAY: Barry DeKay, District 40, encompasses Holt, Knox, Cedar, Antelope, northern part of Pierce, and most of Dixon County.

DeBOER: And so we will begin today's hearings with LB42. Senator Hansen, you're welcome to your Judiciary Committee.

HANSEN: My Judiciary Committee?

DeBOER: Your Judiciary Committee, Nebraska's Judiciary Committee.

HANSEN: All right. Good afternoon, Vice Chairwoman DeBoer and members of the Judiciary Committee. My name is Ben Hansen. That's B-e-n H-a-n-s-e-n, and I represent Legislative District 16. Thank you for the opportunity to present LB42. I am proud to have worked on this bill with a diverse group of stakeholders, including Nebraska Appleseed, Let Grow, and Home School Legal Defense Association, among others. This bill is similar to model legislation adopted by the American Legislative Exchange Council and laws that have been recently passed in other states such as Utah, Oklahoma, and Texas. LB42 does several things to clarify Nebraska's definition of neglect, which is currently pretty broad. In 2021, 34,000 reports of suspected abuse and neglect were received by DHHS. Ninety-four percent of those calls turned out to be unfounded. That's 32,133 reports averaging out to more than 2,600 a month; 16,021 of those unfounded reports resulted in investigations that took time, resources, and manpower. If we take data from a five-year span from 2017 to 2021, only 5.8 percent of the calls reported abuse and neglect were substantiated. Why is this the case? Oftentimes, what should be identified as poverty is often labeled as child neglect by those on the outside looking in, hardship does not equal harm. Many of the situations that are reported involve families who need assistance and who would benefit from getting connected with a network of resources our community does provide. But while they undergo investigations, invasion of privacy and even the

threat of family separation, evidence of neglect is not found. It is a sobering thought to think of even one child who has experienced pain due to negligence by those who are supposed to be the main source of love, care, and security in their lives. Likewise, it is horrifying to consider the repulsive behavior that leads to evil acts of child abuse. The reporting process in place now is needed and effective. Yet, with the overwhelming amount of energy it takes to sort out what calls are invalid, we could be focusing on those who actually need the protection. A key component to understanding the perspective behind LB42 is the idea that one size doesn't fit all when it comes to the standard of living. What would be determined proper parental care for one can be vastly different from the opinion of another. Things like beliefs, cultures, backgrounds, and family traditions play an instrumental part in how one chooses to parent their child. Variety and lifestyles should not be a reason for someone to report. One person might consider a situation to be dangerous while others considered it safe. This bill changes language in statute and currently defines neglect as endangering a child's life and health and instead it specifies that neglect is the act of endangering a child by placing them in situations where the danger is sufficiently obvious that no reasonable person would support such conditions. Along the same line of reasoning, LB42 addresses the question of juvenile court and when it is to have jurisdiction of a young person. Current language says that when there is a lack of proper care by reason of faults or habits of a guardian, the court should step in. LB42 changes this and states that a young person will be placed in the custody of the court when willful, reckless, or grossly negligent conduct occurs, and when there is a refusal of minimum care for the well-being of the child by their caregiver. The final reasoning for bringing LB42 is to permit children who are sufficient maturity, physical condition, and mental abilities to engage in independent activities. Parents know their children's abilities and strengths more than anyone else. They also understand the varying difference between each child. Parents have reached out saying that the everyday experiences they let their children do that people from the outside consider dangerous or unsafe. In actuality, the parents encourage these activities for growth and to challenge their children to excel in life. LB42 makes it clear that independent activities like walking to school, playing outdoors, remaining unattended in a car when the weather is nice, or staying home alone for a reasonable amount of time with protections in place are not to be considered neglect. I appreciate Senator McKinney, Senator Conrad, and Senator Hunt for cosponsoring LB42. And I'm thankful for the support found in the

Transcript Prepared by Clerk of the Legislature Transcribers Office

Judiciary Committee February 22, 2023

Rough Draft

online, online comments, including the Omaha Police Officers' Association. Law enforcement has said that the language in LB42 brings more clarity to a statute that seems to get misinterpreted more and more by the public. They say it would give guidance and allow for more discretion when deciphering what steps of action should be taken. In summary, LB42 does three things: the updated definition of neglect would help screen calls, put the emphasis on getting protection for those who are actually in need. It would keep hardship, poverty, and individual standards of living from being automatically questioned as harmful. And finally, parents would be able to have confidence in raising children who are capable and ready for basic independent activities. So with that, thank you for your consideration. The safety and well-being of children who are facing neglect and abuse is of utmost, utmost important, and I would be happy to answer any questions or defer to those behind me.

DeBOER: Are there any questions? Senator Blood.

BLOOD: Thank you, Vice Chair, Cochair DeBoer. Thank you for bringing this bill forward and I understand exactly you're trying to do with this. But I have two questions in reference to the language--

HANSEN: I'll do my best to answer them.

BLOOD: --because I think they're pretty broad. And I think if you're trying to adjust statute to do what you're saying you want it to do that we might want to revisit these two areas and we can talk about this after getting this on record outside of here--

HANSEN: Yes.

BLOOD: --since it seems to have a lot of people here today. Where in state statute are you finding your definition of sufficient maturity?

HANSEN: That one I'd have to answer later.

BLOOD: OK. That, that's one of my concerns is what is the legal term sufficient maturity? What does it mean and is it clarified elsewhere in state statute so we know exactly what you're going for?

HANSEN: OK.

BLOOD: Because everybody's definition of sufficient maturity is going to be different.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

HANSEN: Somebody behind me might be able to answer that as well.

BLOOD: And then no reasonable person, that would be the other question.

HANSEN: OK.

BLOOD: I understand in law what a reasonable person means, but what does it mean in Nebraska state statute? Is it referred to in other items of, of law? And I didn't have a chance to research that before the hearing and I apologize.

HANSEN: Yep, that's right.

BLOOD: But those are the two areas of concern in the bill that I'm seeing that I could think that perhaps could be a question if it were to go to court or something.

HANSEN: OK.

BLOOD: So thank you.

HANSEN: Yep. I'll definitely figure that out. Thank you.

DeBOER: Other questions for Senator Hansen? I do not see any. Are you going to stay close?

HANSEN: Yes.

DeBOER: All right. Let's have our first proponent testifier. Welcome to your Judiciary Committee.

SARAH HELVEY: Hi. Thank you. Good afternoon, my name is Sarah Helvey. It's S-a-r-a-h, last name H-e-l-v-e-y, and I'm a staff attorney and director of the child welfare program at Nebraska Appleseed. And we support LB42 because Nebraska's current definition of neglect is outdated and overbroad. As a result, too many families are reported and investigated for alleged maltreatment that is never found to be true. This repeats a little bit of the data that Senator Hansen provided, and maybe-- it tracks it. It may be from a slightly different year, but the trend is consistent. In Nebraska, only about 5 percent of total reports to the hotline are substantiated, and of those 80 percent, so 80 percent of the 5 percent, involve physical neglect, which is often an economic issue for families and is what LB42 seeks to clarify. We also know that there's a significant

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

disproportionality in reports of alleged maltreatment among families of color, and Nebraska's definition of neglect permits this bias at the front end of the system. LB42 would update and clarify Nebraska's definition of neglect and be clear that certain reasonable independent activities like playing outdoors or remaining unattended for periods of time are not child abuse in and of themselves for children of sufficient maturity and physical mental abilities when provisions have been made for reasonably foreseeable emergencies to avoid substantial risk of harm. We support LB42, because we believe it would add to the ability of DHHS to screen out cases where there is not evidence of neglect and conserve resources for more pressing types of cases. We also support LB42 because we know that children benefit from opportunities to be kids and to have unstructured play and that families shouldn't be stopped from giving their kids independence, whether by choice or by necessity. For all of these reasons, we respectfully request that you vote to advance LB42 out of committee. We would like to thank Senator Hansen and also urge the committee to consider that there have been four other states that have recently passed similar laws, that is Utah, Oklahoma, Texas, and Colorado. So we hope to see Nebraska join those other states. Be happy to answer any questions.

DeBOER: OK. Thank you. Are there any questions? Senator Blood.

BLOOD: Thank you, Senator DeBoer. And thank you for coming today. So were you the main motivator, was your organization the main driver for this bill?

SARAH HELVEY: No, but Appleseed was part of a coalition--

BLOOD: OK.

SARAH HELVEY: --and it was a really broad, diverse coalition of partners kind of across the spectrum, including a national group called Let Grow that is interested in making sure children have reasonable childhood experiences. Appleseed, you'll see some of other testifiers today, but it was a, a broad group of coalition that worked together to bring this bill to Senator Hansen.

BLOOD: So I'm going to propose the same question that I proposed to Senator Hansen to you since you were part of this group, and I'm not going to ask everybody who testifies today. I'm just trying to get a grasp on this. If the concern is, is to protect, especially, you know, when we're looking at, you know, disproportionate reports, level of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

reports when it comes to children that are black, brown, Native American, Indigenous, why are we so willing to have broad definitions like sufficient maturity and reasonable person? Because doesn't that-- so say-- not that this would ever happen, but say that there was a court with bias or say that there was law enforcement with bias, we, of course, would hope that that would never happen, but we know that indeed it does happen. How do we prevent that bias by-- from utilizing these two definitions for their own benefit?

SARAH HELVEY: I think that's a fair question, Senator, and I think that's worth looking at, particularly the, the term sufficient maturity. Reasonable person, as you noted, is often used in the law. So I think the more specific legislation can be, the more helpful it is to, to reduce bias as you said so I think that's a great thing to take a look at.

BLOOD: Thank you. Sorry to put you on the spot, I just--

SARAH HELVEY: That's OK.

BLOOD: --like I really want to know-- I'm really concerned about those-- those are the only two things that concern me in the bill. So thank you.

SARAH HELVEY: Yeah. Thank you.

DeBOER: Other questions? Do not see any. Thank you so much for being here.

SARAH HELVEY: Thank you.

DeBOER: Let's take our next proponent testifier. Next proponent?

ANAHI SALAZAR: Good afternoon, Vice Person DeBoer and members of the Judiciary Committee. My name is Anahi Salazar, A-n-a-h-i S-a-l-a-z-a-r, and I am representing Voices for Children in Nebraska. The child welfare system should prioritize family preservation whenever possible. Young people in Nebraska should be able to be independent in a reasonable manner and families should not have to worry about needless punitive actions against them. Voices for Children supports LB42 because it clarifies the definition of child neglect to help prevent safe and loving families from becoming unnecessarily involved in the child welfare system. Removal from the home is experienced as a trauma by children and parents. Even the investigation process can be traumatic for a family. The child welfare

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

system is intended to prevent true abuse and dangerous neglect, not to police and tear apart loving and supportive families. We should do all in our power to ensure that our statutes are correctly aligned to minimize the risk of traumatic harm caused by the system itself. Nebraska's made improvements over the past decade in reducing the number of child removals. Physical neglect is a predominant reason for child welfare system involvement in Nebraska. In 2021, the most updated data we have from the Department of Health and Human Services: 34,213 reports of alleged child abuse and neglect were made to the hotline, 18,101 were assessed by DHHS or law enforcement, but in the end, only 2,080 reports were substantiated. What this demonstrates is that we're continuing to put families through investigations that may not be necessary to ensuring child safety. Because allegations of physical neglect represent the majority of the reports, it is crucial our statute distinguishes neglect from poverty. They are frequently intertwined, but a family's lack of economic security is not in itself a reason for child welfare system response. In most cases, issues can be better addressed by providing resources and concrete support for families through other channels. This is especially important for our rural Nebraskans and Nebraskans of color who are statistically more likely to experience poverty in our state. In fact, families of color are disproportionately brought into the court system and face greater likelihood of removal of their children. We must ensure that our laws are clear, that poverty itself is not neglect, and that poverty issues can be helped and ameliorated without causing traumatic harm to the child and irreparable damage to the community. LB42 would clarify the definition of neglect in this way, helping more families stay out of the child welfare system and keeping children from unnecessary trauma. I want to thank Senator Hansen for bringing this important issue forward and the committee for your time. We urge you to advance LB42 and I'm available for any questions.

DeBOER: Are there any questions? Senator DeKay.

DeKAY: Thank you, Senator DeBoer. Just real quick. When people call into this hotline on, on these issues, are they required to give their name, address, or anything as part of the information?

ANAHI SALAZAR: I believe so, but I do not have the--

DeKAY: I guess my question is going to be, if they are and these are unfounded allegations, what's the repercussions to them if they're calling in a, a fake claim or something like that?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

ANAHI SALAZAR: That's a great question. I do not know. But I can find out or someone behind me might be able to know if there are repercussions. From what I understand, there aren't any. They just investigate and then they find if this-- if the child is in, is in danger or is in a situation where they need to be removed. But that is only my understanding, hope someone can answer that better for you.

DeKAY: OK. Thank you.

DeBOER: Thank you, Senator DeKay. Other questions? I think that's it.

ANAHI SALAZAR: Thank you.

DeBOER: Next proponent testifier. Welcome.

JESSICA SHELBURN: Thank you. Good afternoon, Vice Chair DeBoer and members of the Judiciary Committee. My name is Jessica Shelburn, J-e-s-s-i-c-a S-h-e-l-b-u-r-n, and I'm the state director of Americans for Prosperity. As one of the largest grassroots organizations in the nation, AFP is dedicated to bringing people together to change our government and public policies for the better. LB42 recognizes that letting, letting a child be outside alone or home alone does not constitute neglect unless it is unsafe. Providing clarity to the current law is a good move for Nebraska. When a case of neglect is reported, investigator-- investigations can be traumatic and when the investigation turns up nothing, it was a waste of precious time and resources that could, could have been better allocated elsewhere. We need to allow parents to be parents and make the decisions based on their individual child. If the child is responsible and mature enough to be at home alone, play outside alone, or even walk to and from school without supervision, we believe that LB42 provides necessary clarity and is good for Nebraska families and we hope that you will advance it to General File.

DeBOER: All right. Any questions? I do not see any.

JESSICA SHELBURN: Thank you.

DeBOER: Thank you so much. Next proponent.

SPIKE EICKHOLT: Good afternoon, Madam Vice Chair and 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. I'm appearing on behalf of the ACLU of Nebraska and the Nebraska Criminal Defense Attorneys Association in support of LB42 and we want to thank Senator Ben Hansen for introducing the bill.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

You're receiving my testimony for both entities that I'm testifying for. But I'll just try to summarize and be responsive to some of the things that were asked earlier. We do support this bill because what this bill does do is it narrowed and it specifies the definition of child neglect and it tries to establish a reasonable person standard, which as Senator Blood asked about, is something that's used regularly in the law. If you look at the bill, that restriction or that barometer is not in current law, it's just a general sort of nebulous, amorphous standard, kind of a know it when you see it sort of standard. And what this bill rightly does do is it tries to set up some sort of clarity and conciseness and uniformity to the law. And it's our position that laws, particularly criminal laws, should be concise, they should be clear, and they should be standard throughout the state. I don't know if there's going to be opponent testimony. This bill was introduced last year, it was actually heard by the committee. There was no opposition testimony and it was a similar group of different organizations that, let's just be honest, typically aren't together on the same side of an issue. They were here last year on LB1000. But if there is opposition, I think one criticism might be that this bill narrows the current definition too much, that there is utility in having a general nebulous standard because it's law enforcement pursue the cases they want to and it lets prosecutors charge those cases they want to. We respectfully suggest that is exactly what's wrong with the law. You know from the statistics that other people have said before, that people of color are disproportionately involved in the child welfare system, that people of color are disproportionately involved in the criminal justice system. And I would respectfully suggest and opine that that's because of laws like this that allow for arbitrary, selective, and ad hoc prosecution and enforcement result in those standards. It's not necessarily intentional. It's not necessarily bias, although I think it is. But the system as it exists now produces those results. So if you do nothing, those results will continue. And that's one reason why we do support this bill and I'll answer any questions you have. One question-- to answer Senator Barry DeKay, I think I heard from back there, if somebody does make a report of child neglect and it is done so falsely and they do intentionally, that is a crime, it's called false reporting. It's in chapter 28-907, it's a Class I misdemeanor. The state still has to show the person sort of willfully and knowingly made a false report. But if it's a report that is turned out to not be founded, if you will, they probably don't pursue those criminal charges there.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

DeBOER: All right. Thank you. Are there any questions? Senator Blood.

BLOOD: Thank you, Senator DeBoer. Thank you, Spike, for coming in. You knew that you were going to be next up on this question because you are an attorney.

SPIKE EICKHOLT: That's why I try to get Jessica to go first.

BLOOD: There you go. And I'm having trouble hearing you today, so I don't know if it's your mike or--

SPIKE EICKHOLT: I, I don't know.

BLOOD: --if you need to--

SPIKE EICKHOLT: I try to talk loud--

BLOOD: That's better. Thank you.

SPIKE EICKHOLT: --but it doesn't seem to be.

BLOOD: Or I'm just getting old. So sufficient maturity in the law. What does that mean?

SPIKE EICKHOLT: Well, that's, that's a fair question, because that's new language and it's not in the statute now. So I would say the simple fact that you have that qualifier arguably is an improvement to the current scheme that we have now, because we don't even have that standard. But what I think what Senator Hansen has done, and I didn't actually work on the bill with him, I think what he's trying to do is sort of reference sufficient maturity, physical condition, and mental abilities. And I think that these sort of examples or instances in which that phrase in the rest of the section applies is sort of the measure of what that phrase means. So in other words, is sufficient maturity to have independent activities, including walking to school or recreational activity, recreational facilities, that sort of thing. So in other words, can the kids walk down to the Y? Well, if the kid is ten, maybe they can with their friends. If the kid is six, maybe not. That's what I think the phrase means.

BLOOD: So I, I understand what the phrase means, but the concern that I have is that we're worried we want to protect people of color. We want to protect people who may live in poverty. And we know that when we leave something like this open without true description--

SPIKE EICKHOLT: Right.

BLOOD: --that it's going to ultimately be up to a judge or law enforcement or the county attorney or am I wrong?

SPIKE EICKHOLT: No, I think you're right. You're right. And I can't speak for Senator Hansen, but--

BLOOD: No, I know you can't. I'm, I'm asking legally--

SPIKE EICKHOLT: No, that's all right.

BLOOD: --like, I'm trying to get my head around this. And I'm sorry to slow this down, but I think this is really important that this could go to court. And if it was somebody that meant bias, they could say, I don't think your eight-year-old is old enough to walk to school by themselves. That's my opinion. My opinion of sufficient maturity is, is eight--

SPIKE EICKHOLT: Right.

BLOOD: --especially since we won't have this, you know, the law will need to be around them for a while before they say like based on past cases, it's six or whatever.

SPIKE EICKHOLT: Right.

BLOOD: Do you know what I'm saying?

SPIKE EICKHOLT: No, I think, I think you do raise a very valid point. And, and I hate to sort of suggest it, but maybe one thing the committee could consider doing, and obviously it's up to Senator Hansen since it's his bill so maybe I should quote-- suggest an amendment, but maybe sufficient maturity as determined by a reasonable person, some similar measure there.

BLOOD: Well, reasonable person is my other issue so I don't know if that's-- I mean-- and I know what reasonable person means in law, but again, that is an-- is to me opinion based.

SPIKE EICKHOLT: Right.

BLOOD: So those are two areas of concern. And I'm sorry to put you on spot, but you and I have lots of conversations like this and I trust your opinion, so.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

SPIKE EICKHOLT: No, I think, I think you're right and reasonable person is some-- is a myth, if you will. It is a, it's a thing that we use in the law. And it's a reasonable, objective person considering the totality of the circumstance of would they consider this to be neglect is sort of the standard.

BLOOD: Right.

SPIKE EICKHOLT: That's better than we have now.

BLOOD: I, I don't disagree.

SPIKE EICKHOLT: Now we just have nothing.

BLOOD: I, I worry again that it leaves us open to, to bias.

SPIKE EICKHOLT: Right.

BLOOD: And that's my concern. So I understand what they're trying to do and, and I appreciate the fact that you're defending his honor, but I'm concerned that, that could-- it could not-- the bill won't do what they want it to do because of those--

SPIKE EICKHOLT: That's right.

BLOOD: --two things.

SPIKE EICKHOLT: And I don't want to say that-- I, I think what he's got is a really good bill. I think it was inspired by an ALEC model bill, I think it's brought together a lot of different groups that care about this issue--

BLOOD: I agree.

SPIKE EICKHOLT: --and I think it does address a significant problem that exists.

BLOOD: Yeah, I-- I'm not against this bill in any fashion. I'm, I'm looking forward to make sure that if they want to implement a bill and it be successful that they have the right language before it gets voted out.

SPIKE EICKHOLT: Right. Thank you.

DeBOER: Thank you, Senator Blood. Other questions? I do have one. I'm tripping over the "under circumstances such that the danger is

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

sufficiently obvious that no reasonable person would cause or permit." It seems to me that that's almost taking the negligence standard on its head, where it's, it's no reasonable person. That seems to me almost like a recklessness or it's a very heightened standard. So I'm wondering if there's another way to do that or if you understand what I'm saying when I say that that's a very, very-- that's not just taking it from no standard to a sort of medium standard, that's like beyond a reasonable doubt, basically is what we are taking it to there.

SPIKE EICKHOLT: I don't think it's beyond a reasonable doubt. Well, it might be because if it's a crime then it's got to be proven beyond a reasonable doubt. But I think what-- I think you made a valid point, and I think it's only because the way the sentence is phrased, it's almost in the negative. In, in other words, if you could maybe just restate it that a reasonable person would not permit such child to be placed in situation. That might read easier or more logically.

DeBOER: I think that is very different in my mind--

SPIKE EICKHOLT: Yeah.

DeBOER: --than no reasonable person would ever permit is very different than a reasonable person would not--

SPIKE EICKHOLT: Right.

DeBOER: --permit.

SPIKE EICKHOLT: And maybe it has the same meaning, but I kind of agree with you the way I read it is similar to what the way you do. It sort of--

DeBOER: And I think that that would trip up a lot of courts. And I'm wondering like-- because I think if we have a no reasonable person, that's a standard that we do have other places, where is this no, no reasonable person would ever, I think that's not a standard that's been litigated as much anyway.

SPIKE EICKHOLT: No, I think that's a good point.

DeBOER: OK. All right. Any other questions? Thank you. Next proponent.

MARY HILTON: Good afternoon, Senators. My name is Mary Hilton. I am the legislative liaison for the Nebraska Christian Home Educators

Association, NCHEA. We appreciate Senator Hansen introducing LB42 again this year and for the senators who have signed on to support it. NCHEA was founded in 1986 with the mission to encourage and support Christian families in the education of their children at home in accordance with biblical principles and to support the rights of Christian parents to homeschool their children. We believe that the family is the basic governmental, social, and spiritual unit created by God. In it, children gradually learn self-government and social relationships. And it is for these reasons we support LB42. As home educators we spend time with our children, giving them substantial parent-directed instruction activities. However, part of raising self-governed children necessarily requires reasonable freedom without a hovering parent. When children have free play, the independence to walk to the park or grocery store or run around the block they learn important skills and life lessons needed to mature into reasonable and responsible adults. The NCHEA acknowledges that LB42 affects the broader community beyond just the concerns of homeschooling parents as already stated. However, our members have experienced false accusations of abuse and neglect when allowing their children reasonable independence. Whether it's actual or perceived, homeschooling parents do often fear that their children will be taken from them. For DHHS to open an investigation, it only takes a call from a neighbor who believes the homeschooling children next door don't get to play outside enough, abuse, or perhaps they play outside too much, neglect. And I have some specific examples of issues our members have dealt with on the back side of my testimony that you have. Since 1923, the 1923 case of Meyer v. Nebraska, the United States Supreme Court has repeatedly stated that the right of parents to raise their children is fundamental. Fit parents are given the freedom to make essential decisions about their children's well-being and ought not be second guessed by government officials without compelling state jurisdiction. Time and again, courts have deferred to parent-- parental judgment and consider parents' rights to make family life decisions constitutionally protected. Sections 4 and 6 of this bill specifically clarify what is not abuse or neglect. Our organization supports parental rights and believes that passing LB42 further protects the rights of our parents, as well as parents and children throughout the state of Nebraska. The NCHEA hopes the Nebraska Legislature will follow the lead of other states who have passed nearly identical bills to LB42.

DeBOER: Thank you very much. Can you spell your name for the record?

MARY HILTON: Oh, sorry. M-a-r-y H-i-l-t-o-n.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

DeBOER: Thank you very much. Are there questions for this testifier? I do not see any. Thank you for being here.

MARY HILTON: Thank you.

DeBOER: Next proponent testifier.

LINCOLN ARNEAL: Good afternoon, Vice Chair DeBoer, members of Judiciary Committee. My name is Lincoln Arneal, L-i-n-c-o-l-n A-r-n-e-a-l. I'm assistant vice president of policy and leadership in Nebraska Children and Families Foundation. As an organization, NCFF works in partnership with community collaboratives and state and national partners to give local community partnerships the ability to develop long-term plans using the latest strategies and data to prevent life's challenges from becoming a crisis for many Nebraska families and children. I'm here in support of LB42. This bill is full of technicalities and provides a much clearer definition of allowable activities that do not constitute child abuse or neglect. It allows for greater freedom by parents on how to raise their child and permissible activities that promote a healthier approach for child development and parenting. Two, two changes in the language help to achieve these clearer standards. First is the insertion of the reasonable personal standard as we've discussed today. While that standard might seem vague, it is not. For all of us have pondered actions of thinking about what other people would do when faced with the same situation. Applying that standard for parenting practices can better, better help them care for their child and provide age-appropriate activities for their children. In addition, these additions allow for children to remain unsupervised for short periods of time so as long as reasonable precaution-- precautionary measures have been taken, whether that is leaving the child unattended in a car for a short term or inside playing with toys while running out to get the mail or food delivery. Each spring, I help facilitate Nebraska Children's Legislative Days event. At this, at this event, young people with system experience pick five bills from the hundreds introduced each year and each session. Last year, they picked out the version of the bill that was introduced by Senator Hansen. The young leaders who chose this topic come from different backgrounds and many experienced foster care or the juvenile justice system. Even-- some are even parents of young children themselves. They spoke about why they care about this bill and the provisions they liked about it. Following the event, we emailed a, a link to, to, to, to senators last year. During the presentation, they talked about how they liked that the bill allowed for more age-appropriate activities to help the child

learn to take care of themselves and learn independence. They also liked that it provided reasonable person standard for the most endangerment situations. This change would alter the mindset from being a reasonable parent from being a perfect parent. They said they all knew good parents and could imagine what those parents would do in that situation, which would prevent them from being too productive and stifle learning opportunities for their children. This year, we're working with Dr. Jerry Milner as part of the work done for LB1173, which was passed last year to examine the child welfare system in Nebraska. This bill, along with LB271, is a strong start to better cover what is being reported to the state. If we can better define what child abuse neglect is, then we can better serve the young people and keep them out of the system. Thank you for your time and consideration of LB42. I hope you support this commonsense bill that will help parents and children in the state of Nebraska.

DeBOER: All right. Thank you. Are there any questions? I don't see any. Thank you.

LINCOLN ARNEAL: Thank you.

DeBOER: Next proponent. Anyone else wishing to test-- testify in the favor of the bill? Welcome.

ALEX STEPHENS: Thank you. My name is Alex Stephens, A-l-e-x S-t-e-p-h-e-n-s, and I'm speaking as a proponent for LB42. LB42 is a perfect example of a bill that when looked at properly changes the nature of governance in a way that both conservatives, libertarians, and even leftists alike would appreciate and there are three reasons for this. And it primarily deals with the criminal justice system being a scalpel for that which we dislike compared to a hammer that bludgeons all of society. It changes the definition via statutory law rather than relying on more nebulous concepts that aren't necessarily even defined in the current statutes. And it narrows their definition to only include the actions in which the vast majority of people would reasonably consider to be examples of negligence and child abuse and not examples of simple differences of parenting style or the existence of poverty, meaning that a person can't exist within the framework of the white nuclear family model. Not everyone can afford that model. These more stringent definitions reduce the chance of bias and reduce harm done to different groups on that basis of using a different parenting style alone, it ends the-- something also more peculiar relating to responsibility, and that is that many of our laws treat people at the age of 12 as, as though they're 5, and then at 13, as

though they're 18. A person at 12 can't even walk to their home in certain circumstances based off of the way some things can be interpreted now. But at 13, a certain crime might get them charged as an adult. This strange instant change in responsibility rather than a graduated increase in responsibility does not actually prepare our next generation for responsibility. By giving levels of responsibility based off of the long-standing, reasonable person standard of the level of maturity of the person, we end the dictate that a single health or law enforcement official can have and enable a-- people to actually grow into responsible adults. This is simply, simply because the reasonable person standard is broad and built on years of precedent, both within our statutory language and within English and U.S. common law. By changing the simple act-- or charging simple acts of living in a society such as walking in neighborhood and when they are treated as negligent, we end up atomizing our society into those in which you are allowed to be at home in school, rather than this broad-based community effort that actually enables the many functions of society that we have come to so appreciate and the level of diversity that it brings. By atomizing society, we basically force people to simply consume products at home and go to work or school, which ends all those social aspects that are so important to our lives. Our current law lets the perfect be the enemy of the good, with the good being punished as-- punished as negligence rather than being considered an alternative option. Thank you.

DeBOER: All right. Are there any questions? I don't see any today. Thank you so much for--

ALEX STEPHENS: Thank you.

DeBOER: --being here. Next proponent. Anyone else who would like to testify in favor of this bill? Any opponents? Welcome.

DARA DELEHANT: Good afternoon. My name is Dara Delehant, D-a-r-a D-e-l-e-h-a-n-t. I'm a deputy county attorney with the Douglas County Attorney's Office in Omaha, Nebraska, and I'm testifying on behalf of the Nebraska County Attorneys Association in opposition of this bill. As a prosecutor, I specialize in crimes involving children and sexual abuse. I work and meet with children on a daily basis. My job as a prosecutor is to hold accountable those that harm children and to ensure that not only these children but our communities are safe. And the mechanism with which I do that is the child abuse statute. The primary concern I have with LB22 [SIC--LB42] is that the proposed changes to the language would make it much more difficult to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

successfully prosecute child abusers. The proposed language limits the situations in which a jury could find that someone had committed child abuse. Not only would the jury now have to find that someone did endanger the child's life or mental or physical health, now they must also find that danger in such a situation was sufficiently obvious and that no reasonable person would cause the child to be put in such situation. That additional language essentially adds more elements that the state has to prove in a criminal prosecution. Similarly, with respect to the independent activities outlined in Section 4 of the bill using phrases such as "conditions likely to cause serious harm" and "have not been mitigated by reasonable precautionary measures" is giving fodder to defense attorneys and gives juries more ways in which they can find the state didn't meet their burden. In criminal law, precise wording and definitions of phrases and words are so important because we have to look at how a jury would be instructed when deciding a child abuse case. Much of the proposed language in this bill is extremely vague and imprecise. What constitutes a sufficiently obvious danger? Something that is sufficiently obvious to one person could be entirely unforeseeable to someone else and could vary widely depending on each person's own background and life experiences. Without precise and clearly established definitions, juries would be left on their own to determine what exactly these phrases mean and, thus, what level of proof the state needs to convict a child abuser. The criminal justice system as a whole is set up to protect the rights of the accused. The criminal statutes are designed to protect society and those who are the most vulnerable. What this bill would do is create a situation in which the bar for successfully convicting someone of child abuse is raised higher and higher. Some of the specific additional proposed language in this bill makes the child abuse statute more favorable to those who harm children rather than strengthening the protections for children. What we want as a state and as a society is to protect children and to hold accountable those that harm them. The language of LB42 makes that much more difficult. Thank you for your time and I'm happy to answer any questions.

DeBOER: Thank you. Are there any questions? I have a question for you. This is the same thing I was talking to Spike about. Do you read this as "under circumstances such that the danger is sufficiently obvious that no reasonable person would cause or permit the minor child to be placed in such situation" as the reasonable person standard?

DARA DELEHANT: My reading of it, listening to your question earlier of one of the proponents, I had similar concerns because it does to me read as no reasonable person would ever do this, which to me sounds

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

like it's significantly higher than even if it was just the inverse that you had suggested that a reasonable person would not put their child in such situation. So I think that the phrasing, particularly as it is right now, is very concerning and raises the bar much higher than it is right-- than current state statute. And I think that that puts it to a level that we might not be able to successfully prosecute people who are harming children.

DeBOER: So if it were rephrased as under circumstances such that the danger is sufficiently obvious that a reasonable person would not cause or permit instead of the negative, would that, would that help alleviate some of your concerns?

DARA DELEHANT: I think it would help. I think we would still have concerns using that language as a whole. I think that would certainly be better than, than the current draft of it. I think sufficiently obvious is going to be a hang-up for us no matter what, because what is sufficiently obvious? But I do think that rephrasing it the way you've suggested would certainly be a step in the right direction.

DeBOER: OK. Thank you. Are there other questions? Senator Blood.

BLOOD: Thank you, Vice Chair DeBoer. So what is your definition of sufficient maturity?

DARA DELEHANT: That's a good question. I don't know what sufficient maturity is, and I don't think that it's defined in, in case law or in statute at this point. And I think that that is part of what I was referencing, that the language in the current bill, as it's proposed, is too imprecise and too vague. Because what is sufficient maturity to one person, that could be eight years old, to somebody else,--

BLOOD: Right.

DARA DELEHANT: --it could be 16. The same with sufficiently obvious. To one person, you know, a certain activity might be, of course, there's danger that's obvious with this activity. And to somebody else they might think, no, based on my experience, my child, my life, no, I don't think that there's danger that's obvious there. So I think that there's a lot of questions that are left open with language like that.

BLOOD: Thank you.

DeBOER: Other questions? I do not see any. Thank you for being here.

DARA DELEHANT: Thank you.

DeBOER: Next opponent. Is there anyone else who would like to testify in opposition to this bill? Now, we'll take neutral testimony. Is there anyone here who would like to testify in the neutral capacity? Welcome.

DEBORAH DANCER: Hi. Hello, my name is Deborah Dancer, and that's D-e-b-o-r-a-h, last name D-a-n-c-e-r, and I'm with Douglas County Community Response, DCCR, functioning as a community collaborative leader. Community collaboratives were created to address family needs at the community level and prevent further system involvement. We are working collectively to disentangle neglect from poverty and prevent entry into the child welfare system by focusing on child and family well-being. It has changed how we work since our informal beginning in 2015. Our work is data driven and we focus on reducing the number of screened in calls to the CPS hotline. DCCR, collectively through community response, has served over 1,000 families indirectly serving over 1,200 children in those families. Housing was the number one need, followed by utilities. These concrete supports include coaching and supplemental support such as CarePortal and children or-- childcare referrals and opportunities. The impact of DCCRs that overrepresented populations in the screened in calls in Douglas County have received those concrete supports. Those who like data and results may appreciate that of those we served and impacted by overrepresentation receive the services that we intended. DCCR does this through our vision, which is to inspire and mobilize a community response prevention system where children in Douglas County, Nebraska have safe, quality family and community environments, and this is scalable to other communities within Nebraska. Our system has 17 partnering organizations and over 79 member agencies that meet and work collectively to advocate further our community response to reducing child maltreatment. The strategies that we use are collective impact, community response, communication, staff training, CarePortal, which has access to faith-based organizational portal that supplements central navigation resources, and community cafes, which is unique in that it's parent-facilitated conversations with parents. And then also what we have is the LB42, it really was informed by the disproportionate overrepresentation of BIPOC families, where our focus has been Indigenous, black and Latino families with the overrepresentation in screened in calls for neglect through CPS hotline and the same families are overrepresented in substantiated cases of child abuse and neglect. The data shows that our top three reporters are in the sectors of education, medical, and law

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

enforcement. And we are simultaneously reevaluating our process and progress demonstrating that this is-- this investment in families who have been "minoritized" and marginalized deserve opportunities. Collectively, we have a commitment to transform our-- through our work groups, and we do offer community trainings. And a few critical values that shape our work include the promotive and protective factors, as well as making sure that we're using similar language, that we acknowledge where we align and intersect and continue to be inclusive of the community when we are working collectively. Now recently we just finished our first phase of codesign on home visitation with a 50/50 split of practitioners and parents. And then we also are looking at a system like--

DeBOER: Ma'am. I'm sorry.

DEBORAH DANCER: Sorry. So that's just letting you know what we did.

DeBOER: OK. Thank you so much. Let's see if there are any questions. I do not see any. All right.

DEBORAH DANCER: All right.

DeBOER: Thank you for being here. We'll take our next neutral testifier. Is there anyone else who would like to testify in the neutral capacity? OK, while Senator Hansen's coming up, I will say that there are 13 letters of support, 1 in opposition, and 2 neutral. That's for the record. Senator Hansen to close.

HANSEN: Thank you, Vice Chair DeBoer. Senator Blood, I tried to look up the definition of a reasonable person. It's a quick search, so. But this is on-- this has got to be-- it's, it's on lawdictionary.com, so.

BLOOD: Yeah, I already did do that, so.

HANSEN: Yeah, and so, and so--

BLOOD: But I can't find it in our statute.

HANSEN: Yep, and it may not be in our statute, but this seems like the frequently used term that is used in tort claims and, and criminal law. So to denote: A hypothetical person in society who exercises, exercises average care, skill and judgment and conduct and who serves as, serves as a comparative standard for determining liability. So it seems like it's kind of just a broad terminology used that most people kind of follow. So whether it's in statute or whether it's not, it

could be. I think there's a lot of terminology in this bill and, I think, many other bills that aren't specifically defined, but more likely interpreted by the court, such as, you know, maturity. And each court might determine it differently, like you mentioned. But a lot of other terms are, I, I believe, interpreted by the court at their own discretion. And let's not forget that people can still call and report their concerns of child, child neglect or abuse. This just gives law enforcement and DHHS more clarity on, on how to move forward with these. And so far, with all the other states that have implemented this, we have not heard of any-- we're not seeing any concerns or any increased instances of child neglect or abuse that the court has missed. And with what the opposition stated is they believe that this actually makes things more vague. And from my understanding, it makes actually things more precise. They're concerned that we're not defining certain terms in here or what's does something mean, what doesn't something else mean. But actually-- we actually define in a couple of spots what sufficient maturity means "Permitting a minor child, who is of sufficient maturity, physical condition, and mental abilities to avoid a substantial risk of physical harm, to engage in independent activities, either alone or with other children, shall not be considered child abuse." So in a way, that's what physical maturity is. There are also: a physical condition, and mental abilities to avoid substantial risk of physical harm, or engage in independent activities. So in a way that's properly defined to some extent to, to help give, you know, context to a court to decide on, on the case. Many of the other parts that have to do with: Placed in the situation that endangers the minor child's life or physical-- under circumstances such that the danger is sufficiently obvious that no reasonable person would, would cause or permit the minor child to be placed in such situation. We already talk about no reasonable person. They're concerned about dangerous, sufficiently obvious. What does that mean? We actually have right there, right behind it: cruelly confined or punished, deprived of necessary food, clothing, shelter, or care; placed in situations of sexually exploited, sexually abused trafficking victim. I mean that has-- that tells people if-- you know, that defines a lot of that and kind of further gives more definition to what, what we mean when we add some of that language. It's also in Section 3: Left unattended in motor-- what a motor vehicle is in conditions likely to cause serious harm that have not been mitigated reasonable precautionary measures. And it seems like their conclusion is, like, we're just opening this up so unintended consequences can mean anything and a child can now do anything that they want. And so I fundamentally disagree with their argument because we actually, in the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

language following that, specify what we-- what the language that we're now adding, how to interpret a lot of that stuff. And that's already currently in, in the statute, we didn't add any of that stuff. So I like to think that this is a kumbaya bill. I mean, you don't see too many bills where actually many people from different kind of aspects come together left, right, and the middle. And so I think it's-- I think these families actually need more assistance from us and not more prosecution. So with that, I'll take questions, probably from Senator Blood because she's giving me that look.

DeBOER: Are there any questions? Anyone? Senator Blood.

BLOOD: Thank you, Vice Chair DeBoer. So, so I have to be honest with you, Senator Hansen, first of all, I like the bill. I'm not against this bill so I want to clarify that. But do you remember when we were in Business and Labor the other day and I had the workmens' comp bill for people with PTSD, and you thought that the language was broad for saying and like circumstances? I don't know if you remember that part.

HANSEN: I don't remember that.

BLOOD: So, so I'm changing my bill to address that because I don't ever want there to be a question or anything to be so broad that someone can either take advantage of a bill or it does the opposite of what we want it to do. Here's my concern with your bill, just to kind of put it in perspective, is that, yes, you talk about examples, but I don't feel it's still clearly defined and we're trying to protect people. And if we're trying to protect people, why would we-- why-- if we're not comfortable now with leaving it up to the courts and leaving it up to the county attorneys, why are we comfortable in giving them some broad definitions that we can let them do whatever they want with when we have the ability before it gets kicked out for debate to better define it? Would you have an issue with that?

HANSEN: I don't know yet, because I don't think it's as broad as you think it is to me anyway. I'm not telling you what you think. I mean, but I think you're picking out a terminology, but then what the language that is and after that helps define it even more.

BLOOD: It doesn't really define it as much as it gives examples.

HANSEN: It gives the court direction.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

BLOOD: As, as far as give examples. So that's-- I'm, I'm, I'm hearing what you're saying it doesn't sound like you're willing to change the language.

HANSEN: I, I don't know. We'll see.

BLOOD: All right. But you may not take issue with it should we choose to discuss it in Exec and amend it?

HANSEN: I don't know yet.

BLOOD: All right.

HANSEN: I've learned to just, you know, plead the Fifth sometimes and discuss it later so I can wrap my head around what other people said.

BLOOD: I'm, I'm truly not picking on you. My concern really is the children. My concern is what happens when it goes to court. Because whether we agree or not agree on this, we know there's bias when it comes to people in poverty, people of color. We know that bias exists. And so why would we not want to do everything in our power to make sure that there's no loopholes? That's my concern.

HANSEN: Sure. And here's what I'll tell you what I'll do. I will confer with people who have more legal knowledge than I do for the opposition and try to wrap my head around this to find out what language might be best to update if we need to or amend into the-- to the bill. And that might give me a better idea of how to respond to that.

BLOOD: So I hear you saying yes. Thank you.

HANSEN: Let's just say a maybe.

DeBOER: Thank you, Senator Blood. Other questions? I have one for you, Senator Hansen.

HANSEN: Um-hum.

DeBOER: And that is, you heard my discussion about the reasonable person. I think the reasonable person statute-- or standard is very well established in the law, doesn't need to be in statute because we've got a bazillion cases on it. We know what it is. This, to me, this no reasonable person is a different standard. So I have a big concern about changing the standard to no reasonable person wouldn't.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

HANSEN: Where was that at again so I can be sure to look at it right away?

DeBOER: It's on page 2. Sorry.

HANSEN: Yep, in the bill, right?

DeBOER: Yeah.

HANSEN: OK.

DeBOER: So: under circumstances that are dangerously-- the danger is sufficiently obvious that no reasonable person would cause or permit the minor child to be placed in such situation is very different to me than under circumstances that are the danger is sufficiently obvious that a reasonable person would not cause or permit the child to be placed in that.

HANSEN: Sounds like semantics, which isn't too big of a change. You know what I mean, it helps, helps people maybe to wrap their head around or understand it better. But if you actually look at what I read, like, the typical frequently used term is you could say that no person who exercises average care, skill, and judgment would cause or permit the minor child to be placed in, in such situation. So if you use reasonable person as what's frequently used in tort criminal law, it makes sense.

DeBOER: It does. I'm, I'm saying the reasonable person part I agree with. I'm saying when you say no reasonable person, that means you cannot find a reasonable person anywhere that would do that is a higher standard than your sort of average reasonable person, which is if the way we do the standard normally, which is to say a reasonable person similarly situated would do this.

HANSEN: Sure, and I totally see where it coming from. Yeah.

DeBOER: So--

HANSEN: Something I'm not opposed to maybe sort of, I don't know yet [INAUDIBLE] changing, so.

DeBOER: Yeah, that's fine, but that's the, that's the piece I think we'd--

HANSEN: Yep.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

DeBOER: --want to talk to you about. OK.

HANSEN: Yeah, thank you very much [INAUDIBLE].

DeBOER: Other questions? All right. Thank you so much.

HANSEN: Thank you.

DeBOER: That will end our hearing on LB42 and begin our hearing on LB14. Senator Dungan, welcome to your Judiciary Committee.

DUNGAN: Thank you, Vice Chair DeBoer and members of the Judiciary Committee. Oh, can I-- yes, sorry. I should have handed that earlier. Thank you. My name is Senator George Dungan, G-e-o-r-g-e D-u-n-g-a-n. I represent the good people of northeast Lincoln in Legislative District 26. Today, I'm here to introduce LB14. LB14, to put it simply, would expand the eligibility in the Young Adult Bridge to Independence program. The Bridge to Independence program, which currently already exists, is a voluntary program that provides support for people between the ages of 19 and 21 as they transition from foster care to adulthood. The program was created by the Legislature back in 2013 and is funded by a combination of General Funds and federal Title IV-E child welfare reimbursement. This is a program that is currently only eligible to youth who are aging out of the foster care system into independent living and have not been adopted or reunified with their family. The program is meant to take the place of a loving parent, providing assistance for stable housing, medical care, accountability, and encouragement to stay on track to educate and employment. To put it another way, the point of this program, colleagues, is to help people turn into adults who are essentially independent. The program also provides monthly housing stipends for youth to promote stability as they finish their education and start their career. I believe the current amount of that stipend is \$944.14. To remain in the program, a young person must demonstrate that they are employed full time, pursuing their education, or have a barrier to such as a disability prevents them from doing either. We know that there are young people caught up in the juvenile justice system that are essentially the exact same population as those aging out of our foster care system, kids who've experienced trauma in their early life, who may have lost family connections, or even whose parents have abandoned them to the judicial or juvenile court system. LB14 expands the eligibility for the Bridge to Independence program to a narrow population of juvenile court adjudicated youth who are 19 and are in a court ordered out-of-home placement because they did not have a family

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

to safely return home to. In order for these youth to be eligible for the program, they need to be complying with the directives of the juvenile court and probation. Under LB14, the juvenile court judge has to make a finding within a six-month period prior to the 19th birthday that it would be contrary to the welfare of the child to return to the family home considering whether probation has made reasonable efforts to get the youth home and whether the youth has lost family connections or faces risks of homelessness and jurisdiction ends. These are young people who have worked hard to turn things around but who lack the supports that many teenagers and young adults need to navigate adulthood safely. They're young people that we want to keep on track, get them to a stable future, and we have a proven program already in place the state can utilize to do exactly that. Thank you for your time and consideration. I'd ask you to urge-- or I'm sorry, vote LB14 to General File and I'm happy to answer any questions the committee might have.

DeBOER: All right. Thank you very much. Are there questions for Senator Dungan? I do not see any. Do you attend to stay to close?

DUNGAN: I do. I have the next bill as well so you get to hear a lot of me here.

DeBOER: [INAUDIBLE]

DUNGAN: Thank you.

DeBOER: All right. Let's take our first proponent testifier. Welcome.

JEANNE BRANDNER: Good afternoon, Vice Chair DeBoer and members of the Judiciary Committee. My name is Jeanne Brandner, J-e-a-n-n-e B-r-a-n-d-n-e-r. I'm employed as a deputy administrator overseeing juvenile probation with the Administrative Office of the Courts and Probation under Nebraska Supreme Court. I am before you today to provide testimony in support of LB14. Thank you to Senator Dungan for introducing the bill, as well as Senators Conrad and Hunt for adding their support. As explained by Senator Dungan, LB14 builds on the provisions of the Young Adult Bridge to Independence Act by adding eligibility for select juvenile justice youth who are in and out of home placement prior to aging out with the court finding of family disconnectedness or risk of homelessness. Nebraska's Bridge to Independence program supports youth who are beginning their transition to adulthood in order to become self-sufficient. The B2I program currently available to child welfare youth today has been

independently evaluated, reporting that participants generally have some postsecondary education experience, have safe, stable, and affordable housing, and are able to cover monthly expenses and have adults to turn to in crisis. Research suggests that youth exiting the juvenile justice system are high-- at a higher risk of being disconnected without necessary supports resulting in increased risk of homelessness and poverty. Building essential skills and supports for youth transitioning from the juvenile justice system also aims to prevent them from entering the adult criminal justice system. Youth who experience the juvenile justice system as a result of a delinquent or status concern commonly also present with a history of trauma, abuse, neglect, or permanency disruptions. When a youth enters their teenage years, there is often a culture that believes they are adultlike which severely limits their opportunity to enter the child welfare system to properly address these concerns. For those youth who fall between 18 and 19 years of age, this option is not even available. This bill specifically aims to support those youth who lack positive relationships and family support and greatly assist them to successfully transition to adulthood. In closing, passage of LB14 to include select probation youth as they exit the juvenile justice system creates an avenue for improved outcomes and young adult success. Thank you for your time and I'm happy to answer any questions.

DeBOER: All right. Thank you very much. Are there questions for this testifier? Do not see any. Thanks so much for being here.

JEANNE BRANDNER: Thank you.

DeBOER: Let's take our next proponent. Welcome.

GARRET SWANSON: Vice Chair DeBoer and members of the Judiciary Committee, my name is Garret Swanson, G-a-r-r-e-t S-w-a-n-s-o-n, and I'm here on behalf of the Holland Children's Movement, a nonpartisan, not-for-profit organization that strives to fulfill its vision for Nebraska to become a beacon in economic security and opportunity for all children and families in support of LB14. The Bridge to Independence program provides critical resources, structure, and support for youth aging out of foster care. These youth receive guidance to pursue job training, postsecondary education, healthcare services, and critical mentorship. According to the Department, Department of Health and Human Services to be in the B2I program an individual must: One, meet your independence coordinator at least once a month; be productive in one of these ways unless medically unable;

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

complete high school or earn your GED; take classes at least part time at a college or vocational education program; work at least 80 hours per month; volunteer, participate in an internship, work with a career center, or take part in another activity designed to help you get work in the future; provide written verification to your IC every six months that you continue to meet the above eligibility requirement. Senators, we all know the importance of postsecondary education and job training for youth leaving foster care so I won't expand on that right now. But there is something I do want to touch on for the committee. Before joining the Holland Children's Movement, I worked for nearly three years as the public information officer for the Department of Health and Human Services Division of Children and Family Services. In that role, part of my job was to promote the public-- promote to the public the, the successes of the Bridge to Independence program. To accomplish that, I would travel across the state to interview youth in this program to create videos for partners, stakeholders, and the general public. Senators, I will never forget the first man-- young man I interviewed right here in Lincoln over at the university. I asked him the question I ask everyone in the program. Where do you think you would be if the Bridge to Independence program didn't exist? This young man looked at me, he then looked into the camera and he said dead. I thought he was joking. I really did. So I asked him again and he responded with the same refrain, dead. I don't-- I won't, I won't go into the specifics to respect the privacy of these young individuals but this despair was a common refrain in the interviews I conducted with these youth. Too many of these youth that I interviewed were lost and directionless before they entered B2I. It isn't the hyperbole to say those programs literally saved the lives of Nebraskans. Senators, I always remember and appreciate my work with the B2I program, and we are so grateful to Senator Dungan for introducing this legislation. Please vote this bill out of committee so we can aid even more young Nebraskans. Thank you. And I also wanted to shout out all the amazing social workers that are in this program. They work a lot of hours for not a lot of pay and they are amazing.

DeBOER: All right. Thank you. Are there questions for this testifier? I do not see any, but thank you for being here.

GARRET SWANSON: Thank you.

DeBOER: Next proponent.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

SARAH HELVEY: Good afternoon, my name is Sarah Helvey. It's S-a-r-a-h, last name H-e-l-v-e-y, and I'm a staff attorney and director of the child welfare program at Nebraska Appleseed. Nebraska's B2I program currently provides extended services and support, including a monthly stipend and case management support for young people who age out of foster care to age 21. Nebraska is one of 22 states and the District of Columbia, Columbia that has taken this option under federal law based on research showing these types of programs can improve otherwise poor outcomes experienced by this population, where, for example, over 50 percent experience homelessness and less than 2 percent finish college. Nebraska Appleseed has been a strong supporter and very involved in the creation and implementation of the B2I program since its inception. We testified on LB216, which was introduced by Senator-- former Senator Amanda McGill and established the B2I program in 2013 and on a number of cleanup and follow-up bills. As part of the history of the B2I program and LB216, it's important to note that LB216 originally included youth with juvenile justice experience, but was later amended to remove this population due to the fiscal impact. In addition, LB216 was passed the same year that a bill was introduced and passed to move the juvenile justice population from the authority of DHHS and the old Office of Juvenile Services to the judicial branch, branch and the Office of Juvenile Probation. And this transition was also a factor in the decision to amend out the juvenile justice population from the B2I program in the original legislation. However, it was always the intention that the population be added back in later on once the initial program was established and this is reflected in the fact that Senator McGill specifically included in LB216 the establishment of the B2I Advisory Committee under the Nebraska Children's Commission and specifically tasked that group with developing, quote, specific recommendations for expanding or improving outcomes for similar groups of at-risk young adults, end quote. And in fact, the B2I Advisory Committee has consistently made the recommendation to expand the B2I program to youth with juvenile justice experience. Real quickly, I also wanted to note in 2019, a follow-up bill was passed that required Nebraska residency in order to be eligible for the B2I program and cut the program for otherwise eligible young people with developmental disabilities who qualify for DD services so as to avoid what was considered to be a duplication in services. And as a result of those cuts and perhaps other factors, the program has seen about a 33 percent drop in participation from about 300 young people every year to about 200. So for these reasons, based on the history and the data and all the research that supports this well-established program, we

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

think the time is right to expand the Bridge to Independence to this population of young people with juvenile justice experience who are at risk of homelessness. And I thank you for your time and I'm happy to answer any questions.

DeBOER: Thank you. Are there any questions? I don't think so today so--

SARAH HELVEY: Thank you.

DeBOER: --thank you for being here. Next proponent.

LAKEISHA PHELPS: Hello. Lakeisha Phelps, L-a-k-e-i-s-h-a P-h-e-l-p-s. I-- as a youth, I experienced the child welfare system as well as the juvenile justice system. As an adult, I have had the pleasure to, to work both systems as a professional. I support LB14 for many reasons, but the most important one is the message that will come with it. As a youth in a system whether it's juvenile justice or child welfare, you pretty much experience the same services, treatments, and placements as the other. However, when it comes to aging out we are only supporting one side. I think no matter what mistakes the kid will make, I think the message should remain the same. Bridge to Independence sole purpose is to allow support after aging out. If I, as a youth-- as a juvenile justice youth is in the same predicament as a child welfare youth, then it should be obvious that I will most likely need the same support as the other. Being system involved is not easy as a kid on either system side. I think the last word a kiddo should have is whether they have support unless they age out. Thank you.

DeBOER: Thank you very much. Let's see if there's any questions. Are there any questions? OK. Thank you. Next proponent.

MONIKA GROSS: Good afternoon, Vice Chair DeBoer and members of the Judiciary Committee. My name is Monika Gross, M-o-n-i-k-a G-r-o-s-s, and I'm the executive director of the Foster Care Review Office. And I offer this testimony in support of LB14. The Foster Care Review Office is an independent state agency created by the Legislature in 1982 to track children in out-of-home care or foster care in Nebraska, to review children's cases utilizing local, volunteer citizen review boards, to collect and analyze data related to the children, and to make recommendations on conditions and outcomes for Nebraska's children in out-of-home care, including any needed corrective actions. Since 2018, the FCRO is required to track Bridge to Independence

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

program participants, review their cases, collect data, and assess young adults' progress on goals, submit required reports to courts, and analyze and report data collected during that process. The FCRO's statutory duties include submitting quarterly and annual reports to the Legislature, including recommendations related to children in foster care. Our June 2022 quarterly report included a special section on the Bridge to Independence program, its history, the eligibility criteria, the supports provided in our case review process. Most notably the report includes summaries of our findings and outcome data, including the data analysis and summaries in the materials provided for you today. In addition, we made several policy recommendations related to and based on the data. One of the recommendations was for the Legislature to consider legislation that would expand access to the Bridge to Independence program to a broader group of young adults, including those who age out of the youth justice system. For young adults currently involved in the Bridge to Independence program, the most common goals selected by participants include employment, transportation, education, personal finance and housing. Ninety-two percent of participants whose cases we reviewed were making progress toward their goals, leading to successful adulthood. When looking at the history of the young adult participants, several negative factors were identified related to overall success in the program. For example, more removals decrease the likelihood of making progress, and the more replacement disruptions experienced in childhood, the less likely they were to make progress toward successful adulthood. Other key influencers on overall progress include stable housing and a reliable support system. Young adults with stable, stable housing were twice as likely to be making overall progress, and those with a reliable support system were one and a half times as likely to be making overall progress. Young adults provide valuable information to the FCRO during the case review process. One young adult said that she now knows enough about budgeting to be able to help her friends who were not in the program and who don't know about budgeting. Another participant shared that it was helpful that her independence coordinator did not change.

DeBOER: Ma'am, ma'am I'm sorry, the red light.

MONIKA GROSS: Oh, I'm sorry.

DeBOER: That's OK. Let's see if there are any questions. Senator Blood.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

BLOOD: Thank you, Senator DeBoer. Thank you for coming in and testifying. I do have a question and I think you are probably the right person to ask.

MONIKA GROSS: OK.

BLOOD: So unlike the kids that come from foster care, even though we're going to be basically presenting the same type of amenities that we can offer through this program, and I'm never sure how to pronounce it so if I pronounce it incorrectly, please correct me, as Chafee, Chafee funding.

MONIKA GROSS: I've heard it both ways.

BLOOD: OK, good. Yeah, I couldn't find anything that said how to pronounce it on the Internet earlier, so. My concern is how do we fund that missing segment? Because they clearly can't get those funds since they're not foster care kids. How are we filling that gap? Because when I was looking at the fiscal notes, I noted that most fiscal notes pertain to the five and a half staff members and the, the stipends that we give. It seems like there might be a gap that some kids might end up falling through the cracks anyway. Do we have-- has there been discussion as, as to how we'll address that?

MONIKA GROSS: I'm not sure that I have the answer to that.

BLOOD: OK.

MONIKA GROSS: I don't, I don't, I don't know the answer to that, but I can certainly find out for you and let you know.

BLOOD: Well, and maybe the bill presenter can in the closing can let me know that answer, so. All right.

MONIKA GROSS: OK.

BLOOD: Thank you very much.

MONIKA GROSS: Sure.

DeBOER: All right. Any other questions? Don't see any so next proponent. Welcome.

DIAMOND JOHNSON: Hello, my name is Diamond Johnson, D-i-a-m-o-n-d J-o-h-n-s-o-n, here from University of Nebraska at Omaha, Goodrich

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

scholar, advocating for the LB14 act. As a former state ward and juvenile justice participant, I would like to start by explaining the Bridge to Independence program. It is a resource-based program that helps us in our transition to adulthood. During my experiences within the foster care system and the juvenile justice system, they pretty much align the same way within me and my peers around me. But the only difference is we as state wards are labeled insufficient to become better adults because we don't have the parental guidance, which is the main reason why these juveniles commit these crimes to be involved in the justice system in the first place. There's a certain level of desperation that comes with committing a crime to feel like you need, you know, the basic necessities that your parents aren't providing, which align with poverty and other things that follow along the same. And the overall question that comes to most people's mind is how does this help? Like personally, the program has helped me by allowing me to get through even basic day-to-day things that you wouldn't think of like doing laundry, with a child in my hood getting to and from school, even as little as enrolling in college in the first place. Because as a child, my hopes of going to college have been diminished by the juvenile justice system. I feel like by expanding the Bridge to Independence to the kids that have aged out of the system will help them navigate adulthood in a way that they can become law-abiding citizens to productively help the community, not only for your children, you know, the children that are already there, but their children, because it can be a challenging transformation from being institutionalized to having to jump into adulthood without, you know, even considering the things you could be missing that could help you be successful.

DeBOER: All right. Thank you so much for being here. Are you done?

DIAMOND JOHNSON: Yes.

DeBOER: OK. Thank you so much for being here. We really appreciate it when we get young people in here and come and, and tell us about things so I appreciate, you did an excellent job. Let's see if there are any questions. Senator Blood.

BLOOD: Thank you, Senator DeBoer. Thanks for coming in. I agree, great job. I'm curious, what are you majoring in in college?

DIAMOND JOHNSON: I'm taking prelaw and business. I plan on going into politics.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

BLOOD: Good on you. Thank you.

DIAMOND JOHNSON: I actually am in the process of trying to advocate more homes for homeless youth on the streets since-- and I'm freshly aged out of the system, I'm only about to be 20 in two days. So I am, you know, this is very new to me being on the other side of things, because just literally a year ago I was the homeless youth that was in need of services that were not provided because of the restrictions on the Bridge to Independence program, because the Bridge to Independence program is a gateway to other resources that us as youth aren't able to access without it. It provides even little stuff, like I'm in the process of moving into a new place. They've helped me with furniture. Like, completely helped me with furniture. And my son, I have a one-year-old son that I became pregnant with and had while I was still in the system, and they provided me with diapers. If he needs, like, anything like milk, they help me with everything along those lines. And I couldn't imagine not having that kind of support just because my parents didn't fall short enough for them to remove me from the home in time that I needed to, you know, be rehabilitated.

BLOOD: Thank you.

DeBOER: Thank you. Senator DeKay.

DeKAY: Thank you for being here today and best of luck with all your future endeavors. Good luck with all of that. Thank you.

DIAMOND JOHNSON: Thank you.

DeBOER: All right. Any other questions? Thank you. Oh, Senator Ibach.

IBACH: I'll just ask one. And again, congratulations. I noticed in the, in the fiscal note, this would, and maybe Senator Dungan is a better one to answer this, but it says it will, it will host approximately 50 additional individuals. Do you think 50 individuals in throughout the state would take advantage of this?

DIAMOND JOHNSON: The Bridge to Independence program isn't a line to be taken advantage of. You have to be an active participant of the community. You have to either be going to school full time or employed full time to even qualify for the stipend and the benefits. So they don't leave enough wiggle room for you to slack off and be involved in the program because you actually have a worker that is honestly more hands on than the DHHS workers that I experience. They come out to see you about twice a month and they do court reports monthly so your

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

judge previously that you dealt with in the juvenile justice system to update them about how you're doing, any requirements that they might have you do you have to abide by or it gets taken away. But the good thing about the program is you can reenroll once you get back on track, which I feel like it's an incentive-based program. But-- so it's not more as just throwing, you know, people focus on the money side of it, but that's like earned money. Like, we're young adults that are trying to pave a better way for, you know, our children and stuff without having to go through the process of struggling while doing it. And the odds are kind of impossible when you think about how little resources we have just within my community as far as bus routes, you know, for public transportation. Like, those things matter when you're thinking about, you know, the overall benefit of this, this bill.

IBACH: Very good. Thank you very much. Thank you.

DeBOER: All right. Any other questions? Next proponent.

ANAHI SALAZAR: Good afternoon again, Vice Chairperson DeBoer and members of the Judiciary Committee. I have two handouts going out. One is my written testimony and the other is a letter from Judge-- former Judge Gendler, who served as a juvenile court judge for 28 years-- for over 28 years. He was unable to make it today, but is available for any questions if you have any. And my name is Anahi Salazar, sorry, A-n-a-h-i S-a-l-a-z-a-r, and I am representing Voices for Children in Nebraska. For young people exiting our child welfare system and juvenile justice system on the cusp of adulthood, the sudden transition from structural supports and requirements to complete independence can be a difficult path to navigate safely. Thankfully, Nebraska has an excellent extended foster care program to assist young adults leaving the foster care system without having achieved permanency in a family setting as they find their way into adulthood. We call that the Bridge to Independence or B2I. Voices for Children strong-- Voices for Children strongly supports LB14, which would extend eligibility for the B2I program to a subset of youth exiting the juvenile probation without family supports. It is crucial to note that many, if not all, of the youth LB14 would support are the same population of youth as B2I currently serves. They are young adults who have been system involved. Many and most experienced significant childhood trauma earlier in life. Many or most are likely to have been the victim of a child welfare case in their past. For instance, a young child is exposed to parental drug use and abandoned by caregivers, a child welfare case ends in termination of parental

rights and later adoption. As the child grows older, the trauma of those experiences manifest in behavioral health issues and periods of acting out. But because he is older, the case that the county attorney files is now a probation case instead of a child welfare case. During this new case, he gets placed out of in out of home and does well. But family ties are fractured and over time his adoptive family backs out of his life. He is now alone, successful in his court-ordered placement and doing well on probation, but without the open court case would be homeless. He turns 18, and even though he has been abandoned again, by which would-- sorry, abandoned again by family, he is too old for the county attorney to file a new child welfare case which would allow him to enter the Bridge to Independence. The judge prolongs the case as long as they can until the boy turns 19, then-- but then jurisdiction automatically ends and he is back out on the street with nothing. LB14 would be a literal lifesaver for this young person who is twice a victim of child neglect and has done all we've asked of him to get on the right track but lacks supportive family and doesn't currently have the right type of court docket. These cases aren't frequent, but they do happen. Probation officers, probation officers in our state have literally driven young people like this to homeless shelters on their 19th birthday. Navigating adulthood without family support can mean a grim outlook in many areas, including educational attainment, economic well-being, physical and mental health, and criminal justice involvement. These are young adults who, without a support system, are at the highest risk of dropping out of school, falling in their-- failing in their vocational plans and recidivism. This time, this time into our adult correctional system. Sorry. I'm available for any questions.

DeBOER: Thank you very much. Are there questions? I don't see any.

ANAHI SALAZAR: Thank you.

DeBOER: Thank you. Next proponent.

HAZELL RODRIGUEZ: Good afternoon, members of the Judiciary Committee. My name is Hazell Rodriguez, H-a-z-e-l-l R-o-d-r-i-g-u-e-z. I am the managing attorney of Legal Aid of Nebraska's juvenile project, and I have been an attorney with Legal Aid for the past 19 years. I have valuable experience both individually and collectively with the rest of the juvenile attorneys in representing parents and children in all types of juvenile court proceedings in Lancaster County. Thank you for the opportunity to appear today in support of LB14. I also want to thank Senator Dungan for introducing the bill and inviting Legal Aid

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

to testify. For 60 years, Legal Aid of Nebraska has been the only statewide provider of direct and free civil legal services to low-income Nebraskans who could not afford an attorney with nearly 100 staff members, including 48 attorneys located in seven offices across the state. Legal Aid primary practice areas include family law, housing, consumer law, juvenile, and state and federal public benefits. The Lincoln office of Legal Aid of Nebraska is very familiar with the juvenile court system. We have a contract with Lancaster County for more than three decades to represent individuals in juvenile court. Our contract allows us to take 440 new court appointments every year, and currently we have 520 open cases in juvenile court. Nebraska law creates a division between juveniles in the system due to their parents' abuse or neglect versus those in the system due to low violations or behaviors. Legal Aid handles all these cases. The division created means that youth in law violations and truancy side are not eligible for the same benefits afforded by the Young Adult Bridge to Independence Act. It has been our experience that those juveniles are as needy as-- and as deserving up those benefits. Whenever any juvenile remains in the system for a long period of time, the underlying cause is often other difficulties in their family of origin. There is no better time to give these children a helping hand than when they are transitioning into adulthood. The factors enumerated in the bill for the court to determine whether or not to return to the family home will be contrary to a child's welfare, include situations that we face every day, such as lack of adequate family supports, poverty that makes the children vulnerable to homelessness, and prior unsuccessful attempts at reunification for sometimes reasons beyond their control. This bill brings additional hope and opportunities to keep a population at risk from becoming another statistic or a part of the adult system. LB14 creates opportunities for all children involved in the juvenile system and for these reasons we support the bill.

DeBOER: All right. Thank you so much. Are there questions for this testifier? I do not see any. Thank you for being here.

HAZELL RODRIGUEZ: Thank you.

DeBOER: I'll note for the record that Senator McKinney has joined us. And let's take our next proponent.

KAROLINA YODER: Hello, my name is Karolina Yoder, K-a-r-o-l-i-n-a, Yoder, Y-o-d-e-r. My testimony is from my personal experience as a juvenile justice youth. I am currently enrolled in college and am

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

part-time employed as a family support worker and I am also a member of the Nebraska Children and Family Foundation Youth Advisory Board. Although I was originally juvenile justice, I was later placed in the foster care system, then aged out, and was not reunited-- reunified with my family. I was not able to benefit from this program due to being involved in the juvenile justice system. This has led to years of housing instability and has caused my emotional and physical health to deteriorate. I have been able to, on my own, graduate from high school and I'm now enrolled in college all while homeless on and off since the age of 18. Finding and being able to afford housing has been something that I still struggle with. I do not have the option to stay with family and getting my, my college degree is the only thing I can work towards that will positively influence my financial stability. Cost of living and being able to afford things like food, a cell phone, phone service, and having a reliable car to be able to continue to work are all factors that have made it harder for me to get on my feet because I did not have financial support from anyone. Not all young adults have family supports and have someone that can cosign on an apartment or a loan for a car, a person to live with when they cannot afford to live on their own. By including juvenile justice in this bill, you are opening the doors for youth who feel like they have no supports or options to do better in life. If I had financial help and a mentor, some sort of support system after aging out, I could have skipped over the five years, I could have skipped over the five years I have spent suicidal and struggling because no one deserves to feel like they have no support or options and that they will never be able to pull themselves out of poverty.

DeBOER: Thank you very much. Thank you for being here and for your testimony. Let's see if there are any questions for you. No, but thank you so much for being here.

KAROLINA YODER: Thank you.

DeBOER: It really helps us. Next proponent testifier.

IVY SVOBODA: Hi.

DeBOER: Welcome.

IVY SVOBODA: Good afternoon, Vice Chair DeBoer and members of the Judiciary Committee. My name is Ivy Svoboda, I-v-y S-v-o-b-o-d-a. I'm here in support of LB14, which would expand Nebraska's current successful Bridge to Independence program to youth who are

transitioning from out-of-home placement in juvenile justice to-- in our state. I'm the executive director of the Nebraska Alliance of Child Advocacy Centers, and our mission is to enhance Nebraska's response to child abuse. In 2021, the Nebraska Child Advocacy Centers served over 7,800 children who were reported to have experienced sexual abuse, sex trafficking, physical abuse, witness to violence, and more. Forty percent of our children served were between the ages of 13 and 18. The youth served by Child Advocacy Centers are not always able to access services through the child welfare system. In fact, some of the cases youth come to CACs because of abuse and neglect they experience are already involved in the juvenile justice system. This is unsurprising. National research has repetitively shown that unaddressed child abuse and trauma is correlated with mental health diagnosis and law-violating behaviors among youth from leaving home or missing school to using drugs and alcohol or more serious offenses and ultimately juvenile justice involvement. In particular, girls and young women who are involved in the juvenile justice system have been shown to experience high rates of sexual abuse and assault. So extending Bridge to Independence programming to youth in the juvenile justice system is an important part of Nebraska's response to child abuse and neglect. LB14 dictates that key supports will be started before and continue when the youth exit the juvenile justice system and LB14 is an important step towards promoting justice and healing for children who have experienced abuse and ensure that they have their needs met so future exploitation and abuse does not occur. So we thank Senator Dungan for introducing this bill and respectfully urge it to advance.

DeBOER: All right. Thank you. Are there any questions? Do not see any. Thank you for being here. Next proponent.

LINCOLN ARNEAL: Good afternoon, Vice Chair DeBoer and members of the Judiciary Committee. My name is Lincoln Arneal, L-i-n-c-o-l-n A-r-n-e-a-l. I'm assistant vice president of policy and leadership at Nebraska Children and Families Foundation. At Nebraska Children we have the Connected Youth Initiative, which is a public-private partnership for older youth ages 14 to 26 that have system experience, is relevant for our topics today with foster care, juvenile justice, and/or probation. I'm here today to talk to you about the current success of the Bridge to Independence program and how expanding it to include juvenile justice youth will increase their economic success, housing stability, sense of hope, and overall trajectory in their lives. In response to COVID-19 pandemic, the crisis of young people leaving the foster care system unsupported, the Granting Opportunities

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

for Achievement and Lifelong Success, also know as GOALS, pilot project was established in March 2020 through a public-private partnership between the Department of Health and Human Services, the Department of Labor, and the Connected Youth Initiative. This is for youth aging out of Nebraska's extended foster care, B2I program at the age of 21. The GOALS project allowed young people in Nebraska who aged out of B2I between March and December of 2020 to continue to receive monthly stipends of \$775 for six months and participate in one-on-one coaching. The GOALS project is important for today's discussion because it provides an unique opportunity, opportunity to learn how Nebraska's transition-aged young people fare when all conditions are same except for a cohort who receive a monthly living stipend, like, like B2I stipend. While the cohort was small and the comparison data is limited, overall, GOALS participants receiving the stipend had more positive outcomes in their peers than did, than did not receive the monthly stipend, but still received case management services. Youth who receive a monthly stipend reported higher levels of hope than their peers and reported higher levels of feeling valued and respected with more knowledge about how to access programming and services than their peers who do not receive a monthly stipend. Overall, the young people who receive a stipend also reported fewer recurrent needs. Most significantly, young people who receive a monthly stipend were significantly more likely than their peers to receive-- to have stipends. Overall, 72 percent of those who receive stipends have a savings compared to 34.4 percent who did not. Finally, young people receiving a monthly stipend reported a lower rate of housing mobility with fewer number of places lived in the past six months than their peers did who did not receive a stipend. As I mentioned earlier, young people with a safety net received a higher level of hope and feeling of value. Our hypothesis is that those feelings of hope led to higher rates of participation in school and work. While this dataset is limited, young people in Nebraska achieve success with the safety net of a monthly stipend. We also know that extended foster care in Nebraska works. While the circumstances of the former foster youth in this program are slightly different than the young people in the juvenile justice program, both have been shown to benefit from the B2I program. The Connected Youth Initiative serves hundreds of young people with many people-- many types of lived experiences, including those that transition from juvenile justice to probation. No matter the system, young adults face challenges and this program will help them. Thank you for your time.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

DeBOER: Thank you very much. Are there any questions? Don't see any. Thank you.

LINCOLN ARNEAL: Thank you.

DeBOER: Next proponent.

BRANDY GUSTOFF: Good afternoon, members of the Judiciary Committee. My name is Brandy Gustoff, B-r-a-n-d-y G-u-s-t-o-f-f, and I'm the chief operating officer for Omaha Home for Boys. I'm testifying as a cochair for the Bridge to Independence Advisory Committee under the Nebraska Children's Commission and on behalf of the Children and Family Coalition of Nebraska, CAFCON. On behalf of both commissions, I am testifying in support of LB14. The commission was created in 2012 following an extensive LR and HHS Committee investigation of Nebraska's child welfare and juvenile justice systems. We provide a permanent leadership forum for the collaboration of child welfare and juvenile justice. The Bridge to Independence Advisory Committee, B2I, is one of the five statutory committees which fall under the umbrella of the commission. The commission provides three branch leadership and community resource expertise to support transparent policy change at the state level. The commission also provides staffing support to the Bridge to Independence Advisory Committee to help fulfill its statutory requirements. In our 2020 statutory report to the Legislature, the B2I committee recommended expansion of the program to similar groups of at-risk young adults. LB14 accomplishes this through expanding program eligibility to a select population of former probation youth who are disconnected from family support or at risk of homelessness. The commission is passionate about expanding B2I in large part due to the improved outcomes youth adults in the program experience. Through collaboration with the Foster Care Review Office and the Nebraska Children and Families Foundation, an independent evaluation was completed in 2019 to measure the effectiveness of the B2I program. The external evaluation completed by Child Trends highlighted several key areas of success. B2I participants were found to be more likely than their non-B2I peers to: report having some postsecondary education experience; have safe, stable, and affordable housing; be able to cover monthly expenses; have adults to turn to in a crisis or for a loan. It is also noteworthy that all study participants reported having a high-quality, positive relationship with their B2I independence coordinator. This is a direct reflection of the hard work DHHS independence coordinators do on a daily basis to build trusting relationships with the youth they serve. We believe that every youth is one caring adult away from being a success story

and the B2I program helps ensure young adults have those supportive relationships as they enter adulthood. One participant shared having a person who is there consistently that knows all your needs and knows what you need, I think that's the best part. Isn't that what we want for our youth across the juvenile justice and child welfare systems as they enter adulthood? Having safe and stable relationships changes the outcomes for young adults. The B2I program is more than financial resources and case management, it's relationship capital. In conclusion, the Nebraska Children's Commission and Children and Family Coalition of Nebraska support LB14 as it expands effective services to former probation youth facing homelessness and a lack of family support. Thank you, Senator Dungan, for your leadership on this issue and the members of the committee for your time and consideration.

DeBOER: All right. Are there any questions? All right. Thank you for being here.

BRANDY GUSTOFF: Thank you.

DeBOER: Next proponent. Start with opponents. Are there any opponents? Is there anyone who would like to testify in the neutral capacity? Neutral? While Senator Dungan is coming up here, I'll say that there were 22 letters of support-- I'm sorry, six letters of support for LB14.

DUNGAN: Thank you, colleagues. Thank you to all the testifiers that came. I know there was a lot of testimony, and I know it's getting a little late in the day, but I think every single one of them brought a really important perspective. And I really appreciate-- am appreciative of those who came here today to talk about their personal experiences in the system. That's something that I think we oftentimes forget about, is that we're talking about people and not just numbers. I want to be very, very clear to my colleagues here this bill is incredibly important to me, but it's also incredibly important to the youth that it affects. As you'll see in the fiscal note, they estimate-- juvenile probation estimate there's about 50 people that would be eligible for this program. I don't know whether or not all 50 of them would, in fact, enroll in the program as it is voluntary, but we're talking about 50 youth who but for action that we can take here with this bill will be probably homeless because we're talking about youth who have gone through the judicial process. Most of them are doing a really good job on probation. And I just talked to a old colleague of mine last week who's representing somebody who's almost 19 and she's in Boys Town or she's at some out-of-home placement, I think it might

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

have been Boys Town, doing a fantastic job in having successful review hearings on a regular basis, but they can't discharge her from probation because she has nowhere else to go. And when she turns 19-- by the way, she doesn't have a neglect case so she's not eligible for B2I as it currently exists-- when she turns 19 she's just going to be done and there's no help that they can get currently. And so that the problem we're trying to solve here is ensure that these individuals have the opportunity to get this sort of transition planning and this training. I feel very comfortable that currently the Department of Health and Human Services runs a fantastic program and you heard some of the testimony about what this program consists of. But Bridge to Independence currently has a number of checks and balances in it where you have to be employed, you have to be working towards certain goals. And if you're not successful in that, you can and will be removed from the program. My understanding is that any party can request a review hearing at any time. So if there's ever a concern that somebody is not employed or not seeking education, the caseworker can call a review hearing and they can look at that. And there's regular review hearings every 180 days or six months. So the oversight that currently exists for this program is already pretty intense. And I, I, I just feel that what we have here before is a program that does a fantastic job, but there's a population that we need to address. So, again, this is important to me. It's important to others. Senator Blood I think to your funding question, I don't have the exact answer. I know that in addition to the Chafee funding, there's also the IV-E funding that we previously talked about. One of the concerns that have been expressed previously is that the youth, and I think you have highlighted this or you at least alluded to it, the youth who are on probation may not have that IV-E funding federally accessible, given they're not leaving foster care. I've spoken to DHHS about that. They actually, I think, reached out to me and we had a, I thought, a very good conversation about some of the potential challenges and also some of the benefits of this program. But I'm encouraged by the fact that the fiscal note currently is not a huge fiscal note. And I think that it's a really amazing investment that we're making. And when we look at the grand scheme of things, that \$1.2 million, I think, in the two years out, \$1 million here, the fact that we're talking about keeping those kids off the streets is a really small investment. I think it's also worth noting that our chief justice just mentioned in the state of the judiciary that I think it costs \$42,000-ish a year to incarcerate somebody. And we know for a fact that if we effectuate these kind of programs and keep people from being houseless, they're much less likely to recidivate, they're much less likely to go into the system.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

So I think this saves us money in the long run. I can get a more direct answer to you about that if you'd like to talk more about the funding. But even with this current fiscal note, I don't have concerns that it's too high given what we're talking about, so. Again, I'm happy to answer any questions about the process and procedure of this, if there are any, otherwise, I would urge your consideration of LB14.

DeBOER: Questions? Senator Ibach.

IBACH: Thank you. I just have one question and I was looking at this handout, it says completed a sample of 200 case reviews. How many are in the system or in the program right now?

DUNGAN: Oh, 200-plus I want to say. I spoke with DHHS--

IBACH: So it's more than this?

DUNGAN: --yesterday. It's, it's over 200 that currently are enrolled that are foster youth.

IBACH: OK.

DUNGAN: And so this would open it up to the potential about 40 to 50 additional youth from, from juvenile probation.

IBACH: OK, so like 250 total?

DUNGAN: Yeah, and I think that's where we run--

IBACH: And--

DUNGAN: --into the issue here with the 5.5 FTEs that they would need is that they are currently very busy. And the caseworkers that we're looking at for DHHS currently have a full caseload, it sounds like, of B2I youth or the people in B2I, the 19- to 21-year-olds. And so they would need some additional caseworkers to make sure they could handle this.

IBACH: OK.

DUNGAN: But again, they already have sort of the infrastructure in place to handle this and they just need a little extra help to manage the additional cases.

IBACH: OK. Thank you very much. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

DeBOER: Thank you, Senator Ibach. Senator Blood.

BLOOD: Thank you, Vice Chair DeBoer. Just a little clarification/question. So my concern-- I agree with everything that you said, these people need help, this is a good investment, but the, the Chafee amount is pretty substantial and, and I would hate to bring somebody to a program and have them not be able to receive the full benefits of the program because we neglected to figure out how to pay for that little gap. So that's, that's my only concern.

DUNGAN: Yeah, and I, and I think that part of the issue here that we're looking at with the fiscal note is just the way that it's kind of articulated. My understanding is that currently that IV-E funding and additional federal funding goes towards paying the stipends, for example, that the youth are getting. So that's not all coming out of the fund, it would be coming out of here. And so because for foster youth, they have access to that additional funding so that can assist in paying for those things like the stipend. So what we're seeing here reflected in the fiscal note is the assumption that those youth will not get that IV-E funding and, therefore, we have to pay X amount to make sure we fully pay their stipends and the staff that would be needed.

BLOOD: So it's stipend related, not housing related?

DUNGAN: I, I don't-- that'd be a better question for DHHS and we can talk-- I can talk more about that and clarify.

BLOOD: Because I thought that, I thought that funding was for housing.

DUNGAN: And the Chafee, I believe, is for housing, but the IV-E, the IV-E, I believe, can go towards the, the stipend itself. But again, I don't want to be quoted on that--

BLOOD: OK.

DUNGAN: --despite being on the record and I will--

BLOOD: Again, for me, I would, I would definitely need clarification.

DUNGAN: Yeah, I'll clarify the funding issues for you,--

BLOOD: Right.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

DUNGAN: --but I believe what's reflected in the fiscal note is the total cost they believe they would need for both stipend amounts as well as the 5.5 additional FTEs to make the program feasible if we made it accessible to the probation youth.

BLOOD: So I haven't looked at the fiscal note since the beginning of the hearing, but, but didn't that say that that would add additional funds onto the fiscal note? I don't think it includes that in the fiscal note, does it?

DUNGAN: I can, I can review. We, we--

BLOOD: Does it compensate? I don't think compensates for that gap, maybe I'm wrong.

DUNGAN: We can go over it afterwards--

BLOOD: Yeah, I definitely want--

DUNGAN: --just to make sure that it's clarified.

BLOOD: --before we go to Exec.

DUNGAN: Yep. Yep, I'd be happy to do that.

BLOOD: Thank you.

DeBOER: All right. Other questions? I do not see any. All right. Thank you, Senator Dungan. That will end our hearing on LB14 and move our hearing to LB-- open our hearing to LB174, also Senator Dungan. Well, welcome back.

DUNGAN: Thank you. It was such a short walk. Good afternoon, Vice Chair DeBoer and members of the Judiciary Committee. I am Senator George Dungan, G-e-o-r-g-e D-u-n-g-a-n. I represent the people of northeast Lincoln in Legislative District 26 and today I'm introducing LB174. LB174 changes the statute of limitations on certain civil actions for sexual assault of a child. This bill was previously sponsored by the late Senator Rich Pahls of Omaha. Under current state law, a victim of child sex assault has until age 33 or 12 years after their 21st birthday, as I believe it's written, to pursue a civil action against a third party. Many victims of traumatic sexual assault do not remember or possibly they suppress the memory of their abuse well past the age of 33. The statute of limitations in many cases exist for, for reasons and it's important for us to have in general in

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

the law. However, this law provides a narrow carve out that holds entities with a history of abuse accountable in the years to come. This is something that we do with other statutes of limitation for things like crimes of murder, where we acknowledge the importance is of such a wait that it's OK to not have a statute of limitations on it. LB174 would remove the limitation of 33 years old for instances of sexual assault of a child going forward, meaning victims who have already aged out of the current limitations will not be able to seek civil action against their abuser or the entity that fostered the abuse. We constitutionally cannot allow previously time-barred cases to be brought or reopened. Doing so would result in this law being removed by our court system. What I mean by that is a previous iteration of this law allowed it to be retroactively applying, saying that if a case had happened 50, 60 years ago, you could now today bring a, a suit. My understanding and reading of the law is that you can't do that. We can't retroactively get rid of statutes of limitations so what this effectively is saying is that as of today, moving forward, there is no longer a statute of limitations on the civil cases that arise out of these child sex assaults, but it doesn't open up the door or the gate to hundreds of years of potential litigation. This is a very heavy topic to discuss. I understand that you're going to hear stories today from people who are survivors. These are the stories that make the passage of this bill imperative. And as a society, I think we should be holding people in institutions accountable for their actions and that's exactly what LB174 does. At this time, I'll end my testimony so you can hear the stories from some of the people behind me about their experiences. I appreciate your time today and I would urge the committee to pass this bill out of committee soon. I'm also happy to answer any questions that the committee might have.

DeBOER: Are there any questions? Senator Blood.

BLOOD: Thank you, Chairwoman DeBoer. Senator, can you tell me the difference between this and LB833 that Lathrop brought forward like a year or two ago?

DUNGAN: So my understanding of-- I-- I'm not-- I wasn't here, so I, I apologize if I don't know all the specifics, my understanding of the trajectory of this issue is it's been addressed before. There was a bill, as I mentioned, that Senator Rich Pahls had brought, which sought to get rid of the statute of limitations. And in doing so, it was retroactively applying. There was a committee amendment that was made to that that effectively corrected the potential constitutional

problems with that which I just outlined, saying that you can't retroactively do away with statutes of limitation, but we can get rid of that moving forward. That's what this bill is modeled after, after. And so, again, I'm not sure the specifics of that bill, but I, I do know that that's the trajectory of some of what had been talked about here when I sort of picked it up and identified that it was an important issue for us to discuss.

BLOOD: Yeah, I, I-- Nebraska is one of the few states that hasn't gotten on this bandwagon. I've worked with sexual assault victims for decades and I think people especially when it comes to things like incest especially don't understand the things that are involved with-- often people have to wait for their parents to pass away before they are brave enough to step forward or other family dynamics or moving out a particular area where they won't be shamed or-- yeah, it's, it's very-- well, this stuff is actually nuanced that we don't even think about sometimes, so. [INAUDIBLE]

DUNGAN: Yeah, and I've, and I've had an opportunity to talk to folks who've worked for the Child Advocacy Center, which I know does work in the sexual assault arena. And, and I'm not an expert on it, but I think you're right there's a number of circumstances where individuals who are survivors of sexual assault either can't come forward, don't come forward, or won't come forward. And I think those all stem from different things and far be it from us to tell somebody what those are going to be, but I, I absolutely think that it's an issue that needs to be addressed.

BLOOD: All right. Thank you.

DeBOER: Other questions? I don't see any. First proponent.

HERBERT FRIEDMAN: Good afternoon, Chairman and members of the committee. My name is Herbert Friedman, F-r-i-e-d-m-a-n. I'm an attorney in Lincoln. I've been practicing in Nebraska for 60 years. I'm here on behalf of both me and the Nebraska Association of Trial Attorneys. First, I want to start off by saying that in the last 50 years our firm has represented numerous people who have been children who have been abused. And I can tell you from our personal experience that these children are abused for life. Some of them aren't, but a good share of them are. They have hard times all through their own life with, with getting married, representations, they have problems with getting jobs. They are really poorly-- if, if I could, if I-- I'd probably say this using language that shouldn't be handled at, at a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

legislative hearing, but these people are really poorly abused. And I have presented to you a testimony of Dr. Marci Hamilton of the University of Pennsylvania. She could not be here today, but she did want to have her views presented to this committee. There are some significant issues here and one of them is that a good share of the people who are abused do not come forward until they're in their 50s, sometimes into their 60s. If you, if you look at the statistics, these are statistics that have been developed by Dr. Hamilton and her committee that it's difficult for these kids to come forward. They bury it. We've had situations like that in our office. So I, I urge you to take that into consideration. I think that these children deserve to be-- have their say in court. I don't think it's fair to let institutions slip by here on the, on the idea of some time limit. The cost of this thing should not go to, to the, to the abused, but the people who are the abusers. That's all the questions I have-- that's all the, that's all the information I can send to you this way. And if there's any questions, I'd be happy to answer them.

DeBOER: Thank you, sir. Are there any questions for this testifier?
Senator Holdcroft.

HOLDCROFT: Thank you, Vice Chair DeBoer. So make sure I understand this. We're-- the statute of limitations against the actual abuser are already unlimited, correct? So we're really looking at third party here.

HERBERT FRIEDMAN: Not necessarily, the statute of limitation goes to age 33 now. That happened back several years ago in the Legislature and they changed the law.

HOLDCROFT: But my understanding was that the statute of limitation for-- is for an actual abuser is unlimited. It doesn't exist in this statute of limitation, maybe I'm wrong.

HERBERT FRIEDMAN: I think you're wrong.

HOLDCROFT: The 33 is to go against third party.

HERBERT FRIEDMAN: No, I think it goes-- I think-- unless I've misread the statute, after age 33, currently the cause of action goes away against anybody.

HOLDCROFT: It says here in the, in the statement, it says: There is no statute of limitations for action against a person that directly

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

caused such injuries. But this has to do with a third party, not the actual person who did the injuries.

HERBERT FRIEDMAN: That's correct.

HOLDCROFT: OK. Thank you.

DeBOER: Other questions. Thank you for being here.

HERBERT FRIEDMAN: Thank you.

DeBOER: Next proponent. Welcome.

JAY THOMAS: Thank you. My name is Jay Thomas, J-a-y T-h-o-m-a-s. I'm a husband, a father, a son, a brother, a small business owner, a Marine Gulf-- a Marine Corps Gulf veteran and victim number 7 on page 51 of the Nebraska Attorney General's report on clergy and sexual abuse within the Catholic Church. Here are a few statistics involving males being raped or sexually assaulted: 80 percent of the rapes and sexual assault charges go unreported, and this is shown by the Brennan Center for Justice and reports, 1 in 71 men will be raped at some point in their lives. With child sexual abuse, one in six will be sexually abused by the age of 18, 27.8 per-- [RECORDER MALFUNCTION] These men are younger than the age of ten on their first rape and victimization. What is the silent phenomenon of male sexual abuse? The horror of what you've experienced is difficult to put into words: feeling of shame, anger, betrayal, and even misplaced guilt. When sexual assault and the traumatic feelings that flow from there are perpetuated and covered up with a powerful institution like the Catholic Church, the betrayal and the violence is uniquely deep. Of all places, a-- a child should feel safe within the church, guided by the highest biblical principles, by men claiming to be in direct relationship with God. Do you know that Monsignor Clarence Crowley engaged in such serial violence leading to reverberating child and family impacts of unspeakable violence? I want to read to you my statement given to the Attorney General's Office on my sexual abuse at the Cathedral-- at-- at the Cathedral of the Risen Christ at the hands of Monsignor Clarence Crowley. Victim number seven: On the di-- the diocese received a call from victim number seven in October of 2021, alleging that he had been abused by the priest in the early 1980s. The diocese informed the Nebraska DOJ about the call and provided victim number seven the contact information. An investigator from the DOJ spoke with victim number seven and indicated he was abused by Monsignor Crowley in the early 1980s. Victim number seven reported that he was 11 years old. He went to see Crowley for a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

confession. Confession. After completing confession, Crowley asked victim number seven to accompany him to another room. Crowley told him to remove his clothing and proceed to fondle-- proceeded to fondle victim number seven's genitalia. He rec-- he recollected that the fondling lasted a very long time, likely upwards of ten minutes. When he was finished, Crowley allowed victim number seven to put his clothes on and leave. Victim number seven commented that he knew what Crowley had been done was wrong.

DeBOER: Typically, sir, I would stop you, but I'm going to ask you to continue--

JAY THOMAS: OK.

DeBOER: --as a question.

JAY THOMAS: On April 7, 2017, I started my long road to recovery from alcoholism. After several years of intensive outpatient therapy and individual therapy, within that process, I uncovered my abuse from Monsignor Clarence-- Clarence Crowley some 40 years later. While this time gap is significant, the time taken to report child sexual assault isn't. The delay in reporting may seem odd that one can't remember such an episode, but the research confirm that the body stores trauma in many different ways for each individual. For more than 100 years, doctors and scientists have reported the connection between trauma and forgetting. Mentally blocking out memories of past trauma is a psychological defense mechanism known as dissociation. Because they are emotionally painful, recollections of abuse are often buried deeply, especially for children for whom-- are confused, overwhelmed, have communication/development issues, and fear of getting in trouble, especially by someone threatening as a man of God backed by a complicit institution are completing the crime. Why is this such an epidemic in the Catholic Church? It's the perfect crime where victims are overwhelmed into silence and they carry a soc-- a special load of reinforced silence given the stigmatization of sexual assault is for them. This is why it is imperative to remove the statute of limitations for victims reporting a sexual assault. Number one, it will put perpetrators and institutions on notice for-- from protecting on notice. It will reflect that we know about this kind of assault and its reporting delays while offering recourse for survivors. It's too late for me to realize my justice. I have come forward to ensure that other boys like me are not limited by law.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

DeBOER: Thank you so much. Are there other questions for this testifier? Thank you so much for coming in and telling us your story.

JAY THOMAS: Yep. Thank you.

DeBOER: Next proponent testifier. Welcome.

JANICE THOMAS: Good afternoon, members of the Ju-- Judiciary Committee. I would like to thank Senator Dungan for bringing LB174 to this year's legislative session. I would also like to thank Senator DeBoer for her support on signing this. I am here today to testify in favor of LB174. I am in disbelief that there is a statute of limitation on certain civil actions for sexual assault of a child. It is stunning to me that this is acceptable to anyone. As the law is currently written, it protects the pedophiles. Is that who our state is in be-- is in business to protect, the pedophiles? We need to protect every single child. You may wonder, as I wonder, why the child, when it happens, doesn't tell. Is it shame? Is it disbelief? Have they been threatened? Embarrassment? The list of questions go on and on. The saddest part is most of these situations go unreported. In my case, my child was sexually assaulted at the age of 11, 11 years old, 11. After years of counseling, at the age of 50-- yes, you heard that right-- at the age of 50, he contacted me and his father to join him for counseling. We joined him on a very still, sunny afternoon, and that's when we learned that our son had been sexually assaulted. This is roughly 39 years after the assault occurred, 39 years. I am the mother who dropped my child off at church, and that is where a priest sexually assaulted him, at a church. Sadly, we learned of the assault of our child 39 years after it happened, and there is nothing we can do, other than support his emotional support, because that's how the law is written. As a mother, I ask you to vote LB174 out of committee. Your support shows a commitment to the most vulnerable victims of our state, and that is our children. Do you have any questions?

DeBOER: Thank you. Are there any questions? Thank you for being here. Next proponent testifier.

JAMES THOMAS: I'm James Thomas, J-- Ja-m-e-s, capital-- middle initial "D.," Thomas, T-h-o-m-a-s. Good afternoon, Chairman Wayne and members of the Judiciary Committee. I'd like to thank Senator Dungan for bringing LB174. I would like to thank Senator DeBoer, Senator Ro-- Conrad, Senator Wishart, for their signing of LB174. I'm here to testify in favor of LB174. I have disbelief that there's a subject

[SIC] of lim-- limitations on sexual assault of a child. I'm 80-- I'm 80 years old, born into a family [INAUDIBLE] a Catholic family, baptized and confirmed as a Catholic. I mar-- I married Catholic, grewed my three children. I'm no longer a Catholic. My wife's no longer Catholic. My children are no longer Catholic. At the age-- young age of 11 years old, a priest at Cath-- Cathedral of the Risen Christ sexuality assaulted my son at church, a place I thought my child could be safe. By the time I learned that was-- it was probably 50 years old. As a proud-- a father-- father, I'm proud of my son. He is a war veteran, served on the front lines, Desert Storm, as a marine. He's a business owner. He contributes to our community. He's a hero, yet him-- he is a child [INAUDIBLE] childhood assault. The law as currently written, I can only support him. I am angry that our state has-- leaves that-- leaves their children at re-- risk. Please protect the children of our state and support LB187-- LB174. Thank you.

DeBOER: Thank you. Are there any questions? Thank you for being here. Next proponent.

JILL TILLINGHAST: Good afternoon. My name is Jill Tillinghast, J-i-l-l T-i-l-l-i-n-g-h-a-s-t. I am a registered lobbyist, but I am here today representing myself and not on behalf of any client. As I prepared for today, I sat in front of my computer speechless several minutes, wondering, where do I start? How do I unpack this feeling heartbroken and sick? The state I've called home my entire life, Nebraska, the so-called land of "The Good Life" has a statute of limitations on sexual assault of a child. My brother is a victim of childhood sexual assault. His assault happened at church and he is one of hundreds of victims. As the law currently stands, it is pro-pedophile, not pro-child. LB174 will provide-- provide protections for victims of sexual assault. Please stop and think. Think about the individuals like my brother, the 53-year-old victim. Think about all of the Nebraskans who are victims. They work. They volunteer in their communities. They're parents; they're sons and daughters; they're sisters and brothers. They serve on boards. They're business owners and leaders. They're students. They own property. They give back. They're veterans. They're young. They're old. They might even sit across the aisle from you. They're members in your communities. They're silent sufferers. Senator-- Senators, as Nebraskans, we need to do better for them. Governor Pillen talked about kids in his State of the State Address. He talked about how kids are our biggest investments, they're our future. There's no better time than now to protect the kids of Nebraska by supporting LB174. I want to thank

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

Senator Dungan for bringing the bill before the Legislature this session, and I ask for your support in voting this out of committee. Does anybody have any questions?

DeBOER: Are there any questions for this? Thank you.

JILL TILLINGHAST: Thank you.

DeBOER: Next proponent. Is there anyone else who would like to testify in favor of this bill? Is there anyone who would like to testify in opposition to the bill?

ROBERT BELL: Good afternoon, Chairwoman DeBoer and members of the Judiciary Committee. My name is Robert M. Bell; last name is spelled B-e-l-l. I am the executive director and registered lobbyist for the Nebraska Insurance Federation. I'm here today in opposition to LB174. The Nebraska Insurance Federation is a state trade association of insurance companies. Many member companies write business liability insurance for Nebraska businesses. As you've already heard, LB174 eliminates the statute of limitations for civil actions against entities for third-party liability related to child sexual assault in the first, second or third degree. The current limitation is 12 years after the victim's 21st birthday. There is no current statute of limitations for civil actions against the perpetrators of such acts. Entities become liable when a duty to a child is owed and an entity is deemed negligent in a manner that permitted the sexual assault to occur. Entities could include various small and large businesses, such as retail establishments, daycares, foster care facilities, private schools, nonprofit organizations and businesses that employ 14- and 15-year-old children. Most of these entities are insured by business liability insurance, which obligates the insurer to defend any suit seeking damages because of the personal injury involved. If the suit is filed, the insurer would defend those covered claims, even if the proceeding finds no obligation on the insurer to pay damages. A lawsuit brought many-- a lawsuit brought many years or decades against a business can be extremely difficult to defend. Evidence becomes more difficult to find. Records disappear or are destroyed. Witnesses' memories fade, if witnesses can even be found. This is why statute of limitations exists to begin with, to protect against litigation that can-- that cannot be conducted justly and to encourage inj-- injured parties to seek redress as quickly as practicable. This is why insurers who defend the lawsuits must object to the elimination of a statute of limitations. Insurers must also-- also object to the broad nature of the legislation. The elimination of the statute of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

limitations would apply the same for a business or organization who acts in a manner to take some overt action against the victim as it would to a business who had no idea the crime occurred. Additionally, as an example, the elimination of statute of limitations could apply to situations with a suppressed memory the same as a situation when a crime is known and the perpetrator is convicted. In this case, there is no reason that-- that exists to not proceed with a civil action against a third-party entity before the victim's 33rd birthday. Insurers believe that a reasonable-- that a reason should exist to toll the statute of limitations. For these reasons, the Nebraska Insurance Federation respectfully opposes LB174. I appreciate your time and opportunity to testify.

DeBOER: Are there any questions? Senator Blood.

BLOOD: Thank you, Vice Chair DeBoer. Thank you for coming in today. I know it's always hard to come in opposition on bills like this, so--

ROBERT BELL: Sure.

BLOOD: But here's the question that I have for you. The concerns that you brought up about things like people's memories fading, harder to find witnesses, doesn't that just further put the burden on the alleged victim more than it does on the-- the business that you represent?

ROBERT BELL: Well, I think it puts burden on-- on both sides. Yes.

BLOOD: But at the same token, I mean, when you look at all the data, we know that-- we know for a fact that many people go decades before they're even able to report it. Why shouldn't they be all-- I mean, outside of the costs involved for the insurance companies--

ROBERT BELL: Right.

BLOOD: --why shouldn't they be allowed the benefit of finding-- of seeking justice?

ROBERT BELL: Well, I'm glad you asked that question because I think this law or this legislative bill, as written, casts a wide net, right?

BLOOD: [INAUDIBLE]

ROBERT BELL: And so if we're talking about suppressed memory or situ-- a situation along those lines, perhaps that should be differentiated from, I mean-- I don't know. You can pick up the paper and read about so many of these unfortunate incidences occurring where the perpetrator is caught immediately, is convicted, sent to prison, is going to spend 30 years in prison or whatever, whatever the case may be. The victim knows, unfortunately. The-- the guardians know or the parents know. The employer, if there's an-- if there's a business, they know. You know, why-- I think that's a very different situation than a suppressed memory and-- and there could be a good question of fact or of law of whether or not that third-party entity is in fact-- was somehow negligent and breached some duty of care, you know, and I think there are reasons that we wouldn't want to litigate that as soon as possible, you know, and the business can't necessarily go seek that litigation out, right, if-- if the person delays or the victim delays, for whatever reason. You know, I thought you brought up a really good point on, you know, you need to get out of the house. There-- there might be a family situation going on, even if we're talking about, again, a third party--

BLOOD: Right.

ROBERT BELL: --in that-- in that situation. But then you're still out of the house at-- in your 20s or in your early 30s and I-- with-- to bring that lawsuit against that third-party entity, that has maybe some level of liability. And so, yeah, I don't know if that answered your question, probably not, but--

BLOOD: Yeah, I-- I mean, here-- here's the concerns I have, is that, you know, we-- we always-- and I think sometimes we look to TV dramas and we talk about-- when we talk about things like this where we say-- we talk about suppressed memory, I mean, I ran a crisis center for abused women and children and-- and I can tell you that when I talked to victims that would come to the crisis center for things that had happened decades later, so many of them were only able to come forward when they were able to break free from-- and you heard the people refer to the-- they were their priest, the Catholic Church-- free from the environment that protected these ne'er-do-wells for decades. And it wasn't until they were able to break away from those bodies or, you know, many end up-- many people as adults end up having to excommunicate with their families-- from their families. So to me, it-- it doesn't seem unusual to have somebody in their 60s or 70s say, you know, now my parents are dead, now I want to tell my story. And so

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

I-- I do-- I do have concerns. And, no, I understand why you're here in opposition, I do.

ROBERT BELL: Right.

BLOOD: And I-- for me, my bias is because I have worked with so many victims and I have heard more stories than I think any human being should ever have to hear. But I think that the nuance and I think that how difficult it is, is something that we also have to take into consideration as policymakers to make sure that people truly can get justice.

ROBERT BELL: I-- and-- and, again, I--

BLOOD: But I do hear what you're saying, though--

ROBERT BELL: Yeah.

BLOOD: --and I understand why you're here in opposition. But-- but I think there's more nuance to it than, you know, it's going to raise our insurance rates or--

ROBERT BELL: Well, no, and I'm not even arguing that insurance rates are going to go up. I'm arguing we're-- I mean, always, if there's more claims, costs go up, right? I mean, that's just-- that's just life. But that's necessarily my argument. Argument is here, what is-- I mean, if you're a business, you know, and-- and you-- let's say you employed 14- and 15-year-olds at like a McDonald's or something like that, say it's a family-owned franchise, and, you know, there was a manager that was inappropriately-- you know, doing something inappropriate with-- with a 15-year-old employee, you know, and, again, this-- this legislation, even-- even if that-- they go, they take action, there's a criminal conviction, everybody knows, this statute of limit-- there's no statute of limitations. That victim can wait forever, and does that-- does that-- what does that do to the business, you know?

BLOOD: But does it make them any less complicit if indeed they were complicit?

ROBERT BELL: I don't know. I mean, it could be-- I mean, that's why-- that's why you have-- that's why you have a court. I-- I mean--

BLOOD: All right.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

ROBERT BELL: --so, yeah.

BLOOD: I-- I appreciate the conversation.

ROBERT BELL: Yeah.

BLOOD: I just-- yeah, this is a hard topic.

ROBERT BELL: I mean, we-- we would look for a more narrow answer to the question that is-- is trying to be answered, you know, so.

BLOOD: Fair enough.

DeBOER: Other questions? I have a number of them.

ROBERT BELL: Sure.

DeBOER: The statute of limitations is an absolute bar to bringing a suit, right?

ROBERT BELL: Yes.

DeBOER: So you don't have any opportunity to come to court and have the question about whether you have sufficient information to prove a case. If you don't have a statute of limitations, you still have to go to court. You still have to prove that there was an assault, that the assault or-- sexual assault or whatever, that there were-- that sexual assault happened in a situation in which there was someone who owed a duty of care. Right?

ROBERT BELL: Um-hum.

DeBOER: You have to prove that that duty of care was-- was not met, that they did not meet--

ROBERT BELL: Correct.

DeBOER: --the duty of care-- duty-- duty of care. That would be very difficult to do at any time, perhaps, but certainly much later it would be difficult to do. It is the plaintiff who has the burden of proof to do that, correct?

ROBERT BELL: Correct, yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

DeBOER: So the plaintiff has the burden of proof, even after all the time has passed, to show that there was a duty by this third party and that they violated that duty.

ROBERT BELL: Correct.

DeBOER: So in these circumstances where we have something, if there's a third party that is liable for something like this, they've done something wrong. They've not met their duty.

ROBERT BELL: They have not met their duty. Correct.

DeBOER: They have not met their duty. So they have erred.

ROBERT BELL: They're possibly negligence, yeah, right.

DeBOER: They-- they have done something-- they have not done something-- they have done or not done something that they should or should not have done.

ROBERT BELL: Correct.

DeBOER: So if we take this bill as proposed and we pass it, the only thing that will happen is that folks who had a duty owed to them that was not met will have an opportunity to go to court and make that case, right?

ROBERT BELL: Correct. Yeah.

DeBOER: OK.

ROBERT BELL: And the insurer would defend that-- that-- that entity--

DeBOER: All right.

ROBERT BELL: --whether or not-- whether or not there was-- it was found that that duty was breached or not, so.

DeBOER: All right. Thank you.

ROBERT BELL: You're welcome.

DeBOER: Any other questions? Senator McKinney.

McKINNEY: Thank you. And thank you. I'm sitting here thinking, what if a kid that is 11 is assaulted and his or her parents don't want to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

move forward and, from that time up until 33 years passes, at some point, they decide to bring it.

ROBERT BELL: Um-hum, OK.

McKINNEY: What do we do about those situations? Because sometimes it's not in the control of the-- of the kid to bring the suit.

ROBERT BELL: No, absolutely, and, I mean, I think-- and as Senator Blood was-- was hitting on that, you-- sometimes you might need to get out of the house and, you know, age of majority is 19. You know, you would have time to-- to bring that, that lawsuit, against, again, the third party. Right? We're not talking about against a perpetrator, which there is no statute of limitations on.

McKINNEY: Yes, you would have time, but you also gotta account for a lot of these individuals are suppressing that trauma and some-- a lot of times it's triggering events that cause them to really remember.

ROBERT BELL: Right.

McKINNEY: So I get what you're saying about that, but it's like, what about the victims?

ROBERT BELL: Yeah, and it's a-- I mean, it's a tough decision that's before the committee, obviously, and there-- there were powerful stories that-- that-- that were told here today. You know, it's--

McKINNEY: Because there's like we're balancing an increase in possible cases or insurance against the safety and justice for victims.

ROBERT BELL: Right.

McKINNEY: And a lot of times in these hearings, if you spend a lot of time in here, you get a lot of people that come and always are saying everything about public safety and protecting victims, and I just don't know how you weigh it over here versus the victim, so thank you.

ROBERT BELL: It-- it-- that's why you get paid the big bucks, Senator, to-- to make those choices, so not an easy decision by any stretch of the imagination.

McKINNEY: Thank you.

DeBOER: OK. Any other questions? I don't see any. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

ROBERT BELL: You're welcome.

DeBOER: Other opponents?

TOM VENZOR: Good afternoon, Vice Chairwoman DeBoer and members of the Judiciary Committee. My name is Tom Venzor, T-o-m V-e-n-z-o-r. I'm the executive director of the Nebraska Catholic Conference. Every act of child sexual abuse is a crime and a sin. These acts are more egregious when committed by adults who serve in positions of authority, whether they are clergy, teachers, coaches or family members. Each one of us and together collectively have a responsibility to prevent child sexual abuse. Just over a year ago, the former Attorney General issued his report on clergy sexual abuse. The report documented the abusive behaviors of priests, deacons, and Catholic Church employees and other lay members over the span of seven decades. The-- or actually longer than that, I'm-- or, yeah, seven decades. The Attorney General's report identified 190 victims of child sexual abuse. This abuse occurred at the egregious misconduct of 51 priests, 4 deacons and 2 teachers. While nothing can adequately address the life-altering pain that sexual abuse has caused the victims and their families, the church is profoundly sorrowful for these great failings. To anybody who has been abused, and to their family members, we are very sorry for the pain, betrayal and the suffering you've experienced in the church. You deserved better and we ask your forgiveness. I won't be able to get through all of this testimony, but I want to highlight some of the points that I've got here. Just-- just for context, the-- since the historic child sex abuse issue has been unveiled in 2002, the Catholic Church has spent the last couple of decades really creating robust child protection programs, so in any given year, in the three dioceses, over 15,000 clergy, teachers, employees and volunteers have undergone criminal background checks and safe environment trainings to prevent and report abuse as well. All the kids in our care, whether they're in our schools or religious education programs, so around 33,000 kids, and youth in our parishes and our schools are educated on safe and healthy relationships and how to identify and report that misconduct, and that's a commitment we'll continue to make for child protection in response to what we've experienced. Just basically, two basic concerns with this bill, and I think some of those have been already discussed by Mr. Bell, which is just this balancing of interests between the-- the rights of the plaintiff to be able to bring their claims forward, but also sort of the ability of defendants, you know, to deal with finality because of issues that you have with witnesses, evidence, memory, among other things, when you have claims being brought 30, 40, 50, 60 years later.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

And then the second kind of basic flaw that we see in the bill is, and we-- I articulate this quite a bit longer in the testimony, is just really this concern that this bill does nothing-- it perpetuates inequitable treatment of victims of child sexual abuse, so our thing has been, is that if-- if this is a real serious issue, then-- then the statute of limitations also needs to be applicable here to the public institutions as well, and so this bill doesn't treat victims equitably across the board. So with that, the light's on, so I won't-- end there, but I've got further stuff in the testimony. Thank you.

DeBOER: Any questions? Senator Blood.

BLOOD: Thank you, Vice Chair DeBoer. So are you telling us that if we were to change it to say both public and private entities, you would be in support of this bill?

TOM VENZOR: I don't know if we would necessarily be in support of the bill. We still have fundamental issues with the statute of limitations being indefinite. Again, I think there's-- the Legislature-- the statute leg-- statute of limitations exists for a purpose. They are an attempt to balance the interests of the plaintiffs, to-- to encourage and to get them to come forward to make their claims, and then also the ability of defendants to be able to procure and deal with evidence, witnesses, memory, etcetera. So this-- the indefinite nature of the statute of limitations, we think, is fundamentally a problem. But also we think fundamentally, as well, that if you're going to go forward with this type of thing, you have to be treating victims equitably across the board, so this bill doesn't do that. And-- and Senator Pahls's bill didn't do that either last year, and it's something that we encouraged them to do, is if you think that there's a real concern with victims not being able to bring their claims against third parties forward, then that's also a-- that's also a problem for victims who are victimized in a public institution setting, like public schools or child welfare or foster-- juvenile justice system, etcetera.

BLOOD: So if I hear you correctly, it's an eq-- an issue in reference to it being equitable for victims of child sexual assault and that it should be both private entities and public institutions. Correct?

TOM VENZOR: Um-hum.

BLOOD: And then the other question I would have for you is-- I mean, testifying against this bill, in opposition on the bill, I know, is

never a comfortable position to be in. I do-- I do empathize with that. But you-- you also understand the long-term damage that is done to children of sexual assault. We know through data, through science, through information that's been given to us over the-- the many, many decades since I've been alive, the long-term issues that this creates for people, not just emotional and mental health, but physical health as well. We know that people that are victims of sexual assault are-- are more prone to health issues, be it heart, blood pressure. They're more prone to-- to having long-term issues. They're even more prone to cancers because it affects them long term. And so if they're put in situations where they can't immediately get justice, why shouldn't they be allowed to get justice 40, 50 years later after suffering physically, sometimes, not just emotionally, for decades? Why aren't they allowed that justice if a third party protected those victims, those survivors? That's the question that I have. That's-- that's-- and again, I understand why you have to testify in this fashion. But do you-- I-- I mean, I'm asking you to be truthful with me. Do you think that's justice?

TOM VENZOR: Um-hum. So, again, yeah, we certainly understand a lot of those long-term consequences, you know, that can happen with victims of child sexual abuse. Again, the commitment to the church, especially over the last 20 years plus, has been to recognize the harm that was done in-- in prior decades. And, you know, to have other things like victims assistance, outreach, you know, to ensure that we have opportunities that if victims want to reach back out to us and they want that assistance, you know, to-- to deal with some of those issues, we can try to help with them. Again, our concern here is these issues of balancing, you know, the rights and the interests of plaintiffs to be able to come forward with sort of a timely fashion, sufficient amount of time to come forward, but then also sort of balancing that with the-- the other side of the defendants, because in-- right, in some of these circumstances, I'm sure, maybe it is very clear that there was abuse in-- there was abuse in-- abuse in a situation and that maybe a third party-- the third parties acted improperly. But also, when you start getting out further and further out from the incident, it just becomes all the more harder to-- for plaintiffs, as I'll acknowledge, for plaintiffs, but also for the defendants to be able to defend themselves to-- against versus genuine claims versus also fraudulent claims, etcetera. I will say, on Mr. Friedman, who testified right out of the gate in support, he had mentioned Professor Hamilton's information on typically it takes till age 50, age 60 to report, and we've seen that data, too, from-- well,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

we've seen some of that data from Professor Hamilton, and I'm not sure what exactly was handed out to you all, but I know that some of what Professor Hamilton has pointed to in the past is like a German study where they claim that the-- that the average age of reporting is 52. But if she-- so if-- if that information is pointing to that data, that data had to do basically with like a Ger-- a hotline in Germany that basically invited people to share their stories with the German government. And what they found in there was that the average age of people who-- who called in voluntarily to share their story was age 52. So that doesn't necessarily tell you that that's like the average age of when people come forward; that just tells you what it was in that-- in that sort of voluntary survey. So I think, too, there might be questions about, you know, what is that average age and-- and other issues of that nature. But-- but, again, our issue here is balancing between the two things, because the defendants have those rights to have some level of finality to the claim or to have situations where they can deal with a memory that's still intact or witnesses that are still alive, etcetera, so I think those are kind of the things that we're trying to balance with here.

BLOOD: So I-- two things. So to me, what I hear you saying is that really the excessive burden is on the survivor or so--

TOM VENZOR: Repeat that. I didn't hear you. I'm sorry.

BLOOD: What I hear you saying is really, from what-- the way you just described it to me, it sounds like the biggest burner-- burden is actually on the survivor. And then I never really heard you answer whether you believe that they deserve justice, regardless of how long it's been.

TOM VENZOR: Well, certainly they deserve justice in-- yes, they deserve justice, absolutely. What we're here saying is that at-- when it comes to statute of limitations, statute of limitations, again, fundamentally, they exist as a legal reality for a reason: to balance the interests of both the plaintiff and of the defendant. Either the statute of limitations matter or it doesn't matter, and if it doesn't matter, then-- then sort of what reason is there to keep them in this context or any other number of contexts? So our point is that here we think that the statute of limitations is su-- sufficient in balancing those interests between the plaintiffs coming forward and the defendants having, again, those balanced interests of-- of, you know, being able to have claims come forward in a timely fashion so that they can deal with them and handle them with the evidence, the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

witnesses, etcetera, that they need, that you-- that you have to deal with in a-- in a legal proceeding. So, and I'll also add, as Mr. Friedman was incorrect in his testimony earlier on, the statute of limitations is indefinite as against the person who directly perpetrates the harm, so there is recourse to-- against that individual as well.

BLOOD: I guess I just don't understand what you're trying to tell me that-- what you're trying to balance, so-- but I-- I appreciate you trying to answer that.

DeBOER: Other questions? Senator McKinney.

McKINNEY: Thank you. Looking at your testimony and thinking about what you're saying, so if you don't like it being indefinite, and in this-- in your testimony and in the report, the abuse lasted over seven decades, would you be open to seven, seven decades?

TOM VENZOR: Well, the-- the abuse didn't last over seven decades. The Attorney General's report spanned abuse that occurred; it basically-- he went back to the 1930s and went through records to find instances of abuse over that period of time, so it's not that, I mean--

McKINNEY: So, no, the-- what I'm saying is--

TOM VENZOR: Yeah. I'm-- yeah, sorry, maybe I misunderstood you.

McKINNEY: --the church, whether you agree or disagree, potentially allowed abuse for over a span of seven decades in the '30s up until seven decades ended. So what I'm saying is, what about 70 years?

TOM VENZOR: I'm-- I'm not sure if I'm really kind of tracking your rationale.

McKINNEY: Is-- is everyone in this report deceased?

TOM VENZOR: I-- everybody in the Attorney General's report who had accusations against them or findings? No, I think there are some that are still alive. I don't know like the breakdown, but--

McKINNEY: What was the average-- what was the youngest age of the-- of a victim in the report?

TOM VENZOR: Yeah, I don't-- I could-- I could figure that out. I don't know that number.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

McKINNEY: I understand your concerns. I just feel as though, and I'll-- I'll say it again. What are we weighing here, the interests of the victims or the interests of entities that dropped the ball? And everything I hear in this committee week after week is that we prioritized the-- the safety and protection of victims. So how do we do that?

TOM VENZOR: Um-hum, yeah, and again, I think those are what-- when you get to issues like statute of limitations, I think-- and, correctly, so you're balance-- you're highly balancing the interest of the victim to make sure that they have adequate time to be able to come forward to make that claim. Our point has been that an indefinite statute of limitations does nothing to balance the interest of-- of the defendant in that situation. Those claims can go on forever and then you don't have recourse to-- again, fresh memory, fresh evidence, or even, you know, when you have things going 30, 40, 50, 60-- when the claim is alleged from, you know, 30, 40, 50 years ago, it becomes harder, even in the position of a defendant, to-- to deal with that claim, even, you know, whether it's genuine or whether it's, you know, whether it's actually, maybe, fraudulent. So those are, again, those are just the balancing interests that I think are at hand in a bill like this. And again, our commitment has been, you know, and has been for 20 years plus, that we-- this is never going to happen again in the church. We don't want this to happen again in the church and sincerely sorrowful for the pain that this-- has been caused to people historically where the church did drop the ball.

McKINNEY: What's the number?

TOM VENZOR: What's the number? What's-- what should the statute of limitations be? I don't have a precise number for that. It's a conversation we can certainly have on that front.

McKINNEY: All right. Thank you.

TOM VENZOR: Sure.

DeBOER: Other questions? Not surprisingly, I have some.

TOM VENZOR: Sounds good.

DeBOER: I think, to kind of take some of what Senator McKinney's saying, and you-- you keep coming back to kind of the refrain of we're balancing something.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

TOM VENZOR: Um-hum.

DeBOER: And I think that as a public policy positions, we, as a Legislature, as well as we have in the past, decided that there are some things that you just can't balance what is basically a convenience statute-- the statute of limitations is about convenience for everyone, to make sure that you have the freshest memories, to get people to the court as soon as possible, but-- and-- and here's the statute. In issues of forgery, murder, arson, treason, sexual assault in the first or second degree, sexual assault of a child, sexual assault in the first degree, labor trafficking of a minor or sex trafficking of a minor or an offense, etcetera, that in all of those cases, there's no statute of limitations, so--

TOM VENZOR: Those are criminal statutes, correct?

DeBOER: That's right. That's what--

TOM VENZOR: Yeah, yeah.

DeBOER: --I'm reading to you from now.

TOM VENZOR: OK. Uh-huh.

DeBOER: So obviously we can't take third-party entities in these kinds of situations criminally. We can't hold them responsible criminally, so we have to do it civilly. So in the instance of trying to balance here, my question is-- well, I don't really have a question. I guess we're balancing something. I mean, if they hurt-- if-- if action or inaction of an entity causes someone to be hurt as-- as supremely and badly as it is in this situation, I find it really hard to say why we should allow those people who have done the harm to have any say whatsoever in how long people have to come and make that claim. It's really hard for me to understand that. This is a forward-looking-only bill, so I applaud all the extra, you know, work that the church has done to root out these problems and try to stop them from happening, and if that's the case, then they shouldn't have a problem with removing the statute of limitations because there shouldn't ever be another problem again. And shouldn't we all be glad that the removal of this statute of limitations does put this burden on, forever, on a person so that they will make extra care that they don't ever have this happen again? That's what removing the statute of limitations will help to do. It will say we as a society have so cared about this issue that we will remove the statute of limitations so that we can

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

say this is important enough that we will allow it to be without a statute of limitations and come whenever. And I'm soliloquying, which is not something I have maybe ever done before, but it's not lost on me today-- that--

TOM VENZOR: Sure.

DeBOER: --today is Ash Wednesday, the beginning of the season of Lent, the beginning of penitence. And I do think that it's important for us to think about, what does it mean to protect our children? I mean, I bring all kinds of bills. Senator McKinney is talking about how we talk in this committee about victims all the time. I bring a lot of bills about trying to strengthening victims-- strengthen victims' rights, and then we get people who say on the floor, oh, we don't ever care about the victims, but we do and here is an opportunity to do that. I can't believe I'm soliloquying. I-- I-- the others have said they understand why you're here. I don't. I don't get it. I don't get why you're here. I don't get why you would want to be here and oppose this, particularly as it's forward looking, particularly because of the past with the church. Hopefully-- hopefully you all don't ever have this problem again, so this should least affect you of anyone because you guys, I think, have put all these conditions in place so it won't happen again. I'm very sorry to soliloquy. I don't have any more questions. Anybody else have a question? Thank you.

TOM VENZOR: Thank you.

DeBOER: Next opponent testifier. Is there anyone else who would like to testify in opposition? Is there anyone who would like to testify in the neutral capacity? As Senator Dungan is coming up, there were 23 letters to the record on LB174, 22 in support, 1 in opposition. Senator Dungan to close.

DUNGAN: Thank you, Vice Chair DeBoer, and thank you, members of the committee. Again, I know it's a long day. I will try not to go on too long. I appreciate the testimony we heard here from folks. You obviously got to hear incredibly personal testimony. You heard the story of just one family and people this affects. But I understand it's also important to not just to legislate via anecdote, but also by the numbers, and I would argue the numbers support this legislation also being passed. We know this is not just happening to one or two or three people. It's happening to a multitude of people or has happened to a multitude of people, and that's why I think it's important that we do something about it and acknowledge that we as a Legislature have

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

an obligation, as many of you have said, to try to help these people. The civil system has many goals, the civil law system. One of those is accountability, and I think this law change goes a long ways towards holding those third-party entities or those other individuals accountable for things they knew or should have known or duties they breached. And one of the utmost, I think, important parts of our civil law system is to make the victim whole, and this law provides us an opportunity to take into account the totality of circumstances and say we understand there's reasons that people don't come forward right away, there's pe-- there's reasons people don't come forward by their 33rd birthday. And if there is an entity that broke-- breached its duty to an individual, a child, and knew this was going on and failed to protect them, I believe that it's within the obligation of our civil system to help make that survivor, that victim whole. And so I-- I could go on about this. I do want to say that I appreciate both Mr. Bell and Mr. Venzor reaching out to me ahead of time. They did speak with me prior to today's testimony. I know that it's hard to come in on some of these bills, and I just want to make clear that they did reach out to me ahead of time and I appreciated our conversations. But I also think that the questions that were asked were fair, to a certain extent, just about what is the balance we're trying to strike here. There were a lot of questions asked, I think, about how can we prove these cases and is there going to be enough evidence and who's the burden on, and the reality of the situation is that's exactly what our courts are designed to determine. And if a case is 50, 60 years old and goes to trial and there's insufficient evidence for the plaintiff to prove their burden, then there's not an issue. But if that plaintiff gets up and 50, 55, 60 years later, there's still sufficient evidence for them to prove their case that an entity or a third party was in fact liable or breached their duty of protection to a child, then I think it's well within our purview as a Legislature to say that victim, that survivor, should be made whole. And so with that, I'd answer any additional questions, and I'd urge your vote on LB174 to General File. Thank you.

DeBOER: Are there any questions for Senator Dungan? I don't see any.

DUNGAN: Thank you.

DeBOER: That will end our hearing on LB174 and bring us to LB271 with Senator McKinney.

McKINNEY: Good afternoon, Vice Chair DeBoer and members of the Judiciary Committee. My name is Terrell McKinney, T-e-r-r-e-l-l

M-c-K-i-n-n-e-y. I represent District 11, which is north Omaha. We're here today to discuss LB271 which amends Nebraska's child abuse and neglect reporting laws in response to overwhelm-- overwhelming feedback that our current laws are problematic and overboard [SIC] especially for black and brown kids. To give some context, last year my office conducted LR404, a study into racial dis-- disproportionality of Nebraska's child welfare system, or foster care system. It confirmed that children of color are overrepresented in our system at rates worse than the national average for every-- every nonwhite category, especially for black and Native youth. This is despite the fact that families of color are not more likely to harm their children and that white families experience the same circumstances that put families of color into the system, making Nebraska especially bad disproportionately, unjustified, and deserving-- and deserving of attention, and thinking about causes and solutions to disproportionality at the front door of the child welfare system is a great place to start as it decides who comes into the system and why. For example, because black children are more likely to be reported to a hotline than white children, 50 percent will experience a child welfare investigation by their 18th birthday; and once reported, they are now at the purview and judgment of the child welfare systems, being more likely to have an open case, be separated from their family, and spend time in foster care. Nebraska's front door is particularly bad, being among the top ten most disproportionate in a report by Human Rights Watch in 2022. In fact-- in fact, one topic that clearly consistently came up as a problem in LR4-- LR404 was Nebraska's mandatory reporting policies or who-- or who has to report child abuse and neglect to the state or bring a child to that front door. While the majority of states say that only a cert-- certain trained professionals have to do that reporting, Nebraska chooses a universal mandatory reporting approach, meaning any person with any reason to suspect harm must report it, regardless of training. Reporters have to prove what they say, have civil and criminal immunity for their report, and their identity is kept confidential, with few exceptions. As a result, with the threat of criminal charges for not reporting, individuals err on the side of reporting, even for minimal amounts of suspicion or knowledge, assuming the state will filter out unnecessary reports and there goes the problem. But in practice, experts, community members and professionals say that this policy not only fails to improve child safety, it creates problems. First, it leads to extremely high rates of-- of over- or unnecessary reporting, wasting large amounts of child welfare funds and resources filtering through reports that don't

amount to a child-- don't amount to child abuse or neglect. Nebraska's overreporting rates are very high, with an average of 94 percent of reports in the last five years not meeting our abuse or neglect definitions, again, with an average of 94 percent of reports in the last five years not meeting our abuse or neglect definitions, putting us in the ten states with the worst rates of over-reporting. Two, relatedly, it overburdens child welfare intake workers to have to filter through tens of thousands of incomplete and unnecessary reports a year. Rather than having more time to thoughtfully attend to legitimate child safety concerns, such high caseloads create safety risks for potential oversights or delays in responding to real child harm. Third, overreporting results in over-investigations, subjecting thousands of families to invasive and expensive investigations examining their homes, neighborhoods, schools, interviewing children and more, traumatizing everyone unnecessarily. These investigations open up all aspects of a family to be judged, including the cleanliness-- cleanliness of their home or levels of child supervision, even if not the original subject of the report, making investigated families more vulnerable to system involvement. And finally, universal mandatory reporting prevents families from accessing help, such as domestic violence help or food or housing assistance. A parent needing any of those could fall into Nebraska's broad definition of child abuse or neglect, meaning the service provider would have to report the parent for needing them. Universal mandatory reporting means families have to choose between getting help and risk being reported or risk being reported for not getting help. This is especially frustrating given Nebraska's uniquely outstanding network of community service providers ready and willing to help families avoid system involvement. And even when families are reported, if their cases is found not to involve child abuse and neglect, the department closes the case and is unable to provide them with resources, meaning the family is left invaded and still without help. A constant thing that goes on in a state, we say we love kids and family and don't do anything to help them. Of course, all of this disproportionately affects families of color, who are more vulnerable to being reported as a result of quick judgments and assumptions. To be very clear, legitimate child harm should absolutely be reported and responded to, but Nebraska's reporting data shows those cases are very, very low percentage of the reports our system is devoting its resources to. So while universal reporting may make sense in theory, in practice, it is clear why a majority of states choose a different route, which is why we need racial impact statements in this state. The solution: Nebraska needs more accurate and equitable reporting

practices. LB271 looks to do this thoughtfully and carefully, using the recommendations of experts, community members and national standards to narrow our reporting requirements. First, it only requires certain trained professionals to report suspected child abuse or neglect, matching-- matching the majority of states. This includes professionals child-- professionals children regularly see, like school-- like school or childcare employees, medical-- medical professionals, and many others. This list was created by looking at what most other states include and our most common reporters. Second, LB271 makes it clear that all others can still report; they are just not subject to criminal po-- prosecution if they fail to do so. Third, it clarifies how those requirements apply to employees and employers. Fourth, lastly, it requires all mandatory reporters to investigating teams to be trained in child abuse and neglect, reporting, race and cultural competency, and alternatives to reporting. It also create--- it also requires the department to provide a free web-based version of this training for all reporters to access so as to not create extra cost to employers. This section in particular comes highly recommended by community members, scholars, and has received a lot of positive feedback. And I realize I may have opposition on this bill, and a lot of that is because we've been trying to get an amendment and getting the amendment to where it needs to be has been a process. So we-- we received some-- some feedback initially and we've been trying to address them, but the amendment has been a process. And I wanted to note, like I wanted to note that-- and I want to know that the amendment is in the works based on feedback and help from the Foster Care Review Office, Inspector General, and Child Advocacy Centers. It adds more professions to the list of mandatory reporters, which I am open to continuing to expand, more clearly states the reporting standard, and clarifies that-- how-- clarifies how that applies to employers versus employees. The biggest change, though, is-- is-- is that the original bill allowed professionals to opt out of reporting at the victim's request if certain circumstances were met based on feedback from professionals. However, we received a lot of concerns and objected, and so the amendment removes that exception entirely. So to be clear, LB271 requires certain professionals to report without exception, allows all others to report, and requires training. I would like to thank every member of the Judiciary Committee for your time. It is a re-- it is a research-supported and community [INAUDIBLE] step to ensuring chi-- the child welfare system more equitably-- equitably and effectively supports our families, devoting its resources to cases that need it the most, allowing our deep network of community support to do the rest, I would appreciate your vote, once we get the

amendment and you guys are able to look at it, to move it to General File. And I will just say there will be some that come up here to say they're doing a great job. I personally don't think the Department of Health and Human Services cares about black and brown kids, and I don't care who is in that department, when you look at the numbers and what's been going on for my lifetime, and especially over the last five years, what they did with the Saint Francis debacle. And a lot of things need to change. And if they do come up, I would hope that they come up with solutions and not just opposition. Thank you.

DeBOER: Thank you, Senator McKinney. Are there questions for Senator McKinney? I do not see any.

McKINNEY: Thank you.

DeBOER: All right, let's have our first proponent testifier. Good afternoon.

ALLISON DERR: My name is Allison Derr, A-l-l-i-s-o-n D-e-r-r. I'm a senior staff attorney with Nebraska Appleseed and we support LB271. As already stated, Nebraska is in the minority of states that chooses universal mandatory reporting, meaning every person is required to report suspected child abuse or neglect or risk criminal charges, with most other states opting to just require certain trained professionals to report. As a result, Nebraska has an abnormally high rate of over- or unnecessary reporting, with an average of only 5.8 percent of reports being substantiated or found to actually include child abuse or neglect. And to put numbers to that, that's about 35,000 reports a year, with only 2,000 of those being found to be substantiated. And while it's sensible to assume that overreporting or a better-safe-than-sorry approach is better policy, research actually demonstrates the opposite, showing that overreporting does not improve child safety outcomes, harm detection and, instead, unnecessarily drains child welfare resources and, in fact, creates safety risks with an overloaded and simply spread system. To be really clear, legitimate child abuse and neglect deserve sufficient attention, but the ability to do that is severely reduced when our caseload capacity, time, and resources is so much spent sifting through unnecessary reports each year. Over-reporting also unnecessarily subjects thousands of families a year to unnecessary child welfare investigations, which are expensive and extremely intrusive, judging all aspects of a family and making them more vulnerable to child welfare system involvement. And of course, all of this disproportionately affects children and families of color, who are more likely to be reported and investigated

for child maltreatment, despite research showing they're not more likely to harm children. This is especially bad in Nebraska, where we are in the top ten states that are most disproportionate for child welfare investigations for every nonwhite category of race. We're the only state to do so in every single category. We are the fourth worst state for Native youth and third worst state for black youth. In our conversations with community members over the years, Nebraska's mandatory reporting requirements continue to come up as a major barrier and source of frustration for children, families and professionals in Nebraska. We think LB271 over three thoughtfully and carefully narrows Nebraska's reporting requirements to bring them more in line with national standards, create more accurate reporting, and a system that can support, rather than report and unnecessarily interfere with families. So we thank Senator McKinney for his time and attention to this issue and respectfully request that you advance LB271. I also want to note, just while I have a second, that with my handouts, I included testimony from a community member, Tonya Ward [PHONETICALLY], who was unable to make it due to weather.

DeBOER: Thank you. Are there any questions? I don't see any today. Thank you.

ALLISON DERR: Thank you.

DeBOER: Next proponent.

VALENA HAMILTON: Good afternoon, ladies and gentlemen. My name is Valena Hamilton, V-a-l-e-n-a H-a-m-i-l-t-o-n. I'm a foster child survivor and an advocate. I'm here today on behalf of foster children across America and how this system had a great impact on my upbringing. My personal experience with the Department of Health, Human Services of Nebraska, the Indian Child Welfare and the tribal protective services is as follows. I am an enrolled tribal member in Nebraska, as well as African American. I had years of my life taken away from me at a young age due to ill-educated social workers, therapists, state representatives and social service offices between 1985 and 1989. I was taken away from my birth mother for neglect and abuse, not knowing that my life would be filled with more pain, neglect and abuse through the hands of the state and tribe. I spent my life in foster care, institutionalized, with a total of 30 more place-- 30 or more placements, including Rivendell, Richard Young Hospital, Gerard of Iowa. For a total of four years of my life, I was-- I was left in group homes where I felt like I was a guinea pig. I was given medications that no child my age should have-- should have

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

been on. By the time that I was 11, I knew a whole list of dangerous hardcore medications that were given to me. I was left for the allowed amount of time that Medicaid would cover. They would have to contact my tribe to come get me because I was no longer eligible to stay. I was placed there and forgotten about. I had no one coming to see me. I grew up with no stability, a trash bag of clothes, and no hope in my heart. I was abused in every way you could imagine, sexually, mentally, physically, emotionally and racially profiled, all by the age of five. There were problems-- there were more problems caused than more problems being solved. By my teenage years, I became a teenage mother. My child was placed in foster care, as well, and we were separated. I had a few more children that I had lost to the state or voluntarily gave up for adoption. It was hard to become a woman and a mother when you had no women in your life or a mother to show you how to be or-- or how to be or do any of those things. It was hard to fight when I never had anyone fight for me. As I grew into a young adult, I aged out of the foster care system and I was literally left to fend for myself. I lost another three years of my life due to drug addict-- due to drug addiction, and I also am a two-time suicide survivor. I didn't come with a check attached to me anymore, so nobody cared who I was. I spent my whole life surviving. I am here today to help change education for social workers and help change the outcome for any child coming out of the system with no family. There needs to be structure set and there needs to be compassion. There is more to being a social worker than paperwork, court dates, foster care placements, case plans, and investigations. Sometimes they forget that there is a child attached to all that. I've experienced nine or more social workers on my case throughout my lifetime, some good, some bad, and some heartless. I had a social-- social worker that kept in touch with me before he passed away and apolo-- or said he was sorry he didn't do more to find my father, things may have been different. No one ever helped or really knew me. Can I finish? No one-- no one ever helped or really knew me or helped to break any cycles in our community. People need to be in it for the right reasons. Sharing what we've been through is the only thing that can change the way the jobs are done. Our voice needs to be heard. I have a blog that I got published for Children's Rights in New York, as well as working on a detailed book about my tears as a minor. I remember every placement, person, home, and tears that I have shed. As a former foster child and survivor and advocate, our voice needs to be heard to break these cycles, to teach people that make these decisions for families some compassion, respect and learn cultural competency, but most of all, listen to the children. We do have a voice and nobody ever asks us

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

what our story is or how we feel. Well, today, this is how I feel. I'm proud, nervous, scared, hopeful and blessed. I'm honored to be here, 40 years later, still trying to overcome all that I have been handed in my life. I have two beautiful boys I was able to raise. I have been clean for 16 years and I have so much more to offer. I have felt these tears as a minor and I hope my voice is a voice for all the young, broken foster kids-- foster kids that feel like they don't have no tomorrow. Let's make these changes for their tomorrow. Thank you for your time.

DeBOER: Thank you. Are there questions? Thank you. Thank you for being here.

VALENA HAMILTON: Thank you.

DeBOER: Next proponent. Welcome.

DAVID RUDER: Thank you for what you do. Thank you for your time. Today's February 22, 2023. I didn't think I was going to be here today talking about LB271. I opened up my computer and I saw an article on Channel 8 News and I thought, what's this? And I opened it up and I read through it and it made me angry. And I thought, if I go listen and see what's going on with this bill, whether I was for or whether I was against it, maybe I would learn something. So I typed up-- typed up a few notes and I came down here and I read through this bill six times. I've never been here before, but I would like to share a few dates with you and then I would like to say what I like in this bill and why this needs to happen. And we-- we will start in January 2002 when a 36-year-old youth group leader canceled an event for everybody except one teenage girl due to weather, but then invited that girl to a movie, and the church was notified the following Tuesday. Nothing happened. Well, we'll fast forward to spring of 2009 when a local business leader got a job recommendation request from out of state on what a former employee was like. We fast-forward to August of 2010 when that particular individual was indicted by a grand jury for aggravated sexual assault of a child from that church camp; and almost a year later, when he was convicted and they pleaded down to a lesser charge of injury of a child with intent to harm, ten years' probation. We'll fast-forward to August of '11. Three months later, when that probation was revoked, that individual got nine years in prison. November 23, 2011, we go back to Channel 8. They have a news article, along with the rest of the media, asking to see if there's other victims in the Lincoln area. And they were-- the words that they used, and I quote, encouraging people to contact the least-- Lincoln Police

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

Department. February 27, 2015, the victim's mother was pleading with CBS National News, making sure that this kid wouldn't get parole. In the fall of 2018 and the spring of 2019, two healthcare professionals were made aware of the situation, and in May of 2025-- in May 25, 2021, and I will quote a text. It stated: an individual is-- was out of prison and back in Lincoln. The father of a coworker is on the board of the local church and they had to deal with somebody from that state that was claiming they were a high schooler and trying to work with young children. This is third-, fourth-hand information, but the police were notified. And we go back to look at dates. Today's February 22, 2023, and what am I doing here? When I read through this law, it had a section on teaching, training, and educating the public on current laws and I thought, maybe if the media could educate the public, rather than encouraging, that it's our civic duty and requirement. But--

DeBOER: Sir, I'm sorry.

DAVID RUDER: We need to be able to hold the church workers and the healthcare professionals that have information to give it to the proper authorities when they have it, rather than playing God themselves, and we will save Nebraska children. Thank you for your time.

DeBOER: Thank you. Let's see if there's any questions for you. Are there any questions? Oh, can you please spell your name for the record?

DAVID RUDER: David, D-a-v-i-d, last name Ruder, R-u-d-e-r.

DeBOER: Thank you very much. I didn't see any questions. Thank you so much for being here. Let's have our next proponent.

ANAHI SALAZAR: Hello again. Thank you, Chairperson-- Vice Chairperson DeBoer and members of the Judiciary Committee. My name is Anahí Salazar, A-n-a-h-í S-a-l-a-z-a-r, and I am representing Voices for Children in Nebraska. Our child protective system should be structured to ensure a timely and appropriate response when abuse or neglect is suspected. Voices for Children in Nebraska supports LB271 because our current system of universal mandatory reporting is inefficient and leads to erroneous reporting which can be particularly harmful to children in communities in poverty. As of 2019, 47 states designate certain professions whose members are required by law to report suspected child abuse or neglect. However, only 18 states and Puerto

Rico mandate all persons to report. The rationale for having all people to man-- be mandated reporters is to cast a wide net, ideally protecting every child. Unfortunately, what occurs instead is that our child abuse neglect hotline is inundated with calls, many or most of which need to be screened out in order to find reports where children are actually at risk. In Nebraska in 2021, there were 36,393 calls to the hotline reporting suspected child abuse or neglect. Of these, 18,292, or just over 50 percent, were screened out for not meeting the threshold; 2,881 contained no allegation of abuse or neglect. Of the 18,101 that were accepted, only about 2,000 ended up being substantiated. An additional 4,080 were referred to alternative response or volunteer services. Universal mandatory reporting, with its high number of calls that must be screened out, is linked with delays in investigation as intake workers have too much information to sift through. Moreover-- moreover, because neglect and poverty are distinct but intertwined, populations which experience poverty at higher rates, such as rural Nebraskans and Nebraskans of color, are frequently over-reported, leading to over-policing of commu-- and communities fractured by a system initially intended to help rather than harm. LB271 articulates a better approach. Professionals in positions likely to encounter child abuse or neglect remain man-- mandated reporters and must undergo training to understand what to look for, what to report, and how to respond. Nothing in the bill prevents other concerned citizens from continuing to call the hotline if they see something. But by removing statutory penalties for failure to do so, our department intake teams should receive fewer erroneous calls to screen out. Easing this pressure on the front end of our system can allow for timelier investigations of accepted-- accepted reports and reduce disparities by rurality and race and ethnicity in intake. And I also handed out, along with the written testimony, a-- kind of a booklet that has evidence on wait time between reporting coming in and how long it takes for an inve-- for an investigation to occur. Last data we have when the booklet was published in 2019 shows that most states average 54 hours. Nebraska was five days. For all these reasons, we thank Senator McKinney for bringing this bill and thank the committee for considering this important matter. We respectfully urge you to advance LB231 Thank you, and I'm available for any questions.

DeBOER: Thank you. Are there questions? I do not see any. Thank you.

ANAHI SALAZAR: Thank you.

DeBOER: Next proponent.

SPIKE EICKHOLT: Good evening. My name is Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t. I'm appearing on behalf of the ACLU in Nebraska in support of LB271. You've got a copy of my written testimony. You've been here for all afternoon, so I'm not going to read it. I just want to draw a couple of things to your attention so it's clear from the record. As Senator McKinney explained, this was-- this bill resulted from an interim study he did, LR404, that looked at why there are such a-- so many people that are in the child welfare system and why that trends so despairingly so against people of color. And one of the things that elevated, not just from the town halls but from the study of our state compared to other states, and that is we do have universal mandatory reporting. If you look at page-- page 6 of the bill, line 10, this statute that the bill amends, 28-711, is the mandatory reporting statute. And the bill starts out with-- or the current law starts out with a number of different professions, school employees, social worker, inspector general and so on, and then it includes as a catch-all, or any person that has reason to believe child neglect or child abuse is happening, they're required to call. If they fail to do that, it is a Class I misdemeanor. Admittedly, I don't think it's charged that much, but that's the predicament and that's the message that is sent to the people. As Senator DeKay asked earlier, it is a crime under 29-907 to falsely report, but it's only a crime if, when you make the report, you know it's a false report. So you have some sort of a duty-- or you have an actual duty to report if you have reason to believe, and unless you know it's actually false, you're always safer reporting. And what the bill does, rightly so, it makes a distinction between professionals and those people who actually work with children, and it keeps that mandatory reporting duty on them, and for other people who don't have requisite training that the bill provides and don't have necessarily an obligation or a duty and don't have actual firsthand knowledge, that they're not required to report. And other states have this. We are in a-- we are leading the states in the wrong way as far as disparity in our child welfare system, and this is a good bill for that. And I would encourage the committee to consider it and advance it.

DeBOER: All right. Are there questions? Don't see any. Thank you. Do we have any other proponents? Next proponent.

LINCOLN ARNEAL: Afternoon again. My name is Lincoln Arneal, L-i-n-c-o-l-n A-r-n-e-a-l, assistant vice president of policy and leadership at Nebraska Children. We're here to support LB271 to provide a step in the right direction for the children of Nebraska. As previously outlined by other testifiers, this bill changes the

requirements who-- who mandatory reporters are. The standard of reporting and the training of reporters would undergo. There might be a concern that these new standards would cause reports to fall through the cracks, but we have provided testimony from Dr. Jerry Milner, the nation's former associate commissioner of the Children's Bureau, that this diversion and this new adequate response is needed. He says Nebraskans are in position to provide alternative to hotline reporting so families are not subject-- subjected to the trauma of a child abuse/neglect investigation when the main issue they are suffering from is poverty. The-- this change in reporting would keep the-- the supports local and get parents and families the support and access they need to take care of their children. It would also lessen the impact of poverty on the state reporting system and allow the investigators to focus more on other cases. By using Community Response more, we can keep these cases out of the court to allow the community to rally around those it need to get the help they need to keep families together through the enhanced training of mandatory reporters established in this bill, those still required to report cases are educated by the Community Response program and when would be appropriate to connect them with that program instead of submitting the report to the hotline. Currently one of the top reporting-- top hotline referrals are from teachers. Instead of calling the hotline, there should be referral to a local Community Response initiative so that community resources can wrap around the needs of the family instead of referral that becomes uns-- uns-- unsubstantiated and receives no response. Community Response is set up of 22 community collaboratives, covering all but eight counties of the state. Community Response is designed to connect parents, families, and youth to respond and meet the needs of each of-- each-- needs and goals identified by the youth and family. The three most frequent reasons-- reasons why a family would engage in Community Response is housing, u-- housing, utilities, transportation, or parenting support, such as clothing, food access, or a crib for a baby. The Community Response coaches work with families to connect them with the services and goals to alleviate issues and support them in achieving these-- their goals. Common issues solved through Community Response include providing children who have ina-- inadequate winter clothing or unwashed clothing or addressing truancy that are often a result of transportation issues. Once the immediate issue has been resolved, the Community Response coach continues to work with that family to ensure they're working together to achieve these goals. This bill works well in conjunction-- conjunction with LB42 to help children and parents in the state. Dr. Millner said the passage of this bill has potential to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

set a standard among the states and to represent Nebraska's support and respect for families and children. It is a pragmatic and commonsense solution using Nebraska's resources in the most effective manner. Thank you for your time and consideration. I hope you advance this bill out of committee.

DeBOER: Are there any questions? All right, seeing none, thank you very much.

LINCOLN ARNEAL: I think-- I think I've provided a handout about Community Response, as well, with the testimony.

DeBOER: Thank you.

LINCOLN ARNEAL: Thank you.

DeBOER: Next proponent. Anyone else here to ta-- testify in favor of the bill? Anyone in opposition to the bill?

DARA DELEHANT: Good afternoon once again. My name is Dara Delehant, D-a-r-a D-e-l-e-h-a-n-t. And again, I am a deputy county attorney with the Douglas County Attorney's Office, and I'm testifying on behalf of the Nebraska County Attorney's Association in opposition of this bill. Again, as a prosecutor, I specialize in crimes involving child abuse, and specifically sexual abuse of children, and as part of that, I work and meet with children daily. What is abundantly clear is that these children, and all children in Nebraska, need as many people and systems working in their favor as possible. As it is, child abuse, and especially child sexual assault, is absolutely under-reported. Just because something-- a call to DHHS is not substantiated, doesn't mean abuse isn't happening. It just means that whatever criteria DHHS had was not met by that call. There are myriad reasons why that might be. This bill causes grave concerns by significantly decreasing the pool of mandatory reporters and by increasing the requirements for when someone has to report. Many of the cases we see come to light because of a disclosure made to someone who, as a mandatory reporter, calls it in and an investigation is opened. Fewer mandatory reporters will lead to fewer reports, fewer investigations, and ultimately fewer children taken out of harm's way. What we know about the disclosure process with children, and what we've seen just this afternoon with the victims and survivors who have testified for previous bills, is that it's very difficult for kids and even for adults to disclose when they've been abused, and especially when they've been sexually abused, and that's because of concerns about not being believed, due to the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

nature of the relationship the victim might have with the perpetrator; perhaps the child doesn't know what's happening to them is wrong; perhaps they have guilt or shame; many other reasons. We also have concerns about changing the standard from reasonable cause to believe a child is being abused or neglected to having knowledge of or observing such abuse. That's extremely problematic. Child abuse, and especially sexual assault, is something that by its very nature typically happens in private. To require a mandatory reporter to have knowledge of abuse is an ambiguous and unnecessarily high bar. What is required for a reporter to know abuse is happening? Is a child's statement enough? A child's statement plus corresponding physical injury? Two siblings saying the same thing? The language of LB271 gives the drastically reduced number of mandatory reporters too many outs to not report, to say, I didn't report because I didn't know it was happening or I didn't report because the perpetrator isn't a defined person of trust under the language of this bill. Meanwhile, that child might be going home every day to continued abuse. I want to use one quick example of a coach. A coach is somebody who under existing law is a mandatory reporter. A coach is somebody who a child might have a close and trusted relationship with and child might disclose abuse to that person. Under this bill, that coach would no longer have to report. On the flip side of things, there are cases that we see where the coach is the abuser. And I see my time is out. If I could finish just that one thought quickly?

DeBOER: Yes.

DARA DELEHANT: We're under the language of the bill, if a non-school coach is the perpetrator, any mandatory reporter would no longer be required to report that because that person's not in a position of trust, so thank you for your time.

DeBOER: Thank you. Are there questions? Senator Wayne.

WAYNE: Sorry for the late-- I had three other hearings today and things I love and my staff hate. I don't have a question. I just-- I was told to give you a hard time.

DARA DELEHANT: You were told not to give me a hard time, Senator Wayne.

WAYNE: Oh, OK, I just-- she's a friend of--

DARA DELEHANT: I will speak with your wife.

WAYNE: [LAUGH] Thank you for being here. I don't have a question.

DeBOER: All right. Senator Wayne doesn't have a question, but I do.

DARA DELEHANT: Sure.

DeBOER: So the mandatory reporting thing right now, I remember looking at this in a different bill for some reason several years ago and being shocked to discover that pretty much every single person in this room is a mandatory reporter, but-- well, in maybe this room, there's a disproportionate people who knew--

DARA DELEHANT: That's fair.

DeBOER: --portion of people who know that. But I bet there's a lot of senators, if I just even ask them did you know you're a mandatory reporter, they wouldn't. So the vast number of people don't realize they're a mandatory reporter, and yet they are, apparently, according to the statute. I certainly didn't know I was until two years ago, three years ago, when I saw that. So I'm not sure that making everyone in the state a mandatory reporter is going to actually lead to reporting, whereas limiting who is a mandatory reporter to-- and maybe we add coaches and-- you know, maybe the list isn't right, but do you-- would you all oppose making the list right but, nevertheless, making it a list and not this amorphous everybody sort of?

DARA DELEHANT: Sure. I think we would-- it-- and I understand. I think you're very correct that most people just-- you know, laypersons don't realize that they're mandatory reporters. But taking that away, what concerns me is disincentivizing reports, period, because my job is I want to make sure that the people who are harming children are held accountable and that children are separated from that. That can't happen unless somebody says, hey, we think something is going on.

DeBOER: You-- you may have heard that that's also something that I care about.

DARA DELEHANT: Yes, I-- I did hear.

DeBOER: But-- but-- but what I-- what I think is that it's probably not going to discourage reporting if people don't realize they're mandatory reporters now. So, I guess, is there a list that could exist? First let's go with hypothetically. Could there exist a list that would make you all feel like it did not discourage?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

DARA DELEHANT: In a hypothetical world, sure. But where exactly the ends of that list would be, I don't know, because how to go through and, you know, every person a child might come into contact, we see these cases come in in all different forms. Somebody mentions something to a friend at school who then mentions it to their mom or, you know, they tell a coach who's not affiliated with the school, they tell a dance teacher, they tell, you know, an older cousin, something like that. So in light of--

DeBOER: But the mom and-- the mom and the dance teacher don't know that they're mandatory reporters. I mean, unless they're in this room right now, they probably don't know that.

DARA DELEHANT: Sure. Is there a hypothetical list that could cover, that would alleviate a lot of our concerns? I think yes, but I think that the difficulty would be then kind of finding exactly who is included there, because, again, as we see it, we can't do anything to help if we don't know. And if fewer people are supposed to report, then that's not going to lead to more reports; that can only lead to fewer reports.

DeBOER: But if we made the list more quality and not quantity by, say, you know, making sure that those folks-- maybe there's some kind of-- like you have to have, I don't know, some campaign that would say you're a mandatory reporter, because if I just say everybody's a mandatory reporter, everybody's going to be like, eh. But if there's a group of people who are mandatory reporters, I think they could be made to have some gravity to that mandatory reporting, whereas, as it is now, there's no gravity to it, which I think actually may disincentivize the reporting.

DARA DELEHANT: Sure. And we certainly support any kind of, you know, campaign to educate those who come into contact with children more. You know, I know teachers have to go through training, things like that, and so we certainly support making sure that those who do have to report know that they have to report, because that is something that I would agree. I think most people in the state of Nebraska are not aware that they're supposed to, so I-- I-- I would agree with that. We always support more education to everybody.

DeBOER: All right. Well, I'm not going to give you a hard time if Justin Wayne isn't going to give you a hard time, so thank you.

DARA DELEHANT: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

WAYNE: Any other questions from the committee? Seeing none, thank you for being here.

DARA DELEHANT: Thank you, Senator.

WAYNE: Drive safe back. Next opponent. See, I just knew it was the county attorney, so I went to opponent. See how that worked? Nobody got-- nobody got my joke but me. Welcome back.

ALGER STUDSTILL: Good afternoon, Chairperson Wayne and members of the Judiciary Committee. My name is Dr. Alger Studstill, A-l-g-e-r S-t-u-d-s-t-i-l-l, deputy director responsible for child welfare with the Division of Children and Family Services within DHHS, here to testify in opposition to LB271, which changes mandatory reporting requirements. The department's top priority is safety of children, and DHHS acknowledges the benefit of training mandated reporters, but there are some concerns about changing-- about the changes this bill makes to reporting requirements. Moving Nebraska from universal reporting to a select group of mandatory reporters is significant, but should also be approached with caution. Additional professionals should be considered for inclusion, such as staff at youth-serving organizations. The main piece of opposition comes in the bill that talks about a child who is 12 years or older and requests the information not be reported. It's common for victims of abuse and neglect to request the information they share not be reported because they are worried about the consequences. DHHS acknowledges the intent of this section. However, the agency is concerned that this would permit abuse and neglect to go unreported and ultimately continue. The bill would also allow someone who is currently a mandatory reporter to notify the individual in charge of the institution when they are suspected of abuse or neglect instead of reporting it themselves. It's best for the person with direct knowledge to make the report themselves to ensure there is no delay in reporting abuse or neglect. LB271 requires DHHS to develop training and make it available to all mandatory reporters. Prior to the introduction of this bill, DHHS began working with community stakeholders to develop enhanced training for mandatory reporters. The required training under this bill would expand the current scope of work. DHHS supports the training for mandatory reporters, but simply requests additional time to incorporate the new provisions added in the bill to dev-- and to also develop the infrastructure to ensure that it can be hosted online. In summary, while LB271 could have positive impact in strengthening training available to mandatory reporters, it also contains concerning provisions that could place a child in an unsafe situation. Given

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

these considerations, we respectfully request that the committee not advance the legislation. And thank you for your opp-- for the opportunity to testify today, and I'd be happy to answer any questions,

WAYNE: Any questions from the committee? Seeing none, thank you for being here.

ALGER STUDSTILL: Thank you.

WAYNE: Next opponent. Opponent? Anybody testifying in a neutral capacity, neutral capacity? Welcome.

IVY SVOBODA: Well, good afternoon, Chair Wayne and Judiciary Committee. My name is Ivy Svoboda, I-v-y S-v-o-b-o-d-a, and I'm testifying in the neutral capacity as we haven't had a chance to review the amendment that Senator McKinney was work-- talking about. I do want to thank him and Nebraska Appleseed, as we've been working to address our concerns in the original draft of the legislation. I'm the executive director of the Nebraska Alliance of Child Advocacy Centers, the nationally accredited membership organization for the seven accredited Child Advocacy Centers, or CACs, in our state. CACs provide the trauma-informed services to children and families as we assist with investigations of child abuse and neglect. We see the most egregious cases, so this is where the heart of our concerns stem in the original draft of this legislation. Before CACs in Nebraska, the child had to tell the worst story of their life over and over again to doctors, cops, lawyers, therapists, investigators, teachers, the school administration, other front-line people. Our concern is, as originally drafted, the bill included language that the reporter had to have knowledge of or observation of the abuse. This would never-- this would revert us back. 30 years before the CAC coordinated effort around investigations had occurred. That drafted language would put a reporter in a position to interview, investigate, corroborate the outcry of maltreatment, just to decide if they should report. Removing the "person of trust" language in the original draft was also important to us. The number-one reporters of maltreatment are teachers; second are family me-- members, many in that trust role, so 90 percent of sexual abuse is perpetrated by someone the child knows and knows well, Blurring that responsibility of the care provider/person of trust only perpetuates the secrecy of abuse and does not address the child maltreatment. We appreciate Senator McKinney's consideration to expand who is identified as mandatory reporters. We feel professionals and volunteers in contact with youth

and youth-serving organizations should be equipped to report. For example, a Boy or Girl Scouts volunteer should be equipped when there is a disclosure when the volunteer is working with the child, like on their badge of personal safety; or, what I personally experienced as an adult volunteer in a church youth group, where kids have disclosed and there's no training or response in place. We welcome Senator McKinney's addition of mandatory reporting training requirements. Our national accreditation standards for CACs require us to provide that training to all CAC staff and volunteer; diversity training, including training on implicit bias, is an essential component of the ability for CACs to provide high-quality services, so our national accreditation also requires CAC staff, including those affiliated medical and mental health providers, to participate in diversity, equity, and inclusion training for a minimum of eight hours every two years, so we look forward to continuing to work with the Judiciary and Senator McKinney to address issues in the child welfare system.

WAYNE: Any questions from the committee? Seeing none, thank you for being here. Any more neutral testifiers?

TOM VENZOR: Good afternoon, Chairman Wayne and members of the Judiciary Committee. My name is Tom Venzor, T-o-m V-e-n-z-o-r. I'm the executive director of the Nebraska Catholic Conference. In previous testimony, I just talked about the work that the church is doing in the area of-- of child protection, so just that we train all of our clergy, our employees, our volunteers, including we train all of our kids who are in our schools and in our religious education programs. So we're kind of speaking from the experience of a couple of decades of-- of work in this area, and all kind of to say we-- we really appreciate, you know, the-- Senator McKinney's intent here, some of the goals he's trying to-- to deal with, with reducing disproportionality in the child welfare system, certainly noble goals. We have concerns with the bill as written. You know, as the amendment's kind of going forward, we're kind of in a position of reviewing some of the different things. I will say that some of our-- you know, just-- this is more kind of information, but I know for some of our people who work in the child protection area and have done this for decades, they do have concerns, I think, about stepping away from a universal mandated reporting situation. I think they want to see the bar set higher, etcetera. They-- they recognize that maybe there's issues with the reporting side, but seems to me that they also think that the-- the bigger issues are probably more on the response side when that intake comes in, either to the department or to law enforcement, etcetera. And-- and they also think that some of-- you

know, when people report, they have like one piece of the puzzle, and multiple people having different pieces of the puzzle, maybe help corroborate that there might be a situ-- an issue there. But nevertheless, you know, if the bill go-- does move forward with kind of the-- the structure of limited mandatory reporters, some of the issues that we've just been raising is, and you've already heard, is making sure that it's a fuller list of mandatory reporters, so whether they're youth-serving organizations, even like on the human trafficking front, you know, hotel/motel workers, that those are individuals who can identify signs of human trafficking with-- with children involved in that, people who are in position of authority or respect. You've heard about coaches, even the issue of volunteers, right? Volunteers, whether they're in churches or in schools or volunteers of organizations going into schools or other areas like that, we think that those are important. Another thing, too, just on the issue of profe-- this is knowledge of situations in professional capacity or scope of employment. One thought there, too, might be is you have individuals here who have been trained now to identify the-- the-- the instances of abuse or neglect in that, you know, you really can't kind of put off your obligations, you know, sort of, you know, hang it up at-- at 5:00 when you're done with your job, but these are people that maybe have a broader sense of responsibility to the community, once they're trained, that maybe even outside of their employment they ought to be mandatory reporters. So anyways, we'll keep-- you know, for us, you know, whether people are legal-- legally mandatory reporters, we'll continue to make people in the church ethical reporters that they would be reporting the situation. But we just wanted to kind of come with some of our knowledge and experience on this issue and provide some input on it as the committee discerns what to do moving forward. Thank you.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here.

TOM VENZOR: Thank you.

WAYNE: Any other neutral testifiers? Welcome.

SARAH HELVEY: Thank you. Good afternoon. My name is Sarah Helvey; it's S-a-r-a-h, last name, H-e-l-v-e-y. And I'm here to submit testimony on behalf of Deborah Dancer; that's D-e-b-o-r-a-h, last name D-a-n-c-e-r, with the Douglas County Community Response. She left due to the weather. I will just highlight a few things. You have her full testimony, and I'm not in a good position to decide what to include or

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

not, but they did say that they support LB271 because it is informed by the disproportionate overrepresentation of children and families of color in the child welfare system, they support the national best practice of providing training to mandated reporters, and they participated in the listening sessions as part of LR404 and are appreciative of this being a next step and responsive to what the community provided as feedback as part of that process. Thank you.

WAYNE: Thank you. Any other questions-- or any questions from the committee? Seeing none, thank you for being here. Any other people in a neutral capacity, neutral capacity? Welcome to Judiciary.

SCOTT THOMAS: Good afternoon, Senators. My name is Scott Thomas, S-c-o-t-t T-h-o-m-a-s, Village in Progress, and we have some concerns about the potential for subjective interpretation and some vagueness in the language surrounding trainings or responsibility. And I still would like to thank Senator McKinney for bringing the bill and Senator Hansen for the bill he brought earlier, LB42, and I would probably submit any comments I have in writing, but I would make sure that all the senators in the panel get a copy, in case you guys have any questions or concerns. Any questions or concerns I'd be able to answer now?

WAYNE: Any questions from the committee? Seeing none, thank you for being here.

SCOTT THOMAS: Thank you so much.

WAYNE: Any other neutral testifiers?

SCOTT THOMAS: Is-- I don't know. I'm sorry. I'm not good at procedures. Can you walk away and come back?

WAYNE: No.

SCOTT THOMAS: Not at all?

WAYNE: No, no.

SCOTT THOMAS: OK.

WAYNE: No, sorry.

SCOTT THOMAS: Oh, OK.

WAYNE: You're all right. Any other-- you can submit online, the-- on the online portal, though. We'll still get it. Any other testifiers? Any letters? We have-- as Senator McKinney comes up to close, we received eight letters, three in support, two in opposition, and three in the neutral ca-- position. Senator McKinney to close.

McKINNEY: Thank you. And thank you to everyone who came to testify, whether you support it, didn't support or was neutral. I'll address the amendment that we're working on. It's based on feedback from the Foster Care Review Office, the Inspector General, and Child Advocacy Centers. It adds more professions to the list of mandatory reporters, and I'm open to adding more if needed, but I don't want to get back to we got everybody reporting. And we look at the numbers and black kids are getting reported disproportionately. We're trying to address that, so, you know, I'm open though. The biggest change from the original amend-- bill to the amendment, it allowed professionals to opt out of reporting at the victim's request. However, as I stated in my opening, we received a lot of concerns and that-- and we removed that exception entirely. It's interesting, the county attorneys come opposed to all my bills. They-- they want to keep kids disproportionately stuck into the child welfare system and going to jail, so that's-- that's our county attorney's. I'm open to adding additional professionals at youth-serving organizations that the department mentioned. I'm also open to expanding some time to allow the department to implement this as best as possible. They mentioned the bill would place a child in unsafe situations, but current law allows for the department to place kids in unsafe situations, sleeping in hotels and on floors while they're waiting to be transferred to homes. So if the department really cared about kids being placed in unsafe situations, they would change their current practices, so I really don't understand an argument from them because what they do in practice isn't what they try to oppose. So thank you.

WAYNE: Any questions from the committee? Senator Blood.

BLOOD: Thank you, Chair Wayne. Just a quick question. Are you concerned that-- I understand why we want to do the training online, because it makes it accessible and makes it easier. But are you concerned that, because the description is in the bill and that it's-- I-- I don't want to say vague because that's not the word, but, like, we can't leave it up to them for the training, that there might be somebody who's-- or multiple people that are apathetic, they're just like, oh, I'm going to watch this and I'm trained, or is there going to be testing involved? That was what I-- wasn't clear for me in the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

bill. You know, I think about like-- you think about nowadays, if you, like, go to work for a department store, they're like, OK, we want you to watch these safety videos, and when you're done with these safety videos--

McKINNEY: Yeah.

BLOOD: --you get to work and, you know, I-- I worry about--

McKINNEY: I mean, yeah, we could probably add some more testing. But from what I've seen in practice or experience, people get the answers, so.

BLOOD: They get the answers in advance, is what you're saying, like--

McKINNEY: Right, so--

BLOOD: --like they're in high school? Right.

McKINNEY: It's, yeah, we could put it in, but--

BLOOD: Write it on their tennis shoes?

McKINNEY: --if you know the right people, you could get the answers and you could do the same thing as just watching a video play out. So I'm-- I'm open to it if it makes you happy.

BLOOD: So-- so now I have more doubt, so-- but, yeah, I-- that's just something that--

McKINNEY: Yeah.

BLOOD: --that's the only concern I have.

McKINNEY: OK. Thank you.

BLOOD: Thanks.

WAYNE: Any other questions from the committee? Seeing none, thank you for being here.

McKINNEY: Thank you.

WAYNE: And that'll close the bill on-- the hearing on LB271, and we will open the hearing on-- I got that exact same [INAUDIBLE]. I'm-- I'm gonna wear it next time. Next time you've got a bill, I'm gonna

Transcript Prepared by Clerk of the Legislature Transcribers Office

Judiciary Committee February 22, 2023

Rough Draft

wear it, just so you can-- that'll open the hearing-- well-- all right, we'll open the hearing on LB87. Welcome to your Judiciary Committee, Senator Hunt.

HUNT: Good afternoon-- good early evening, Chairman Wayne and members of the Judiciary Committee. I'm Megan Hunt, M-e-g-a-n H-u-n-t, and I'm here today to introduce LB87, a bill to change the age of medical consent from 19 to 18. This summer, I heard from a Lincoln doctor of physical therapy who told me about seeing many 18-year-old patients who had to get parental consent for treatment. Some of them, she explained, are estranged from their parents or they're not in frequent contact with their parents or it'd be really hard to get a hold of their parents, and those patients are unable to get medical care they need without parental consent. I'm glad this medical professional reached out to me because it inspired me to pick up where Senator Morfeld left off on this topic, and I think it's something that we need to return to in this Legislature. This bill lowers the legal age of majority from 19 to 18 for healthcare decisions. Senator Morfeld originally started working on this concept in response to University of Nebraska students who contacted him to talk about the difficulties they experienced receiving healthcare in a timely manner while living on campus. In almost all cases except life-threatening emergencies, when providers already have a duty to save a patient's life, parents or legal guardians have to be contacted or sign off on consent forms for providers to have permission to treat an 18-year-old patient. I looked through some of the history on these bills and there were all kinds of stories about broken limbs, infections and various illnesses that went untreated for too long while students attempted to get consent from their parents. There was one case where a student's parents lived in Japan and they had to suffer for hours until parental consent could be obtained and they could be treated. You can see how this would be a particular hardship for international students. A much more common case you would see was you would have a student come to UNL or UNO from Scottsbluff or somewhere else in Nebraska, and they'll be there for college, but they'll suddenly get a case of strep throat or something. And they do the right thing, they go to the doctor, they try to get better so they can go back to class and get on with their life and go to work, but they can't get the medicine they need to function and study and pass their exams without their mom and dad signing off on it. This is especially egregious in cases of moderate or severe illness or injury because we don't want these young people to suffer needlessly or potentially get worse. But it's not just a barrier in those situations. Eighteen-year-olds living away from home

can't even get basic preventive care, like a flu shot or an annual exam, without a parent coming with them or providing consent because of our age of medical consent in Nebraska. While it was the students that led the charge on advocacy for this issue, I want to note that not everyone who's 18 goes to college, of course. Many people get jobs and move away from home, and there's so much dignity and independence and autonomy in that. So while a lot of the youth that have spoken out about this have done so because they have had experiences as students, it's also unfair for any young person who's left the home of their parents or guardian and is out on their own and independent, living as an independent young adult. It could be anywhere in the world or in the country, and if they're in Nebraska, they still have to get medical consent from their mom or dad to get healthcare. In 2018, the Legislature passed an exception to our age of majority law that allows for 18-year-olds to consent to mental health services. This was also largely driven by student advocacy. If 18-year-olds can make their own decisions about mental health treatment, we shouldn't require them to get parental consent for physical health treatments either. We are only one of three states whose age of majority is older than 18, but Nebraska is the only state that does not allow 18-year-olds to make healthcare decisions. Eighteen-year-olds in each of our surrounding states have been able to consent to medical treatment for some time. In fact, Lincoln or Omaha students can just drive across the border to Council Bluffs or Iowa to get care right now if they want, but they shouldn't have to do that. I'd like to also explain the second component of the bill. Section 48-285 provides that DHHS has the authority to determine appropriate medical and psychiatric care for youths in its care. However, there's no corresponding statutory authority for youth in custody in the Department of Corrections. The Department of Corrections operates one facility for minors in Nebraska, the Nebraska Correctional Youth Facility in Omaha, so the second piece of this bill is kind of correcting an oversight in our existing statute, giving appropriate authority for juveniles in this correctional facility to be able to consent to medical treatment because their circumstances really limit them from being able to obtain parental consent. This is important because there are times that a minor in custody will need urgent medical care and if a parent or guardian cannot be quickly located or contacted, important medical care may be delayed. This could have some serious injury or illness for the youths in this-- in the system. There could be varying levels of parental involvement. Some may maintain contact with the parents, but some might not at all. So those who aren't able to get parental consent may just have to go without treatment, and that can make them

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

sicker than they need to be while they wait for care. What was really interesting to me in the research my staff and I were doing around this bill is the legislative history about why Nebraska is the only state where the medical age of consent is 18, not 19. It seems that way back in the early '70s, when there was a wave of states lowering their ages of majority from 20 or 21 down to 18, Nebraska actually tried to lower hours from 18-- to 18 from 20, but a compromise was made in the Legislature to lower it to 19, instead, because people were concerned that 18-year-olds would be able to drink and they would be vulnerable to financial predators, and it was one of those under-the-balcony compromises that now we've lived with for 40-plus years. And since that time, of course, the drinking age has been raised to 21. In Nebraska, we've also allowed exceptions in our age of majority law for 18-year-olds to engage in all kinds of financial decisions, to obtain financing, to get credit cards, mortgages, own property, all of that, and we haven't had a problem there. So there's-- when you look at the legislative history of why this is, it's because in the early '70s people were afraid 18-year-olds would be drinking, and, you know, I don't think that that's a good reason to keep things where they are today in 2023. At 18, in Nebraska, you can go to war, you can vote, you can consent to mental health treatment, consent to STD testing and treatment, own property, drive, own a firearm. LB87 is a bill that students have been asking us for, for years, and just due to a weird legislative history, Nebraska is behind the times on this. Eighteen-year-olds in every other state have this right, and there's nothing special or different about us and our young people that can't allow them to do the same. This bill will improve access to healthcare for young adults and improve health come-- health outcomes by ensuring they receive the care they need when they need it, rather than waiting until things become more painful and costly. No young person should have to suffer with illness or injury because they can't reach their parent to obtain consent. I also passed out a amendment. The Department of Health and Human Services brought this amendment to me today. I said, that works for me. It removes their opposition, and I'll let them speak to it more, but, you know, part of the conversation we had was whether they were going to come in opposition or neutral based on the fact that I agreed to allay all of their concerns over the bill. So I'm hoping they come in neutral to explain the amendment to you. And with that, I'd be happy to answer any questions.

WAYNE: Any questions from the committee? Senator Blood.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

BLOOD: Thank you, Chair Wayne. I know that you are passing it on to them to explain their amendment, but I'm going to ask it of you. Doesn't their amendment basically do what your bill does--

HUNT: Their amendment--

BLOOD: --with the exception of require consent by a parent or guardian, would be the only services they would approve?

HUNT: My understanding-- see, I-- I hesitate to say on the record because I feel like I understand this 80 percent, but--

BLOOD: I don't-- I don't want to put you on the spot.

HUNT: --my understanding is that, because Health and Human Services has youth in care who are age 18, they want to make sure that there aren't elective procedures or things like that, that then they would be on the hook to pay for. If you look in the legislative history of this bill, it's been introduced a couple times.

BLOOD: Right.

HUNT: When Senator Morfeld introduced it, the fiscal note from the Department of Health and Human Services said that the cost was indeterminable, and this year they said something similar, that it's just indeterminable because they don't know if they would then be on the hook for paying for any treatments for people age 18 in their care. But I will let them speak to the nuts and bolts of it because it was explained to me and I said, that sounds fine and please come in neutral, so that's what our conversation was.

BLOOD: Well, it would certainly be great if we could ever get in front of something instead of always been at the tail end of things in the United States, so good for you for bringing it forward again. And I can tell you that I'm in that demographic where the drinking age was 19 in Nebraska and 18 in Iowa, so that's what happened to our generation. And, you know, lots of times you look back and you think about how they've changed the laws, and it's clear that there are things that were negotiated. The laws don't always make sense and, you know, you look at speed limits and alcohol, and where we were at in the '70s and where we're at now. So I'm glad that you put on the record the historical process that this took and how we got where we're at and why we need to change it, so thank you for that.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

HUNT: Sometimes I think we think that there's some wisdom in the people that came before us, like, oh, my God, there must be a reason that we have to wait two years to vote after we have a felony conviction. There must be a reason that we--

BLOOD: [INAUDIBLE]

HUNT: --have medical consent age of 19 and not 18. But sometimes you look and there's just-- it's just a deal that was made and there's no reason.

BLOOD: Right.

HUNT: This is one of those things.

WAYNE: Senator DeKay.

DeKAY: Thank you, Senator Wayne. Senator Hunt, one question. You brought that up with your answer to Senator Blood, and I was thinking about this. But what happens when you talk about elective surgeries or whatever, electric-- elective procedures, when that student, that kid is still on their-- their parents' health insurance plan, where those procedures have to be reported to their health insurance like 48 hours before they can be enacted? So that's my concern-- would be my concern, is that kids are doing a procedure and then all of a sudden they're getting held on the hook because they didn't re-- properly report that in a timely manner to the health insurance that their parents are paying for at that time.

HUNT: That's a good question. I hope someone behind me can speak to that because, given the fact that there are kids on health in-- kids meaning, I should say, 18-year-olds, not kids but young adults who are 18, on their parent's health insurance in every other state in the country, I would assume it would work in Nebraska the same way it does in Iowa, in South Dakota, in Kansas, and so on. I think insurance companies would know what to do.

WAYNE: Any other questions from the committee? Seeing none, thank you.

HUNT: Thanks.

WAYNE: First we'll start with proponents, proponents. Welcome.

MICHELLE SPICKA: Hello. All right. My name is Michelle Spicka, M-i-c-h-e-l-l-e S-p-i-c-k-a, and I am a physical therapist here in

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

Lincoln and I'm also a mom. So I graduated from Creighton University in 2001 with my doctorate in physical therapy, so I've had 22 years of healthcare experience. And I'm also a mom of two kids, twins, who actually turn 18 next month and will be going to college this fall. I'm testifying this afternoon in support of LB87. The vast, vast majority of states have the age of medical consent at 18, and we clearly have heard that we are in the minority in Nebraska. The age of medical consent in Nebraska is obviously 19, and that's what we're working to change. In Nebraska you can vote and go to war as a member of the military at the age of 18, but you cannot make your own healthcare decisions in Nebraska. You must have a parent or legal guardian signed your consent until you're age 19. As a healthcare provider in a college town, this has actually been a huge issue, and I could list out tons of different scenarios in which this was a problem. Now, this is not only medicine; this is emergency dental work; this is chiropractic care for acute back pain; this is just any type of medical thing. And just to speak to insurance, you know, people are on insurance until they're 26, so this is not an age issue and this-- this isn't an insurance issue. This is a Nebraska issue. So in my practice, again, I see so many college students. College students live independently at the age of 18. In all other states, the age of medical decision is at 18. We definitely-- just even last week I saw a student. She is from Chicago. Her mom passed away a couple of months ago. Her dad is deployed overseas. We were unable to get her consent. I still-- we're still working on getting a consent so I can see her tomorrow for a scheduled appointment, which we might have to move. So as a mom of two kids who are going to be turn-- who won't turn 19 until March of their first year of college, this is also an issue. I'm worried about their access care. If my husband and I travel and my daughter has a sinus infection, she needs to be able to get care at age 19. I really feel my daughter at 19 can make good healthcare decisions. And Nebraska teens are smart. They're not like different than any other state where they can make that decision. So all these different scenarios, I feel like, you know, it's not just medicine, it's not just acute care, but it's also, yeah, mental health, dental, all those things. I've absolutely had patients who are estranged from their parents or their parents refused to sign consent. I have one example specifically that happened this fall that actually was pretty significant. This was an 18-year-old female. She's a UNL student from western Nebraska. This particular student had suffered from chronic pelvic pain since she was 13. She's complained of pain for years, but her parents did not believe her symptoms.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

WAYNE: Ma'am--

MICHELLE SPICKA: The--

WAYNE: --I have to cut you off real quick but I'm sure somebody will ask you a question.

MICHELLE SPICKA: OK.

WAYNE: If not, can you tell us about your work experience [INAUDIBLE]
Thank you.

MICHELLE SPICKA: Well, I just have two paragraphs--

WAYNE: Go ahead.

MICHELLE SPICKA: --if that's OK. Yeah, so this particular patient's 18. She has suffered from pelvic pain for-- since she was 13. She's complained of pain for years, but her parents did not believe her and actually told her she was making it up to avoid work on the farm. And when this patient arrived in Lincoln, she had expressed that she was so excited that maybe someone was going to finally listen to her. She made an appointment with a gynecologist, but she didn't turn 19 till last month, in January, and her parents just ghosted the clinic and wouldn't sign a consent. So finally in January, last month, she was able to get in to be seen by a gynecologist, is sent to me. I am a specialist in chronic pelvic pain, so I see a lot of that. Ultimately, she was diagnosed with endometriosis and it's so bad she's going to have surgery next month, and this was a delay of care for many, many reasons. This woman fell through the cracks for many reasons, but this is just one other example of why this is absolutely ridiculous in Nebraska that we don't have it like anyone else. So that is just what I wanted to say. I thank you so much for listening to me and I just-- I feel very passionate about this because I see this time and time again and there's so many stories and I absolutely guarantee that, if you poll most parents that have college kids, they have no idea that they actually have to wait until they're 19 to sign. I guarantee you that not a lot of people know that. So thank you so much.

WAYNE: Thank you. Questions from the committee? Seeing none, thank you for being here. Thank you for sharing your experience. Next proponent.

ANAHÍ SALAZAR: Thank you, Chairperson Wayne and members of the Judiciary Committee. My name is Anahí Salazar, A-n-a-h-í S-a-l-a-z-a-r, and I am representing Voices for Children in Nebraska.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

Our system should be structured to allow young people to access needed medical care. In Nebraska, our unique age of majority leaves many young Nebraskans in a complicated situation when it comes to healthcare decision making. Voices for Children in Nebraska supports LB87 allowing 18-year-olds and those youth confined in the Department of Correctional Services a chance to make independent decisions regarding personal health. Nebraska is unique in setting our age of majority at 19 instead of 18. Overall, this older legal age of adulthood is slightly better reflective of what we know of youth development and maturity. However, the importance of autonomy and self-advocacy in times of crisis is essential for developing youth, particularly those who are incarcerated or, for other reasons, do not have adult guardians able or willing to make appropriate healthcare decisions for them. In these situations, young individuals should have the opportunity to make healthcare decisions without the consent of a parent or guardian to better address any health complications quickly and efficiently. Research shows that maturity and decision-making abilities progress along different timelines, yet health professionals believe that in some instances, teens are developmentally ready to make their own medical decisions, particularly when it comes to recommended healthcare treatments where there are harmful consequences if they do not receive them. A bill in Wyoming in 2021 gave minors the chance to consent to healthcare treatment to the same extent as if they were an adult when the minor is living apart from his parents or guardian. LB87 does not go that far, but closes a crucial gap for some older youth who may have to make their own medical decisions. LB87 balances Nebraska's unique age of majority with the very practical need for young people on the cusp of legal adulthood to be able to access medical care. We thank Senator Hunt for bringing this issue forward and urge the committee to advance LB87. Thank you.

WAYNE: Any questions from the committee? Seeing none, thank you for being here. Next proponent. Next proponent. Thank you for handing out your testimony. Any questions from the committee? [LAUGH]

SPIKE EICKHOLT: And time. No questions? Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t, appearing on behalf of the ACLU of Nebraska and in support of LB87. Senator Hunt gave a history of how we sort of arrived to the age of majority at age 19. If you look at the bill, you can kind of see the history, sort of, of the reforms that have been done recently. On page 2, lines 24 through 26, that was a result of a bill passed by Senator Morfeld in 2018 that allowed for people who are 18 years of age or older to consent to mental health services. And then

on that same page, page 2, lines 9 through 23, that was passed in 2019; that allowed for minors under 18 years of age or older to enter into contracts to find places to live and rent apartments, because that was also a problem, not only here in Lincoln but really throughout the state, and this just takes that one step further. It does it in two ways. One, it does allow for 18 years of age, 18-year-olds to make healthcare decisions without the consent of their parent or guardian. And also what's also most important that the ACLU wanted to be on the record on, on the bottom of page 2 into page 3, it allows for minors under age 19 who are committed to the Department of Correctional Services to make their healthcare decisions. We regularly get intake at the ACLU in which there's one-- there's one juvenile facility. It's where juveniles are charged [INAUDIBLE] adults in Omaha, and that's got about 65 to 70 prisoners who are there, and it's somewhat cumbersome for them to get basic medical care in that Department of Correctional setting because they are technically minors, and this would allow for that and accommodate that to provide for some ease on doing that. You've heard most other states have an age of majority of 18. I know there's been bills that have been introduced over the years to simply lower our age of majority from 19 to 18, and that seems logical and it's very straightforward; it's probably more simpler, would certainly do this. But as Senator Blood sort of knows, I think Senator Morfeld did that. I can't remember if Senator Wayne did that, as well, but that just causes all kinds of other unintended and intended [INAUDIBLE] consequences and it's just too big of a lift. We just have relied on 19 being our age, a majority for so long, it's just gonna slowly take some time to reform that, and that's what this bill does, is just one more step into that line of reform that we've done recently. I'll answer any questions if anyone has any.

WAYNE: Any questions from the committee? Seeing none, thank you for being here. Next proponent, Next proponent. Moving to opponents, opponents. All right, moving to those testifying in a neutral capacity. Welcome back.

BO BOTELHO: Thank you, Chairman Wayne. And members of the Judiciary Committee, my name is Bo Botelho, Bo B-o-t-e-l-h-o. I'm general counsel for the Department of Health and Human Services. I'm here today testifying in-- testifying in neutral capacity, LB87. DHHS would first like to advise the committee, as the senator has already done, that HHS has brought its concerns to Senator Hunt and is working with the senator on an amendment to address the agency's concerns. Senator gave me a copy of the amendment today which-- which does that. I will

now outline the agency's concerns with the bill as originally drafted. Currently, the individuals between the age of 18 and 19 years old can be committed to the care and custody of the Department of Health and Human Services pursuant to a juvenile court proceeding, pursuant to 43-285. While these individuals are in the care and custody of the department, the department is charged with determining the proper care, placement, medical services, psychiatric services, and expenditures on behalf of each juvenile committed to it, with the assent or direction of the court. LB87, as initially drafted, would allow 18-year-olds in the care of the custody of the department and under the jurisdiction of a juvenile court to make healthcare decisions on their own. While the department supports the concept of including 18-year-olds in discussions regarding their healthcare decisions, LB87 poses concerns related to both the department's duties and the jurisdiction of juvenile courts. Under statute, the department is charged with making medical decisions for youth in its custody; furthermore, the department is supposed to make decisions with the assent of the court. If the 18-year-old is making medical decisions on her own, the court does not have the ability to consent or order treatment. One other concern of the department is the duty to make placement-in-care decisions for youth, to provide up-to-date information to the juvenile court regarding youth in the department's custody. If the department is unaware of medical treatment being sought or utilized by youth in its custody, that hinders the department's ability to assess appropriate placement and other care decisions. The department would also have no ability to provide an update to the juvenile court regarding the child's medical care if the department is not part of the decision-making process. Under current policy, the department strives to collaborate with parents to obtain parents' consent, making medical decisions for children in the custody of the department. Department would support collaborating with the youth to obtain the consent once the youth is 18. We, again, thank Senator Hunt for entertaining our concerns and her willingness to bring forward an amendment, and we respectfully request the Judiciary Committee take these concerns in consideration when deciding whether to advance LB87. Thank you. I'm happy to answer any questions.

WAYNE: Any questions from the committee? Seeing none, thank you for being here.

BO BOTELHO: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

WAYNE: Any other neutral testifiers? Seeing none, as Senator Hunt comes up to close, we had 17 letters, 10 in support and 7 in opposition. Senator Hunt to close.

HUNT: Thank you, Chairman Wayne. I-- I don't have much to do for close. I was going to address some questions that came up, if any came up. But if you-- if you have any additional questions, I'd be happy to answer them.

WAYNE: Any questions from the committee? Senator DeKay.

DeKAY: Just a follow-up. Senator Hunt, my concern isn't about the 18-year-olds getting medical. My concern is to make sure that they or their parents aren't going to be stuck on the hook for health insurance costs that are, you know, for elective surgeries, so if you-- if you can find an answer for that, that would--

HUNT: Is your-- yeah, we'll get you an answer. Is your concern about like running up a phone bill, basically, like 18-year-olds consenting to care, so then they go get a bunch of procedures and then the parents don't know--

DeKAY: Well--

HUNT: --that their insurance is covering this?

DeKAY: --I could-- I know a little bit from personal experience that if-- you know, if it's-- certain insurance companies, and they're-- and they're-- they are large ones, that will want you to get a pre-authorization before you have procedures done or a lot of different things done. So I don't want the parents to-- you know, or-- or who's ever the insurance carrier, to be stuck for a \$3,000-4,000 bill that comes as a surprise in the mail to them, so.

HUNT: Is it typical to get pre-authorization for care? Is-- my understanding is it is, that it would all have to be authorized anyway.

DeKAY: Not every procedure that I've been involved with needed--

HUNT: OK.

DeKAY: --pre-authorization, but just to make sure that-- that-- that's my concern, is, you know, not for the fact that they are getting health and-- or getting healthcare. It's the fact that they are

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 22, 2023
Rough Draft

getting healthcare that's not going-- that they need that's not gonna be stuck-- they're going to be pulling it out of their pocket rather than out of their insurance, so.

HUNT: Sure. Yeah, that's a smart question. I'll make sure to get you an answer that satisfies you.

DeKAY: Thank you.

WAYNE: Any other questions from the committee? Senator McKinney.

McKINNEY: Thank you. In allowing the department to assist in making decisions, I guess one thing just popped in my head, and I-- I probably should have asked him because I'm curious to know. What if an 18-year-old is in the custody of DHHS was raped and wants an abortion? Would they stop that 18-year-old?

HUNT: Eighteen-year-olds can consent to abortion--

McKINNEY: Yeah, I--

HUNT: --in Nebraska.

McKINNEY: OK.

HUNT: They wouldn't need DHHS consent.

McKINNEY: OK. All right. I was just curious.

HUNT: Good question.

McKINNEY: Yep. All right. Thank you.

WAYNE: Any other questions from the committee? Seeing none--

HUNT: Thank you.

WAYNE: --thank you for being here. That'll close the hearing and today's hearing on LB87 and end today's hearing.