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Judiciary Committee February 15, 2023

**WAYNE:** Good afternoon. I refuse to gavel. I just-- other people do it. I just refuse to. You can't command some kind of decency, you got problems. Good afternoon. Good afternoon. Good afternoon. Welcome to Judiciary. My name is Senator Justin Wayne. I represent Legislative District 13, which is north Omaha and northeast Douglas County. I serve as the Chair of Judiciary Committee. We will start off by having members of the committee and staff do self-introductions, starting with my right, Senator Ibach.

**IBACH:** Thank you, Mr. Chairman. I'm Teresa Ibach, District 44, which is eight counties in southwest Nebraska.

**McKINNEY:** Good afternoon. Terrell McKinney, District 11, north Omaha.

**JOSH HENNINGSSEN:** Josh Henningsen, committee legal counsel.

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

**DeBOER:** Hi everyone. My name is Wendy DeBoer. I represent District 10 in northwest Omaha.

**BLOOD:** Good afternoon. Senator Carol Blood, representing Bellevue and Papillion, Nebraska.

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

**WAYNE:** Also assisting, assisting us is our committee pages, Laura Brtek from Norfolk, who is a-- Logan Brtek, who is a political science and criminology major at UNL; and Isabel Kolb from Omaha, who was a political science and pre-law major at UNL. This afternoon, we'll be taking up six bills in the order that are listed outside the door. On the tables in the back of the room, we will have-- we have blue testifier sheets. If you plan on testifying, please fill out a blue testifier sheet when you-- oh, sorry. Where was I? This keeps accurate records. If you want to make your presence known and your position known, but do not want to testify or want to do us a favor by shortening the testimony, you can fill out a gold sheet in the back of the room. I will also note, the Legislature policy is that all letters must be, for the record, must be turned in by noon, prior day of the hearing. If you have any handouts, please make sure you have 10. If you don't have 10, please ask one of the pages to make copies for you before you come up. Testimony will begin with each introducer opening statement, followed by supporters of the bill, then opposition, then those speaking in a neutral capacity. Then the introducer will give an opportunity to close if they choose so. We ask that you begin your testimony by stating and spelling your first

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and last name, making sure we have accurate records. We will be using the three-minute light system today. When you begin your testimony, the light will be green. When the yellow light comes on, it will be the one, one-minute warning mark. If the light turns red, please wrap up your final thoughts. I would like to remind everyone, including senators, to please silence or put your phone on vibrate. With that-- oh, I'm sorry, Mr. Dungan. We didn't tell you, we, we rearranged the schedule,

**DUNGAN:** Did you?

**WAYNE:** You didn't get the call? OK. It's fine. We'll start with LB30. You're here.

**DUNGAN:** Good afternoon, Chair Wayne and members of the Judiciary Committee. I'm 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. Today, I'm introducing LB30. LB30 would amend the juvenile code to allow for answers of no contest by juveniles and would provide that juvenile courts could accept such answers at adjudication hearings. Currently, in juvenile court, youth who are charged with a law, violation or status offense can enter an admission or a denial to the case. If the youth admits the allegations, the court will then impose a term of probation or a disposition order pursuant to the juvenile code. If the youth denies the allegations, the case is then set for a trial before the juvenile judge. In adult court, defendants can plead guilty, not guilty or no contest. A plea of no contest is not an admission of guilt, but it is a formal position of not contesting or not disputing the commission of the charged crime. If a person pleads no contest, they waive all of their rights to a trial and rights to contest or challenge any of the evidence. Additionally, a judge will treat a plea of no contest similar to a plea of guilty and the judge is able to impose the same sort of sentence as if the defendant had pled guilty or had been found guilty after trial. No contest pleas are made for a variety of reasons. For instance, defendants will sometimes plead no contest in situations in which they do not deny committing the charged offense, but they do deny the factual version that the police or the prosecutors say occurred. Or a defendant may be advised by counsel to plead no contest rather than guilty, because a guilty plea is a judicial admission that may later be used against that defendant in another jurisdiction or in another kind of proceeding. LB30 would provide for a similar option, no contest, for a youth to answer in-- allegations in juvenile court. An identical bill to this bill was introduced last year by Senator John Cavanaugh. It was LB879. That bill was advanced from the Judiciary Committee

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unanimously, 8-0. But like other bills, it did not get passed into law and remained, I believe, on General File. I urge the committee today to favorably consider the bill and I'm happy to answer any questions anyone might have.

**WAYNE:** Any questions from the committee? So can't juveniles do this already by just remaining silent during the admission or deny a request from the judge?

**DUNGAN:** My understanding is that it is jurisdiction by jurisdiction whether it's accepted, because it's not been officially codified into law. And so, I know there have been some circumstances where individual juvenile courts-- and there's folks coming after me who can probably speak to more specific examples. But my understanding is there are some juvenile judges that will accept a plea of no contest, treat it like an admission, but I don't believe that-- because it's codified, that every jurisdiction will accept that. So there are examples I've heard of where a juvenile tries to remain silent or plead no contest and because it's not been specifically put into law, the juvenile judge says that's unacceptable. We have to do one or the other.

**WAYNE:** OK. Any questions from the committee? Are you staying for closing?

**DUNGAN:** I will. Yeah.

**WAYNE:** OK. Thank you. Proponent.

**JENNIFER HOULDEN:** Good afternoon. I'm Jennifer Houlden, J-e-n-n-i-f-e-r H-o-u-l-d-e-n. I'm the Chief Deputy of the Juvenile Division of the Lancaster County Public Defender's Office. I'm here on behalf of the Nebraska Criminal Defense Attorneys Association in support of LB30. I don't want to retread the testimony of Senator Dungan, but I do want to reiterate that a no contest plea has long standing in criminal law, coming even from the English common law. I've been a public defender for over 15 years. It is regularly pled and accepted in criminal court. I've been at the Public Defender for over 15 years and when I started in this juvenile court, the no contest plea was regularly accepted. It is regularly accepted in some other juvenile courts, is my understanding. More recently, the-- in my jurisdiction, they've taken a stricter interpretation of the statutorily available pleas and are not willing to accept a no contest plea and are certainly not willing to let the youth stand mute in light of the allegations. So their choices are to admit to

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the charge or to deny the charge. And if they're not willing to admit, then it's set for trial and we don't have any other options. It is essential that a no contest plea exists in juvenile court, even more importantly than in criminal court, because it's a rehabilitative court and the youth perspective about what happened, the youth's truth about what happened is part of that rehabilitation, coming from their perspective. What I found, I was in criminal court for about ten years, came back to juvenile court about three years ago. And what I found about youth is that the most important thing to them is to be able to speak their truth, to tell their story and to be able to have their perspective heard by the court. And in our current posture, they either have to admit to a charge or deny it. It's essential that they be able to take advantage of legal benefits that may be available through a plea agreement by pleading no contest. But without a no contest plea, they either have to choose to do what they feel is lying to the court by admitting to something that they didn't do or taking something to trial that's neither in their legal best interest or their stated best interests. So all this is doing is bringing statutory permission into conformance for all jurisdictions. And again, historically was accepted in juvenile court when I began my tenure there. But I've repeatedly made attempts to take other options and I'm here seeking a statutory change to make that plea available so my clients are able to listen to my legal advice about their legal benefits with regard to their charges and plea offers, but also represent their true position to the court when they are accepting legal responsibility but not willing to admit.

**WAYNE:** I know. Sorry, I'm just reading the statute. Any questions from the committee? So where-- so I-- my understanding right now, underneath the statute, they can stand mute. Is that not acceptable?

**JENNIFER HOULDEN:** It's not been accepted by the court. It results in, effectively, a denial and a proceeding to trial, because by standing mute, you're not waiving your rights affirmatively, in the jurisdiction that I practice in.

**WAYNE:** Gotcha. All right. Thank you.

**JENNIFER HOULDEN:** Thank you.

**WAYNE:** Any other questions from the committee? Next proponent.

**TIM HRUZA:** Chairman Wayne, members of the Judiciary Committee, my name is Tim Hruza, last name spelled H-r-u-z-a, appearing today on behalf of the Nebraska State Bar Association in support of LB30. Want

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to thank Senator Dungan for introducing the legislation this year. We did come in support of this bill that Senator Cavanaugh introduced last session, as well and appreciate you, I guess, the previous iteration of this committee advancing it to General File. We do think this is a, a simple clarification in law. As most of you know, in our process, we work through various committees that contain defense attorneys, prosecuting attorneys, several judges, both county court judges, district court judges and some juvenile judges and retired juvenile judges, as well, that partake in those discussions. Ever since this bill was introduced last year, I mean, it's been very, very clear with our folks that, across different practice areas, that there is some confusion and some different interpretations or different approaches to how you deal with no contest and how you deal with a-- basically, a plea agreement in a juvenile court setting. Maybe to, to your question, Senator Wayne, the way I understand the statute as it presently reads, is it authorizes a judge to handle things and to handle a case when an admission is made, right, so that they can proceed to adjudicating the juvenile, having, having jurisdiction and then adjudicating the juvenile to provide, basically, the consequences or the outcomes of the case. There are some jurisdictions where courts are telling counsel that that cannot happen because there's no specific statutory authority or mechanism for doing it when there's not an admission or a denial. And then they, as Ms.. Holden explained, do need to proceed through in order to ensure that the jurisdictional issues for the juvenile court are satisfied and that they can adjudicate the case and the kid. So we think it's a simple clarification. Like I said, prosecutors, defense attorneys, judges all thought this was a good idea in every discussion that we've had. So with that, I'm happy to answer any questions. I appreciate your consideration of LB30.

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

**TIM HRUZA:** Thank you.

**WAYNE:** Any other proponent? Any other proponent? Welcome to your Judiciary.

**BRI McLARTY:** Good afternoon, Chairman Wayne, members of the Judiciary Committee. My name is Bree McCarty. I'm a representative from the Nebraska County Attorneys Association. It's rare to have all three of us up here in support of a bill, so I'm going to enjoy it while it lasts. Not to step on anyone, what they've already said, but it's really quite similar. When we talk to our members about it, we are

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seeing quite a disparity across counties in how different judges are handling it. So, for example, in my jurisdiction, my judge had no problem taking a no contest plea. He treated, treated it as an admission, which is what we see on the 3A side. When talking to some of our county attorneys in Douglas County or some of the other counties, we're not seeing the same. They're taking that hard line look at, it only says admission. That's the only thing we will accept. I will say, as a prosecutor, we do use no contest pleas in our plea negotiations, so providing some clarification and some uniformity across the state is what we're really looking for and this is what the bill does. We came in support of it last year when it was brought. We'd advise you and hope that you support it and advance it this year, as well. And I'm happy to answer any questions.

**WAYNE:** Thank you. Can you get a spelling for your name?

**BRI McLARTY:** Oh, sorry. B-r-i M-c-L-a-r-t-y.

**WAYNE:** Thank you. Any questions from the committee? Seeing none, thank you for being here. Any other proponents? Any opponents? Any opponents? Anybody testifying in the neutral position? Senator Dungan coming back up. No letters or recommend-- recommendations. No letters for the record. With that, you can close.

**DUNGAN:** Thank you, Chair Wayne, I don't want to take too much more time. It seems like, as she just indicated, it's always interesting when everyone's here on the same page with a bill like this in Judiciary. I think this is an important change that can be made. It's-- whenever you're practicing law, there's variances in different jurisdictions in how things are done. But this is something that I think is important to have codified, that it's the same everywhere. It's going to help on a number of fronts. I think it helps provide juveniles the autonomy to make decisions that they need to make in these cases. I think it's an important tool, as you've heard from both the county attorneys and the defense attorneys, in plea agreements. And it's something that I think is just important to make sure is uniform across the entire state. So with that, I would ask your consideration and advancement of LB30.

**WAYNE:** Thank you. And any questions from the committee? Seeing none, thank you. With that, that'll close the hearing on LB30 and we'll open the hearing on LB60. Welcome to your Judiciary Committee, Senator John Cavanaugh.

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**J. CAVANAUGH:** Thank you, Chairman Wayne and members of the Judiciary Committee. Let's see, LB60. I thought LB184 was up first. My name is John Cavanaugh.

**WAYNE:** You're right. Well, no, you're wrong. I'm right. [INAUDIBLE] LB60. My bad.

**J. CAVANAUGH:** Regardless if I'm right or, or not--

**WAYNE:** It's you-- you're here both times.

**J. CAVANAUGH:** --you're in charge. My name is John Cavanaugh, J-o-h-n C-a-v-a-n-a-u-g-h, and I represent the 9th Legislative District in midtown Omaha. I'm here to introduce LB60, which improves the reporting requirement of room confinement in juvenile facilities. This is largely the same bill as LB810 in 2022, which advanced from this committee, 8-0, last year. The only difference-- differences are minor technical adjustments to the dates and clarifying language. Several years ago, the Legislature passed a bill requiring certain reports of room confinement in juvenile facilities. LB60 proposes two changes to the reporting requirements. It does not make any changes to the standard or requirements around the use of juvenile room confinement. First, LB60 requires facilities to report all incidents of room confinement. Currently, facilities are required to report all incidents over one hour, cumulatively, over a 24-hour period. This means that shorter incidents of room confinement are not included in the data, creating an incomplete picture of room confinement that may under-- understate the frequency of room confinement, while overstating its duration. Changing this requirement will give a more complete picture of the use of room confinement. Second, LB60 requires facilities to provide a summary report of room confinement data. This allows data to be verified by facilities prior to reporting to the OIG and encourages facilities to analyze and assess their own data and room confinement practices. Finally, LB60 makes some minor technical changes to clarify the form in which data is provided to the OIG, providing an electronic sortable format such as an Excel spreadsheet. Jennifer Carter is here from the Office of the Inspector General to go into greater detail about the need for this legislation and to answer any of your questions. With that, I'd like to thank the committee for your time and I ask you to advance LB60 out of committee and I'd be happy to take any questions.

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

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**J. CAVANAUGH:** Thank you.

**WAYNE:** First, we'll have proponents. Welcome.

**JENNIFER CARTER:** Thank you. Good afternoon, Chairman Wayne and members of the Judiciary Committee. My name is Jennifer Carter, J-e-n-n-i-f-e-r C-a-r-t-e-r, and I serve as your Inspector General of Nebraska Child Welfare. The OIG provides accountability for Nebraska's child welfare and juvenile justice systems through system monitoring and review, investigations, including mandatory investigations for deaths and serious injuries in the system and recommendations for improvement. In addition to those duties, one of the things we have to do is analyze and report on the juvenile room confinement data that's provided to the Legislature by certain facilities in Nebraska that are residential for youth. The changes in LB60 will improve the data reporting process and provide a more accurate understanding of the use of juvenile room confinement, as Senator Cavanaugh stated. First, it would require that all confinement gets reported. Right now, facilities have to document it, but they don't have to report all of it. And what happens and we've had this conversation with some facilities, is the data ends up getting skewed. So, for example, if you have 100 incidents of room confinement and 60 were actually under an hour, we only see the 40. And so when we put out a report, we're saying, well, actually, most of the time, they're confining for several hours at a time, when best practice is for it to be time-limited. So when we're comparing it to best practice, we don't actually have the full picture that, really, the majority of the time, it is time-limited. So it would give a more complete picture in that sense. It also would help in terms of providing an annual summary of key data points. We have had the experience over the years of receiving the raw data from the facilities and one of our assistants has to spend a significant amount of time of our very limited resources combing through that data, often finding errors, oftentimes errors that are to the detriment of the facility, duplicate reports, things like that. And then, we're not-- we don't have a way of-- we have to provide that back to them, get it all validated. It would be much easier for us if the facilities were able to do that. And also the facilities are hopefully, more importantly, looking at their own data to figure out how much they're using room confinement and this would help with that. There is also a small change in terms of codifying what is already our practice. We have asked the facilities and they have been very great at cooperating with us, what's filed with the Legislature is a PDF. We can't sort that or analyze it, so we have asked facilities to send it to us in a spreadsheet format. They do that,

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which we really appreciate and this would just codify that practice. We'd like to thank Senator Cavanaugh for bringing this bill and, and the juvenile facilities that report for their cooperation over the years in this process. And the goal of the juvenile room confinement statute is to reduce juvenile room confinement. And I think improving the data collection and reporting requirements give us a more accurate understanding and will help us reach that goal. So I'm very happy to answer any questions.

**WAYNE:** Any questions from the committee? Senator Holdcroft.

**HOLDCROFT:** Thank you, Chairman Wayne. Can you-- new guy here.

**JENNIFER CARTER:** Yeah.

**HOLDCROFT:** So can you tell me what room confinement means? I mean, what is that?

**JENNIFER CARTER:** It's when a youth is placed-- and I'm going to forget the specific language, but is involuntarily placed alone in a cell or a room or so.

**HOLDCROFT:** So like, an interrogation room would be considered room confinement?

**JENNIFER CARTER:** Yeah, that doesn't come up as often for us. It's more like if you are committed to YRTC or you're in a detention center, there are various reasons why you might use room confinement. Best practice would say you shouldn't use it for behavior management, but the reality is if you have a youth who's being assaultive or sometimes, often a danger to themselves, they'll be put into their room where nobody else is around, involuntarily. And that's the-- what they're tracking, because research shows that that is actually-- has long-term, significant negative consequences for the youth. If they're confined for a long period of time, it can have real serious mental health consequences. And so, there are best practices for when you should use it and when you shouldn't and I, I believe the concern, initially, was let's actually take a look at how much we're using it in Nebraska and think about ways that we can reduce it. And how can we-- we see part of it as our job and by statute is our job, it's to make recommendations to say, how can we help facilities, what kind of resources do they need to help if it's a behavior management issue, how do we help them with the youth that they're serving.

**HOLDCROFT:** OK. Thank you.

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

**JENNIFER CARTER:** Thank you.

**WAYNE:** Next proponent.

**ANAHI SALAZAR:** Good afternoon, Chairperson Wayne 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. And Senator Holdcroft, I think we have some answers that you were looking for, as well. Every young person in the juvenile justice system should receive rehabilitative services for a second chance to succeed. Uncompassionate and antiquated practices like the use of solitary confinement or room confinement mar children's opportunity for rehabilitation and recovery. Voices for Children's supports LB60 because it will ensure youth in our state-run facilities do not experience the harmful effects of solitary confinement. Keeping a young person locked in a cell for an undetermined period of time can cause serious neurological and physical issues. Confinement has been referred to as a form of torture because of how dangerous it can be. Young people in confinement eat, sleep and go to the bathroom, all within the same space, small space, most of the time without any windows. Teenagers need healthy social environments to grow into well-adjusted adults and extended segregation from their peer community is linked to increased mental health concerns and heightened rates of suicide. One study found that half of incarcerated young people who committed suicide were room-confined at the time. For these reasons, the United Nations prohibited juvenile solitary confinement and the American Academy of Child and Adolescent Psychiatry opposes its use. Currently, our state facilities are required to report to the Legislator [SIC] the incidents of room confinement of minors at their facilities and clarifying conditions of confinement in certain types of facilities. Through facility reporting, we have seen facilities reduce their use of room confinement and so we-- and we know it can be done safely and effectively. We still have too many young people spending too many hours in isolation. LB60 further enhances oversight of the use of room confinement-- of confinement in juvenile facilities. By that, any uses of it shall be documented and requiring supervisor approval in writing for any confinement longer than an hour. By specifying reporting requirements and requiring reports quarterly rather than annually, we can continue to track and analyze how this harmful practice is still being used across Nebraska. Other states and jurisdictions, including the federal prison system, have taken

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proactive steps to reduce or eliminate room confinement for children-- of children. LB60 is the right step for-- next step for Nebraska to continue on the path of full elimination of this practice. Young people should not be locked up in a room. Nebraska can do better and it is past time that we did. We thank Senator Cavanaugh for his commitment to improving our juvenile justice system and the committee for your time and consideration of this bill. I urge you to advance LB60.

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

**ANAHI SALAZAR:** Thank you.

**EDISON McDONALD:** Hello. Edison McDonald, E-d-i-s-o-n M-c-D-o-n-a-l-d. I'm the executive director of the Arc of Nebraska. We are Nebraska's largest membership organization, representing people with intellectual and developmental disabilities. We're supportive of LB60. I'll be brief. I just wanted to share a story. Recently, I heard from one of my members who-- their kid has been secluded and it has been so traumatic for him. It's kept him out of school for almost two weeks and it's taken what were minor behaviors and exploded them into far more significant behaviors. It's increased the number of times he's had to go to therapy and, and caused some real, real challenges for this young individual with a disability. I think whenever we can go and provide better tracking data, especially on this, it's tremendously helpful. It's important to keep in mind that the Department of Justice is always watching seclusion and restraint data in Nebraska. And they're picking up the investigations and the actions that they're willing to take on those restraint and seclusion cases. So if we can provide this better data, that provides a better guide for them as to where they'll look and where they won't look and then also helps us to better protect the state of Nebraska. With that, any questions?

**WAYNE:** Any questions from the committee? Seeing none, thank you for being here. Next proponent. Next proponent. Next opponent-- or start with opponents. First opponent. Seeing none, anybody testifying in a neutral capacity? Neutral capacity. Were you an opponent or a neutral capacity?

**AMBER PARKER:** Neutral.

**WAYNE:** OK. Neutral capacity.

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**AMBER PARKER:** A-m-b-e-r P-a-r-k-e-r. I believe it's good practice to-- when we don't have time to review a bill to see what existing legislation and the proposed legislation that would remove that existing legislation, then it's better to address on such a very important topic and matter. And I wish I was allotted more time, as many in this room, I'm sure. The reason I'm coming forward on the neutral side, I already addressed a little bit, but I have great concern because in the state I believe that there's a lot going on in our juvenile justice system and we could be doing a better job. And I believe that there's proactive approaches. And sadly, I do think that there are people that can be lazy in certain areas, to where they can put a juvenile in solitary confinement and then just leave them there as like, OK, the headache is gone and all this. And I really think we need to work hard and heavy to see the measures that we can do. And I have some ideas and proactive approaches, but my heart goes out because they're crying out for help. It's a different situation if you are around youth, like myself, where I've been. I was around many young men and in a situation-- excuse me, in a situation going into an atmosphere like this, where there was one who was very violent. And we were aware of it and we knew, OK, that's OK. We would talk but keep our distance and he kept his distance. But when he started to do certain things, they knew to keep an eye on him. But I want to set that aside and say that's a different situation than a fight breaking out and then just putting everyone involved in that fight in a solitary confinement situation. And so, there are ways that we can break this down and look at it. And I just-- again, I just think that there are areas here in the state where we're creating circles and not really addressing the areas and hurt that some of these juveniles have went through. And I'm not talking about a victim mentality, but I'm talking about really looking at them as a human being and not a number. And I'm sad to say, but I think the state of Nebraska, we, too many times, look at juveniles in these situations and circumstances as a number and not as a human being. And I will plan to stay and listen to more today and testify in other areas, but that is really my focus today. And later on, will share more testimonies that go alongside, but at this time, that's all I have to say.

**WAYNE:** Thank you. Any questions from the committee? Seeing none, thank you for being here today. Anybody else testifying in neutral capacity, neutral capacity? Seeing none, as Senator Cavanaugh comes up to close, we have one letter of support.

**J. CAVANAUGH:** Thank you, Chairman Wayne. And just a few clarifications. One is that the LB60 doesn't change-- add a quarterly reporting requirement, just sort of changes it from saying it's a

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syntaxed question, where it says report quarterly and changes it to quarterly report, so the, the burden is the same for the entities. And Senator Holdcroft, I apologize. Sometimes I forget, you know, you forget that there's new folks who haven't heard these issues before, so you go a little too quickly, but I think, I think you got your question answered on that one. The one thing I just wanted-- this is just really, it's a [INAUDIBLE]. It just is saying they have to report less than an hour. And this, as Ms. Carter said, they already are documenting this. They're just not reporting it. And then the other one is really a technical thing, that they are transmitting it in a specific format that's easily searchable. So it's very minimal changes to this requirement, just to make it a little bit more useful, not attempting to address these broader concerns about when we should be using room confinement and those sorts of things. I'm sure those are issues that maybe need to be addressed. It's not what this bill is trying to do. We're just trying to get the information so that we can maybe make those decisions in the future. So with that, I'd take any questions.

**WAYNE:** Any questions from the committee? Seeing none, thank you for being here and that'll close the hearing on LB60 and we will open the hearing on LB184. Welcome back to your committee on Judiciary's functions. I don't even know what I was going to say there, but I'm just, I'm just going with it.

**J. CAVANAUGH:** Thank you, Chairman Wayne. Good afternoon, Chairman Wayne and members of the Judiciary Committee. My name is John Cavanaugh, J-o-h-n C-a-v-a-n-a-u-g-h, and I represent the 9th Legislative District in midtown Omaha and I'm here to introduce LB184. And what's being handed out now is a letter from a doctor, Kari Perez, who unfortunately, couldn't be here because of her other obligations, but I wanted to make sure you got it. She wrote a letter in support and she's one of the people who conducts the type of mental health evaluation I'm talking about in LB184. LB184 provides for limited protection for children charged as adults. Current law gives prosecutors the option to charge children as adults for certain crimes. A child defendant may request that their case be transferred to adult court-- from adult court to juvenile court. This is done by filing a motion and presenting evidence and argument at a hearing before an adult court judge as to the reasons why the case should be transferred to juvenile court. At a hearing, both the child's lawyer and the prosecutor can present evidence and arguments as to why the case should be transferred or why it should not be transferred. Sometimes with these hearings, a child's attorney may have a child evaluated or assessed by a professional or psychologist or the child

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may actually testify at the hearing on the motion to transfer. So Dr. Perez is one of those psychologists or psychiatrists, I guess-- psychologists. LB184 would provide that any statement made by the child defendant at a hearing on a motion to transfer or any statement made by the child defendant to a mental health professional or other expert as part of the hearing process, will not be used against the child in any other proceeding, other than the motion to transfer. This will ensure that the judge, the judge hearing the motion to transfer has a complete and accurate appreciation for the child's mental and emotional capacity, along with a better understanding of the child's level of maturity, sophistication and other factors. What's happening now is that a child's attorney will not call the child as a witness nor will they have the child evaluated, since the statement the child makes may be used against them at a later stage of the case. Nothing in this bill will limit the prosecutor from using any other evidence or statements made by the child against the child, so long as the statements are obtained outside of the transfer hearing process. I'm willing to address any good faith concerns of this bill and I have had conversations with the County Attorneys Association about some of their concerns. And I'd be open to any amendment that would be consistent with the intent of this bill. I'd urge the committee to, to favorably consider this bill and I will be happy to answer any questions.

**WAYNE:** Any questions from the committee? Senator DeBoer.

**DeBOER:** So quickly, what you're trying to do is just get rid of this sort of like, effect of chilling their speech during that, so we can have an open hearing about what's happening in that process for purposes of determining whether it goes back.

**J. CAVANAUGH:** Right. So it-- this would be limited just to transfer hearings and statements made in relation to those. Specifically, what we're trying to get is, get these kids to be honest with a psychiatrist.

**DeBOER:** Yep.

**J. CAVANAUGH:** So when, when you're going to have a transfer hearing, we want to get them evaluated. We want them to go and actually tell them, say, this is what I did, this is what I was thinking, this is why I did it, that kind of stuff. And then-- and, and to allow them to be honest with the psy-- the-- that medical professional so that we can get an accurate report when it goes in front of the judge. And the judge can look at that and say, okay, this is either something

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that should be transferred or shouldn't be transferred based on that accurate picture. Because currently, if you-- a kid were to go and be honest, that could be used against them as potentially, in a trial as an admission. And so, we're just trying to-- and so, really what happens is they don't give that kind of honest assessment. Rather, we're just trying to get some more information for those purposes.

**DeBOER:** All right. Thank you.

**WAYNE:** Senator Geist.

**GEIST:** So in some situations, aren't there kids who are pretty savvy with the system, who could influence what-- if, for instance, if nothing this kid says is admissible, couldn't he take the blame for something that he wouldn't normally or vice versa admit to something that he wouldn't normally? I mean, there are some kids who have influence over kids who are here in this position. And if nothing they say is, is admissible, can't the system be gamed that way by kids who are savvy to the system?

**J. CAVANAUGH:** Well, the-- thank you for the question and it's an interesting thought. I mean, like obviously, the infinite number of possibilities of anything that can happen, right, with all these cases. But the situation here is-- this is not-- ultimately, it couldn't be used. Admitting to something you didn't do wouldn't really be helpful, because you're attempting to get transferred to juvenile court from adult court and that's the only purpose of this evaluation. That's the only purpose for which it can be used. So it couldn't be used in somebody else's court hearing as evidence that, you know, saying somebody else admitted to this crime and therefore, I shouldn't be guilty. Right. So it's, it's not going to work in that situation. So I'm trying to imagine a scenario in which you would-- more than likely, I would think, kids are going to minimize their culpability in this situation because they're kids. And that's generally how they think. And so in this situation, we're trying to get them to be as expansive, in terms of their admissions, as possible. And the way you do that is say, you can just tell us everything that happened and this won't be able to be used against you in, in the guilt phase of any trial. And so there's not really an incentive to take responsibility for somebody else, because I don't see how that would benefit anyone in that situation.

**GEIST:** But if, if that juvenile knows that they can admit to anything and it's not going to be held against them, then you can get this kid

to trial and then he never admits to it again. And where is the justice system then?

**J. CAVANAUGH:** Well, it, it wouldn't prevent future-- having a trial either in adult or juvenile court.

**GEIST:** OK.

**J. CAVANAUGH:** Right. It wouldn't prevent using-- you know, we've-- I've been here before talking about juvenile interrogations. It wouldn't change that situation, either. It wouldn't say that you can't use the statements made in those statements. Wouldn't allow-- it wouldn't prevent you from using any other out-of-court, hearsay-type statements, statement against interest, in, in any hearing. All this would do is say for the purpose of getting the information for the transfer, that information wouldn't be usable. So law enforcement's not going to be involved in this interview. It's just-- would be with a mental health professional and attempting to evaluate the child for mental health reasons. So-- and it-- so it doesn't preclude the use of any other statements. It doesn't preclude the use of-- the ability to take them to trial ultimately. And really, the concern here is that we're telling kids just not to talk to the psychiatrist or the psychologist, because we're concerned that if it gets transferred-- if it doesn't get transferred, then they could bring that in as a statement against interest in the ultimate-- a trial in adult court against them. So we're not-- the, the actual trial phase, I guess, is not going to be harmed in any way because this information is not currently being available, because defense attorneys are advising their clients not to make admissions.

**GEIST:** I must not quite understand the process [INAUDIBLE].

**J. CAVANAUGH:** Well, I have people who, maybe, have done more, have definitely done more of these than I have--

**GEIST:** OK.

**J. CAVANAUGH:** --who are coming after me and maybe can give you a little bit better picture.

**GEIST:** OK.

**WAYNE:** I'm only asking this question-- sorry. I'm only asking this question so if we add an amendment, we can clean up some of the transfer language, too, so just hear me out. I'm not saying you have to accept the amendment, but-- so you have 10 days to transfer or to

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file a motion to transfer. A hearing has to be held within 15 days after it's bound over to district court. And the motion has to be filed 10 days after it's bound over district court. But in there, at the hearing, there's like 15 criteria--

**J. CAVANAUGH:** Yeah.

**WAYNE:** --roughly. Yeah, let me pull up that. Yeah. And one of them is the motivation for the, for the commission of the crime. So as an attorney for-- just so people know, I represent juveniles off and on. I don't have anybody currently pending that this would apply to. But you're put in a situation where do you want them to get evaluated and tell why they did it and who they are and their whole background and, and essentially waive their Fifth Amendment right or not tell that person and, and try to go without. So I understand the concern. But in this criteria, here's the question. Here's-- in the criteria, one of the criteria is participating in a pretrial release. And if you don't participate in a pretrial release, it's counted as a negative. So if you don't do any of the criteria, it's counted as a negative. But there are-- majority of our counties don't have pretrial release. So would you be amenable to maybe looking at also the motion to see what's best for the counties that are outside of the big three who don't, don't have a pretrial release, for example, in the criteria?

**J. CAVANAUGH:** I mean, I'd certainly-- yeah. I wouldn't necessarily have a problem with it. That-- you know, my intention in bringing this bill was not to change the actual things that, that are considered, just trying to get more information available when you do make that consideration. But if it's-- in the wisdom of the Judiciary Committee finds that that would actually make things work better, I'm happy to work on that.

**WAYNE:** And I don't know. It'll be a conversation involving county attorneys and all that, but I don't see any other bill dealing with it, so I wanted to ask that question to, to see if we can do something about it this year. Any other questions from the-- Senator Holdcroft.

**HOLDCROFT:** Just-- I think you answered this already, but in the, in the transfer hearing, is it just the juvenile and the mental health professional? Is there anyone else in there?

**J. CAVANAUGH:** Well, in the hearing, it would be-- it's a actual court hearing where evidence is put on. So there's the judge, the prosecutor, the defense attorney, the child. And then-- and this,

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maybe, somebody behind me would be better to, to testify to this, but you would, maybe, have had them evaluated and whatever information they were able to derive from that, that would be either presented as a report or potentially, calling the mental health professional as a witness and have them answer questions about it.

**HOLDCROFT:** OK. Thank you.

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

**J. CAVANAUGH:** Thank you.

**WAYNE:** First proponent.

**ABBI ROMSHEK:** Good afternoon, Chairman Wayne, members of the Judiciary Committee. My name is Abbi Romshek, A-b-b-i, last name R-o-m as in Mary, s-h-e-k. I am here to testify on behalf of the Nebraska Criminal Defense Attorneys Association as a proponent to LB184. As you just mentioned to Senator Cavanaugh, in a motion to transfer, there are 15 factors that the court must consider to determine whether or not the case, a juvenile charged in adult court, whether their case should be transferred to juvenile court. Some of those factors, judges and attorneys aren't really the best equipped to determine. For example, the type of treatment that a juvenile would most likely be amenable to. A judge, without any sort of evidence, isn't really in a place to make that type of determination and that's why we often get evaluations. Other factors include the motivation for the commission of the offense, consideration of the juvenile's ability to appreciate the nature and seriousness of the conduct, the best interest of the juvenile and security of the-- and whether the security of the public require the juvenile to continue in secure detention under supervision extending beyond minority. And so that is why-- I don't think I mentioned it. I'm a public defender with the Douglas County Public Defender's Office. And so that is why, when we represent juveniles charged in adult court, we often employ doctors and psychologists to evaluate the juvenile client to-- for the purpose of the juvenile transfer hearing, to provide this type of evidence to help the judge make a determination. We routinely advise our clients not to talk about the offense and the doctors not to ask about the offense. And that is based on the fear that if the case is not transferred, that our client would be giving up important constitutional rights. Now, these evaluations that these doctors and professionals complete for us, there are a combination of various assessments, including forensic assessments. The assessments that

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they complete are standardized tests, they're peer reviewed, they include internal validations. They include things to determine whether or not the juvenile is being honest or whether or not they are impression managing. They also cross, cross-reference the enter-- information they receive from the juvenile with police reports, with interviews of other people, school records and medical records, all these things to ensure that the information that they are receiving is complete and accurate, so that they can formulate an opinion. And what they will do, is they will create a report that is provided to us and then provided to the prosecutor. And then at the transfer hearing, the doctor or the professional often testifies as a witness. Now, you asked about the transfer hearing. At the transfer hearing, the state has the opportunity to put on evidence first. Typically, they just offer police reports. They have the option of calling a police officer, but with rules of evidence not applying, it's easier to offer the police reports. After there-- the state's done putting on all their evidence-- sorry.

**WAYNE:** Thank you. Any questions? Senator Holdcroft.

**HOLDCROFT:** Could you finish that description? [LAUGHTER].

**ABBI ROMSHEK:** After the state's done putting on all their evidence, the defense has an opportunity to put on evidence. And that's when we would call the doctor. We can ask them questions about their reports, about their assessments, the validity of it. And the prosecutor also has the opportunity to cross-examine the doctor and ask them those types of questions. The purpose of this or why we are proponents of this bill, is that it allows the juvenile to ope-- to talk with the professional openly, honestly, allows the professional to gather more information to create a better, more accurate and complete report. And then, it gives the judge, ultimately, the opportunity to render an opinion-- or render a decision with more evidence and more information as to whether or not the case should be transferred.

**HOLDCROFT:** Thank you.

**WAYNE:** Senator DeBoer.

**DeBOER:** Thank you. So the-- there was some concern that there might be some gaming of the system or something like that, which obviously, there's some very savvy juveniles out there. But the only consequence of the transfer hearing is that it either transfers or doesn't, right?

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**ABBI ROMSHEK:** Correct.

**DeBOER:** So the folks who do these evaluations in these transfer hearings, are they equipped to determine whether or not one of these youth are being honest, are sort of providing false information-- you know, basically, are they equipped to evaluate these kids very well?

**ABBI ROMSHEK:** Yes, they are. They are professionals with Ph.Ds. They administer, like I said, standardized testing on them. And in a recent evaluation I had, the determination of the doctor was that the juvenile was impression managing. Basically, she felt that the juvenile was not fully and accurately giving her information and so therefore, she found her testing to be invalid. And so-- and the information from these professionals is not always helpful for our clients if our client is not honest. And they're able to make that sort of determination.

**DeBOER:** OK. Thank you.

**WAYNE:** Any other questions from the committee? I just kind of want to repeat what you just said. So-- because I've had-- yeah. I've had to sit down to my clients saying, evaluation didn't go as planned. You clearly, clearly didn't tell them everything because the score didn't come back where your dishonesty was a little, little high.

**ABBI ROMSHEK:** Correct.

**WAYNE:** And so, that can hurt just as-- these evaluations can hurt just as much as help, I guess, is my question.

**ABBI ROMSHEK:** Yes.

**WAYNE:** OK. Any other questions from the committee? Senator DeKay.

**DeKAY:** Real quick, I'm confused about this. My confusion lies if it's a decision-- if it's information that can render a decision in say, the transfer part of it, why can't that same information be used in the decision-making process going forward?

**ABBI ROMSHEK:** Going forward? So right now, we are advising clients to not talk about the offense, so the information they're providing is information based on their past. Because if they talk about the offense, you know, they're potentially, you know, giving up their constitutional rights, right to remain silent, that sort of thing. And so we're always going to advise our client not to talk about the offense so that they're not-- if it's not trans-- if they talk about

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the offense and it's transferred, there's not much harm to the juvenile. But if they talk about the offense and it is not transferred, then they've given up some very important constitutional rights, because those statements can be used later on down the road. And so, as Senator Cavanaugh mentioned, right now, we're advising juveniles not to talk about the offense. And so, the information is not getting to the judge and the judge isn't getting a full and accurate picture of everything.

**DeKAY:** Thank you. I appreciate that.

**WAYNE:** Senator DeBoer.

**DeBOER:** Sorry, me.

**ABBI ROMSHEK:** Yeah.

**DeBOER:** So I'll ask one more question then, to kind of follow up to help flesh this out a little bit. So if a juvenile who should be transferred because-- well, first of all, what are the reasons why a, a judge would decide that a, a juvenile should be transferred down to juvenile court? Like, what are the-- what are they looking for in these, in these transfer hearings?

**ABBI ROMSHEK:** Well, the statute sets out 15 factors for them to consider. The Supreme Court has said, you know, it's not-- they don't have to weigh each factor evenly. It's kind of case by case. A lot of things they consider are the age-- the younger the child, the better, because they, they figure they have more time to do treatment, more time for rehabilitation of the juvenile. The closer that the child gets to 18, the harder it is to get a case transferred because there's just less time for the services in the juvenile court. The other thing that they strongly consider is whether or not the, the juvenile has been involved in juvenile court before and whether or not they've used all of the services. If it's a, if it's a juvenile that's been in juvenile court for some time and has utilized a lot of the services and it hasn't made an impact and they still continue to commit offenses, they may-- the court may find that they're less likely to be amenable to the services that the juvenile court has, so maybe less likely to transfer. The violence of, of the involved in the offense, whether or not there's violence is a, is a large factor, as well.

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**DeBOER:** So it sounds like what they're looking for is the efficaciousness of the juvenile court system and the whole juvenile system on the rehabilitation of the youth.

**ABBI ROMSHEK:** Of the-- this particular youth-- or yeah, each particular youth.

**DeBOER:** Yeah. So what they're looking for then, is they want to determine whether or not sending them back to juvenile court and then, potentially, into the juvenile system would be useful for that particular child, in terms of rehabilitating them. Is that right?

**ABBI ROMSHEK:** Yes.

**DeBOER:** So then, it's in the interest of the court to have the most information about the youth to be able to evaluate whether or not juvenile court is actually going to help them.

**ABBI ROMSHEK:** Yes, that would be our position.

**DeBOER:** OK. Thank you.

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

**ABBI ROMSHEK:** Thank you.

**WAYNE:** Welcome.

**SPIKE EICKHOLT:** Good afternoon. My name is Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t, appearing on behalf of Voices for Children in support of LB184. You're receiving a copy of a summary. It's the most recent one I could find, it's 2014, that explains what other states provide. And they do provide similar protections in their juvenile transfer hearings as what this bill proposes. This is a good bill and we're thankful that Senator John Cavanaugh introduced it. You've heard something about the transfer hearing and what that is, it's-- a person is charged in an adult court, a juvenile is charged in adult court. That lawyer can file a motion to transfer it to juvenile court. It's set for a hearing before the judge, according to the timeline that Senator Wayne explained. And it's basically a two-hour hearing, maybe a half-day hearing and it's like a trial, to a certain extent. But the issue is really whether the case should stay in adult court or whether it should go to juvenile court. At that trial, the prosecutors they're represented, they can call witnesses, they can introduce exhibits, they can offer evidence and the defense lawyer

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can also do the same. The child can offer an evaluation that's been done and-- or if they can actually try to call the child themselves and explain why they think the kids-- try to argue about if the case should go to juvenile court. What this bill does is, you know, it does provide some sort of protection for the youth defendant, the child who's charged, to argue why the case should go to juvenile court. I think what's most important and I, I don't mean to be presumptuous, but I-- if I imagine myself as a judge hearing these things, what the judge would likely want to hear is like what anyone would want to hear and that is from the child, either from the evaluation that was done by the child or maybe even firsthand, by hearing the child testify in court about why they did what they did, how they feel about what they did, about their home life, about their prior experience in the juvenile court, if any and those sorts of things. This is the most consequential hearing as a practical matter, most of these youth are going to have. You are going to-- well, as a practical matter, people that practice know prosecutors choose the cases they charge. So chances are they've got a confession that the kid has made to law enforcement, chances are they have other evidence they're going to use against them. The only me-- the most meaningful result of this is whether this case is going to go to juvenile court or the child is going to be convicted as an adult defendant. And that's why this bill is so important, because it provides that protection to provide for a meaningful opportunity to argue why the case should be transferred to juvenile court. Other states do it. You can see the comparison. Some states have differing levels of protection at transfer hearings. It's not the first time. And that's a dated-- 2014 report that I assembled. I did see some other examples when I Google-searched this morning. And other states, in addition to what you're provided, have adopted similar protections and we would encourage the committee to do the same.

**WAYNE:** Any questions from the committee? Senator Holdcroft followed by Senator DeBoer.

**HOLDCROFT:** Thank you, Chairman Wayne. So, again, I'm not familiar with this very well. So what would drive a juvenile to be in adult-- to start off in adult court? What kind of things makes that?

**SPIKE EICKHOLT:** That's really a decision the prosecutor can make. So if a child, say, for example, is arrested because they're found in a building, they're 16 years old. The prosecutor has the decision, has the option, to charge that either in juvenile court as a journal law violation, or they can charge it as an adult court, burglary. You break into a building with intent to steal. That's considered a

burglary, zero to twenty years imprisonment. The prosecutor makes that decision. They charge it in adult court. The law allows the defense lawyer to make the request that, no judge, this person is only 16. We'd like to transfer it to juvenile court. Picking up on that example, if you have the youth who is charged with burglary, you might want to try to get the kid on the stand to explain why they broke into the building, if it was their idea or their friend's idea? And their friend's 25 years old. Did they mean to take anything? Those are the kinds of things that I would submit a judge might want to know, because a burglary is a serious charge. You can break into a building for lots of different reasons, but the motivation for the offense and that's one of the 15 factors, is something the judge weighs. If I'm representing that kid and I know it's going to be difficult to get that case to juvenile court, there is no way I'm going to have that kid take the stand at the juvenile transfer hearing. I'll try to get it in evidence some other way. I'm just not going to put the kid up there. Because not only is it a statement against interest, but it's under oath, it's on the record and the prosecutor can question my client about it. So it's just something that's not done. I-- respectfully, what Senator Geist asked earlier, I don't see how a system is gained on that, because the only result you get is that if you take blame for the crime, if you try to exculpate other people, all you do is you get your case cemented in adult court. Right. And that's not the purpose of the hearing, so I hope that was responsive.

**HOLDCROFT:** Thank you.

**WAYNE:** Senator DeBoer.

**DeBOER:** Just to sort of read-- get back to basics, the purpose of the juvenile system is to rehabilitate juveniles.

**SPIKE EICKHOLT:** Right.

**DeBOER:** Which is different, it's a sort of different understanding than the purpose of what adult court is for and what the adult system is for. So the juvenile system is about adjudicating juveniles when they've violated the law, but then trying to rehabilitate them before they are an adult. Is that right?

**SPIKE EICKHOLT:** That's right.

**DeBOER:** And there's this sort of weird overlap period and I don't know what is that period, because I know under-- it's not like you

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can charge a two-year-old in adult court. I don't even know if you can charge a two-year-old in juvenile court. But at some point, you can start charging them in juvenile court. And then at some point, there's an overlap where you could charge them in either and then when they get to 19, you can only charge them in adult court.

**SPIKE EICKHOLT:** Eighteen. That's right.

**DeBOER:** Eighteen.

**SPIKE EICKHOLT:** You can charge at 18 too.

**DeBOER:** OK. So when's the overlap period?

**SPIKE EICKHOLT:** I think it's 14-18 for criminal charges. You can always charge or you cannot always charge, but you can't adjudicate a youth under age 14 because they are in need of special services, because they are a victim due to no fault or fault of their parents and those kind of things. There's different ways that the juvenile court can sort of take jurisdiction on behalf of a child under the age of 14 for a non-law violation, those kind of things to sort of rehabilitate because what you said is accurate. There's lots of different ways that kids come into the juvenile court and it's not always a law violation. It's the state getting involved in the juvenile's life with a goal of rehabilitation and acting in their best interest. And it can be for a variety of things, for truancy, for special services that they need that the parents can't provide or even for a law violations. That was responsive.

**DeBOER:** So in one of these transfer hearings where they're trying to-- where the defense attorney is trying to get it back into juvenile court, that's because they believe that the child would be a good candidate for rehabilitation through the juvenile system?

**SPIKE EICKHOLT:** That's right.

**DeBOER:** And so when you have one of these hearings, you're presenting information that suggests as much, that they would be a good candidate for rehabilitation through the juvenile system?

**SPIKE EICKHOLT:** That's right.

**DeBOER:** So then that means that when-- if I make a statement or if I put a juvenile up on the stand, that maybe later in adult court and those statements that they make could be in adult court, that could be perilous to their ability to plead the Fifth.

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**SPIKE EICKHOLT:** That's right. They're not going to be able to plead the Fifth. They've waived it.

**DeBOER:** And then additionally, when you put the-- when you put a kid up on the stand like that in one of these transfer hearings, imagine that you did that, which you probably wouldn't at this point--

**SPIKE EICKHOLT:** I've never done it myself. I know a few lawyers who've tried it before. It's just-- it's derelict, frankly, because what you are doing is you are calling your own witness, many times before you even have the police reports, right, many times before you've even gotten in any kind of plea negotiations with the prosecutor and you're letting your client somehow speak, under oath, on the record, subject to cross-examination, with a pending criminal charge.

**DeBOER:** Yeah. And when kids get up there, do they follow the script of things that they have planned with their lawyers to talk about?

**SPIKE EICKHOLT:** I mean, I've called child witnesses before. They just generally don't: they can be nonresponsive, they can be gratuitously responsive.

**DeBOER:** So, so one of the reasons for not putting them up on the stand is because you don't know what they're going to say. They might say-- could say weird things.

**SPIKE EICKHOLT:** That's right.

**DeBOER:** OK. All right. Thank you.

**WAYNE:** Any other questions from the committee? Seeing none, thank you for being here. Next proponent. Next proponent. Seeing none, we'll go to opponents, opponents.

**DANIEL MARTIN:** Thank you, Senator Wayne and members of the Judiciary Committee. I originally wasn't going to speak, so this is a little off the cuff today, but my name is Daniel Martin, D-a-n-i-e-l M-a-r-t-i-n. I am a lieutenant with the Omaha Police Department and I'm here representing the Omaha Police Officers Association as a vice president. I'm an 18-year veteran of the police department. I've worked in homicide, gang and several other units. My concern with this bill is that it doesn't just talk about statements made to a mental health professional or whatnot, it's statements made in court. What I've seen in my experience on the police department working these violent crime and high, high crime units, is oftentimes,

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juveniles will or-- and are very influenced by older-- their older friends, whether it be in gangs or brothers or sisters or whoever it may be that might be an adult. I just got a call yesterday from a detective who said, we've got this kid, he's a juvenile and his brothers, on jail phone calls, tell him he has to take the charge. And I understand this just has to do with motion to transfer hearings. But that information, if he goes in there and he's a 14-, 15-, 16-year old kid in a motion to transfer and says, hey, look, I did this. I'm sorry, I shouldn't have done it. I just need more-- I mean, the judge is going to naturally, I think, sympathize with that person whether he should or not, that's fine. But the motives, we don't know and we can't really verify because they're not allowed to be discussed in the trial as evidence. And that's important information. Those unaccountable statements, unreliable-- they could be unreliable and highly influenced statements could force this juvenile to make statements against his own interest, whether or not, then, the judge takes him to adult court as a result. Again, I think everybody is, is underestimating the power that an older sibling or friend or gang member or associate, whoever it may be, has over the, the power of a child. I think that we could see a, a dramatic increase in juveniles trying to take the hit for older kids. I'm open to any questions.

**WAYNE:** Any questions from the committee? Senator DeBoer.

**DeBOER:** So I'm not totally sure I followed.

**DANIEL MARTIN:** That's all right. I, I, I didn't prepare. I wasn't going to speak--

**DeBOER:** That's OK.

**DANIEL MARTIN:** --so I might be all over the place.

**DeBOER:** So I think what I heard you say is that if a child's statement in a transfer hearing is inadmissible in regular court, then they might have a motivation to claim--

**DANIEL MARTIN:** No.

**DeBOER:** --claim they did something that they didn't do?

**DANIEL MARTIN:** Or the older sibling is also charged with the crime and they could say, hey, look, this kid already took, took blame for it, pled guilty or whatever, adjudicated that person, so then the older persons could use that in their defense.

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**DeBOER:** But if it's inadmissible, it'd be inadmissible by them, too.

**DANIEL MARTIN:** Is it inadmissible in everything or just the accused?

**DeBOER:** No. It'd be inadmissible. It's just inadmissible.

**DANIEL MARTIN:** In any trial. Well, regardless, I think that we already see this as a trend, where younger kids are being influenced by older kids and siblings--

**DeBOER:** Right.

**DANIEL MARTIN:** --to take the blame.

**DeBOER:** I'm just not sure how the admissibility of the transfer court discussion of what they did, because it, it-- like they could say they did it, but there's no effect of that because it wouldn't--

**DANIEL MARTIN:** Well, again, why would we let a statement made to the court without being able to prove its reliability and being held accountable to the court? Why would we not allow that into a trial?

**DeBOER:** Well, in this instance, the reason would be, we're going to try and figure out if they're telling the truth or not. And that would be the reason in this instance, was to allow the kind of a, a-- this transfer proceeding to have them speak on-- you know, you might, you might not put them up as a witness. I mean, you shouldn't put them up, probably, as a witness in the actual trial. So this would just be an opportunity for the judge to get some information. But I would suspect that the judge would understand that, since it's not admissible somewhere else, there, there might be some peril or whatever and take that into account.

**DANIEL MARTIN:** Yeah. What I believe will happen is that, again, the younger people will start taking-- or the older people will start influencing the younger people, whether their motive is--

**DeBOER:** Right. I think that--

**DANIEL MARTIN:** --they can't use it.

**DeBOER:** It just won't matter because if they do influence them, they could only influence them to say I did more, in which case--

**DANIEL MARTIN:** So this kid admits in court that he did the crime.

**DeBOER:** Right.

**DANIEL MARTIN:** The older person is also being held for that crime.

**DeBOER:** Right.

**DANIEL MARTIN:** So why would if-- why would the older person have to face trial for that crime when somebody else already admitted to it? And you believe him.

**DeBOER:** Because, because it doesn't matter because the kid-- you can't use what the kid said in trial. So unless somehow that kid suddenly convinced you that they really did do it, but they could say that in any setting besides the one in which they do and convince you, as well. I mean, you know what I mean? Like, they could say that--

**DANIEL MARTIN:** But what would, what would the purpose of be-- not being able to use that statement in a trial, what would be the purpose of that, I guess, is--

**DeBOER:** Yeah. No. What I understand the purpose of--

**DANIEL MARTIN:** Why wouldn't we want that to be used in court? Because if we're talking about, like you had mentioned, the rehabilitative efforts of--

**DeBOER:** Yeah.

**DANIEL MARTIN:** --which we all agree, we, we believe we want better outcomes and we want these kids to be rehabilitated. Since 2016-- I'll give you a statistic that happened in Omaha. In 2016, we had two juveniles that were accused of four or more felonies in a six-year period. 2016. What I'm saying-- what I'm getting at is in 2021, which are the most data that I have right now, we had 22. So that has increased by 20 juveniles in the last five years.

**DeBOER:** Yes.

**DANIEL MARTIN:** And I can give you the stats and the charts on that from our-- but what I'm saying is those rehabilitative efforts, too, we're not seeing them work.

**DeBOER:** They were not successful.

**DANIEL MARTIN:** They're not being-- they're not successful.

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**DeBOER:** But I just-- I, I understand your point writ large. I just don't think it's necessarily relevant to this one. Because in this case, all we're saying is that we want to have these transfer hearings have as much information, as accurate of information, as possible. And then, we're going to allow them to have this conversation and be as accurate as they can there.

**DANIEL MARTIN:** Why isn't there enough information-- and I'm sorry. I don't mean to ask--

**DeBOER:** Yeah. No, no, no.

**DANIEL MARTIN:** --the questions. I'm just trying to understand your point, too. Like, why isn't the attorney giving that-- all of the information in that transfer hearing?

**DeBOER:** Oh. They don't want to put the-- they don't want to waive the rights of the defendant, which is their constitutional right to the Fifth Amendment and they don't want to waive that by putting them in this transfer hearing.

**DANIEL MARTIN:** No, I know. So isn't, isn't the defense already putting on a defense?

**WAYNE:** So let me just jump in here. Why, why are we answering questions?

**DeBOER:** Yeah, I'm sorry.

**DANIEL MARTIN:** Yeah, I'm sorry. I shouldn't be.

**DeBOER:** We're bad.

**DANIEL MARTIN:** I'm, I'm trying to understand where she's getting at, too.

**DeBOER:** No. I-- you know what? I'll quit asking questions.

**WAYNE:** No, I was just-- I didn't want to start that with all this crowd here. Then we'll be here all day answering questions,

**DANIEL MARTIN:** I guess-- but my point is, I think we're going to see an increase in younger people being influenced by older people to take the charge.

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**DeBOER:** I think that could happen whether or not they do it in a transfer hearing is what I'm saying. And I do not have any more questions for you.

**DANIEL MARTIN:** This is just based on my experience--

**DeBOER:** And I have-- no more questions.

**DANIEL MARTIN:** --Just based on my experience.

**DeBOER:** Sorry. I want to get done.

**WAYNE:** That's all right. I understand. I appreciate it. Any other questions? Senator McKinney.

**McKINNEY:** Thank you.

**WAYNE:** [INAUDIBLE].

**McKINNEY:** Thank you for your testimony. I guess my question is, I know you're saying that you're concerned that juveniles will be influenced more. And my, my concern, overall, is that we have juveniles that are in the adult system that shouldn't be in the adult system, but because they can't be honest about who they are, what happened and why they ended up, ended up in that situation, we have juveniles that really shouldn't be in NSP, in NSP. And so, what I'm asking is where's the medium? How can we properly evaluate juveniles if they can't be honest?

**DANIEL MARTIN:** Right. Well, I, I think honesty is important from the beginning to the end. Right. And if they're going to-- I, I-- what I'm seeing is I'm not seeing a lot of kids in NSP for property crimes like burglary. What I'm seeing those kids in for is violent crimes with dealing with guns or [INAUDIBLE].

**McKINNEY:** And, and that's my point is a lot of those-- because I know a lot of them. A lot of them grow up with horrible situations--

**DANIEL MARTIN:** Correct.

**McKINNEY:** --horrible situations. And why they ended up in those situations is not being fully evaluated, currently, because they, they are afraid to be honest about it. And a lot of those individuals have either been through some traumatic situations, witnessed some traumatic situations and it's a lot of other factors that I don't-- that I think are not being considered because they can't be honest.

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Yes. What they're accused of is bad. I understand that. But what is also bad is that we're send-- we have sent juveniles to adult jail that shouldn't be in adult jail.

**DANIEL MARTIN:** Right. And I, and I said I, I, I don't see a lot of--

**McKINNEY:** And I, and I--

**DANIEL MARTIN:** --and I agree. Like these, these kids, they have come from, from just horrible situations. I, I've worked in many neighborhoods and in many-- gone to many calls and, and been in many homes where that kid should not be returned to that chaotic situation that they were from. I think that I don't have a whole lot of faith in juvenile rehabilitative efforts, as you can see by the stats from Omaha, where we jumped from two kids with four or more felonies to 22.

**McKINNEY:** But I don't have a lot of faith in the system if we're not allowing kids to properly be able to say-- be-- to properly be honest, because, yes, we have the concerns about public safety. But we also need to have concerns about the safety of those juveniles and their life outcomes while going forward.

**DANIEL MARTIN:** Absolutely. Absolutely. And that's what-- that's what-- I think we share that interest and we share that. My goal for, for kids in the juvenile system is to have better outcomes. I work with juvenile systems and, you know, juvenile probation and, and things because I think there needs to be a system of accountability. I think there needs to be a system of reward, consequence and structure. And right now, we don't have that.

**McKINNEY:** And, and we could finish, but my overall issue is society is always screaming, these kids are bad, lock them up, throw them away pretty much. But nobody ever looks at the other side of it is they-- they're growing up in a community that's-- communities that have been impoverished for decades, flooded with all type of stuff that is hard to come out of. And a lot of these kids are ducking bullets at three years old. I was a little kid being trained to get on the ground because we were ducking bullets and things like that, seeing people shot in the head and those type of things. That's what these kids are experiencing. And I think if we're not fully evaluating the kids, we're put-- I'm not saying all should go to juvenile, but it's many that are in the adult system that if they were properly evaluated, would not be in the adult system.

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**DANIEL MARTIN:** Agreed. And I think that if we're just leaving that proper evaluation up to the judge in, in motion to transfer that-- you know, I have no problem if they make an admission to a mental health professional because I do think they need to. I, I-- again, I, I-- you'll never hear me say, you know, screw these kids, throw them away, lock them up. There are kids that are committing very serious adult crimes, murder, but there's also kids that are deserving of a second chance. Most of them are. I'm talking about 5 percent of the kids in the system, you know, that are-- that have repeatedly violated, you know, juvenile laws, committed multiple acts of violence. But again, our goal is for better outcomes, too. We want good rehabilitative efforts. I want-- that's why we're, we're so involved in all these programs, such as Project Reset and other programs to help rehabilitate these kids. Now, I wish-- I just don't have a lot of faith, like you, in the system itself, because like I said, the numbers speak for themselves, the stats speak for themselves, as far as that goes.

**McKINNEY:** Thank you.

**DANIEL MARTIN:** Thank you.

**WAYNE:** Thank you, Senator Cavanaugh, You got OP-- OPOA and Senator McKinney to agree on something. So I want you to take that win today. So I know I understand your concern about other experts and I'll work with-- we'll work with Senator Cavanaugh to figure out and get back to you on that. Any other questions on-- seeing none, thank you for being here today.

**DANIEL MARTIN:** Thank you.

**WAYNE:** Next opponent. Welcome.

**BRI McLARTY:** Thank you. Good afternoon, Chairman Wayne and members of the Judiciary Committee. My name is Bri McLarty. That's spelled B-r-i M-c-L-a-r-t-y. I currently work as a deputy county attorney, primarily focusing on juvenile law and I'm here representing the position of the Nebraska County Attorneys Association. First, I'd like to thank Senator John Cavanaugh and his staff for their willingness to have an open dialogue with our association about this bill and some of the reservations that we've expressed to him and that we'll be sharing with you today. The county attorney-- the county attorneys do oppose LB184 as drafted. For the unintended and intended consequences, it shouldn't be implemented. First, the bill's broad language encompasses not only statements made by a defendant in

a transfer hearing, but statements made to medical professionals and any evaluation or record derived from the statements. We understand why Senator Cavanaugh is bringing this bill. It's to create an environment in which the juvenile may speak freely with the court in an effort to be able to avail themselves of the benefits of a problem-solving juvenile court. However, the bill as written grants full impunity [SIC] indefinitely, in all matters, across all jurisdictions, for any statement made by the defendant. Making this change would allow the juvenile to testify or otherwise make statements about the offense without regard for truth or consequences. For example, one of the factors which the court is relegated to consider is the type of treatment the juvenile would be amenable to. That's also not just what would be appropriate, but what the juvenile might be willing and-- willing to participate in. The bill, as written, would allow juvenile to testify and present to the court a willingness to comply with juvenile probation and services, should the case be transferred or remain in juvenile court. However, at disposition, the juvenile could object to the recommended services and the state would have no recourse for holding that juvenile accountable as to those statements, as those would be admiss-- inadmissible at any further disposition or sentencing hearing. And that brings me to the unintended consequences of this bill. And this is something I've spoken with Senator Cavanaugh's office with directly and we're trying to work out some sort of agreement or compromise to address this. The language is too broad and that the items derived from statements made by the juvenile are inadmissible in any further proceedings. This means that an evaluation obtained for a motion to transfer hearing, created from an interview or an assessment with a psychologist or psych-- psychiatrist that not only addresses whether a juvenile is appropriate for juvenile court, but also what specific services would be recommended. How this bill is written, that would be inadmissible at disposition. So we couldn't even rely on that evaluation to then recommend services, should there be a plea offer, a plea agreement, or any sort of adjudication in juvenile court. So then we're starting from, not just square zero, but negative squares. I can go into further detail about why that would be an issue if that specific evaluation could not be utilized, goes into Medicaid and a bunch of stuff about health insurance that we deal with on a daily basis in juvenile court. So, again, the issue that we have is that this bill has painted with too broad a brush that grants an immunity that we don't see in other problem-solving courts. And the unintended consequences go so far as to actively hinder the progress and purpose of the juvenile court, should the court decide that juvenile court is where this juvenile belongs. I

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would like to point out in LB184, there is a presumption that the case stays in juvenile court. It's, it shall be granted except for specific factors, weighing, checks and balances. So there's a presumption for juvenile court. I would argue while it's not specific, the burden is on the state to kind of say why it shouldn't be. I see my light-- time is out, but as a juvenile attorney, I'd be happy to answer any questions about the process, about the prosecutor side and how we handle these cases or any questions the committee might have.

**WAYNE:** Any questions? Senator Geist.

**GEIST:** I do have one. And I think you're speaking to just some concern that I'm having a hard time articulating, because part of it is the process is so foreign, comparative to adult process. But, but ultimately, it causes me concern and I think I'm hearing that from you. We've done, in, in many cases, our, our kids, our juveniles, a disservice by not holding them accountable for some-- many times when they're before an authority, especially in juvenile, in the juvenile area. And so initially, when I hear this is not admissible in court, that makes me go, wait a minute. We've done this in a lot of other areas of our juvenile code. And I'm concerned that we're setting up where our juveniles are able to skirt consequences without being held to account. And you're going to hear that in a little while about what the consequences are of doing that to children. And I wonder if, if that's a concern you have as well.

**BRI McLARTY:** It is a concern in-- as someone who practices in juvenile court, it is a very team-based approach. So we do have monthly team meetings, we do coordinate with the parents and the juveniles a lot about what are they willing to do, what are they capable of doing, all with the eye towards rehabilitation. So I will say, as a prosecutor, I definitely feel like juvenile prosecutors are of a slightly different breed because the court is set up with that purpose in mind. But it is important, in that, to hold the juvenile accountable and team members accountable. So that is-- that's the concern I have, specifically, about if they were to go and be able to testify and say, yep, I promise this time I'm going to do it. And one of the factors listed in the statute is have we exhausted all of those services in, in juvenile probation? And sometimes, those are services that juvenile has decided they did not want to participate in. Now, they may be appropriate now, but before they said no. And so, it is hard to hold them accountable or utilize that later for further disposition, if we can't bring that evidence in.

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**GEIST:** And, and I'll say, too, I'm not saying that we don't rehabilitate youth at all. I'm just saying you need a balanced system of accountability and rewards. And we tend to be heavy on the no accountability and reward side where I think we can see more balance in the system.

**WAYNE:** Any other-- Senator McKinney.

**McKINNEY:** Thank you. Do the county attorneys support anything that isn't raising crimes and keeping kids locked up?

**BRI McLARTY:** I'm going to obfuscate and maybe not accept the premise of the question. I know that we do come in here a lot in opposition. I did come in support earlier, so-- but I will say that it's important to understand the motion to transfer process goes one of two ways. And I think a lot of the testimony today has really focused on when a juvenile--

**McKINNEY:** But--

**BRI McLARTY:** --law violation is filed in adult court and then transferred down. The other way is for juvenile court, where-- it starts there with a motion to transfer where it's held-- heard before a juvenile court judge. And so I guess--

**McKINNEY:** I got my-- I guess my issue is you guys come and you, you scream public safety and all these other things, but never do I hear you guys coming up here and saying, we, we need to look at the, the justice system in a better way because, many juveniles are harmed by the way that we're currently conducting the juvenile justice system and the adult system. And, and we could finish, but it's just very eye-opening that, rarely, do I ever, if any time, see you guys come and be supportive of things to improve the system for everyone except for yourselves to continue to keep locking up kids disproportionately and other people as well.

**BRI McLARTY:** --and so I guess in response to that, Senator McKinney, I guess when we come in to testify, yes, you're right. We are very laser-focused on exactly how it'll impact how we do our jobs, because we only have 3 minutes and we have to limit our conversation to, really, the high points of what-- where we can speak as experts of the system.

**McKINNEY:** So who's going to hold you guys accountable for doing that? Who holds you accountable?

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**BRI McLARTY:** Well, I would say my community. I would say you only see a small section of what I do as a juvenile county attorney and that is coming in here on the rare occasion to testify in opposition to a bill. But I work very closely and I'm trying to work more with senators and lawmakers that are interested in the juvenile justice system and want to improve that. Later, I'll be testifying in LB507. And while it's in opposition, I do run our community-based aid grant program. I do work directly with our juvenile diversion to expand it and, and implement it. It's so hard when there's 93 counties because we can all do it the same way. But within the system and within the County Attorneys Association, I'm trying to make a difference and I'm trying to work on that. And I'd love to work more with you. I think I'm a little newer to the Legislature and coming and testifying as a executive member of the association and I would be happy to work with you further [INAUDIBLE] compromise.

**McKINNEY:** And, and I appreciate your openness. I just wish the rest of the County Attorneys Association was open. Thank you.

**BRI McLARTY:** Thank you.

**WAYNE:** Senator DeBoer.

**DeBOER:** Sorry. I just want to make sure I understand the objection. You said it's overbroad. Is this like a fruit of the poisonous tree kind--

**BRI McLARTY:** Yes.

**DeBOER:** --of overbroadness? That's the concern.

**BRI McLARTY:** So I'll, I'll give you an example. So say a psychic-- psychiatrist comes in or a psychological evaluation is done. It is saying that this juvenile is, you know, doesn't have the cognitive or the capacity or the culpability to be held at the same standard as an adult; that juvenile court or rehabilitative services that are better offered in the juvenile court system are the most appropriate. And then we go on to make those recommendations. It could be something like dialectical behavioral diagnoses and, and therapy; it could be cognitive behavioral therapy. These are types of therapy that focus on trauma-informed care. It's going to make a specific recommendation about the type of therapy or service that would be appropriate. It's a fruit of the poisonous tree. So if we were to go to juvenile court, if there were to be an adjudication, either a trial or even a plea agreement, I would not be able to use that evaluation--

**DeBOER:** OK.

**BRI McLARTY:** --later. And the issue with that is psychological evaluations, when billed with Medicaid or insurance, can only be done on a, I think, at most, every six months. So we're talking about we have to wait to get that new evaluation or that recommendation.

**DeBOER:** That makes sense to me. So if, if we solve the kind of fruit of the poisonous tree problem, then is there an objection?

**BRI McLARTY:** And I think that's what I'm working on with Senator Cavanaugh, is me and him have been working, specifically, on the juvenile side because that's where I primarily practice.

**DeBOER:** Um-hum.

**BRI McLARTY:** And we've been talking about possible language. And it solves the juvenile issue, it doesn't quite solve when it goes to adult court. But I think there is something to be done with how the bill is written and how motions for transfer hearings are done is, they're not held to the same strict standard rules of evidence.

**DeBOER:** Um-hum.

**BRI McLARTY:** So there might be a more creative way, in which, if coming under a protective order or something that would limit it to the use of motion for transfer, but doesn't grant the broad immunity where it can't be used ever, indefinitely, in any court ever again. If you want to talk about protection for Fifth Amendment right and incrimination, then maybe we narrow the language to say it can be used at the trial or at an adjudication on this particular crime, so it kind of falls down with that. But then, that's where it stops with the protection of, of immunity.

**DeBOER:** So assuming for you alone, I'm not talking about adult court, but for you alone, if we could solve this fruit of the poisonous tree problem with some other creative solution or some language or whatever it is, you wouldn't object to the premise.

**BRI McLARTY:** From the juvenile side, yes, but I think the adult prosecutors in the County Attorney's Association may still have.

**DeBOER:** I'll ask them.

**BRI McLARTY:** Yep. You ask them. But for the juvenile, that is-- one of the concerns is if the point is to get services started

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immediately, there's absolutely no reason we should be delaying that, if that's where we're going.

**DeBOER:** Sure. That makes sense to me. Thank you.

**WAYNE:** I have some-- just some-- so a conversation between a therapist and a person, is that privileged under Nebraska law?

**BRI McLARTY:** Unless it's a mandatory reporting situation.

**WAYNE:** Which is usually harm to yourself or harm to others--

**BRI McLARTY:** Um-hum. Yes.

**WAYNE:** --but for the most part, it's privileged.

**BRI McLARTY:** Yes. Now, if the defense were to essentially waive that privilege by offering it as evidence--

**WAYNE:** Correct. So is a motion to transfer a statutory right if you're a juvenile?

**BRI McLARTY:** I believe it is and that it's a final appealable order. One of the elements of a final appealable order is that it impacts a substantial right, so yes, it's a yes.

**WAYNE:** Correct. Correct. So is it, so is it fair you have to-- is it fair for a person to have to waive their constitutional rights of self-incrimination and their privilege to just have a motion on a statutory right. I guess that's the whole issue here, right? That's what we're trying to figure out.

**BRI McLARTY:** I would say that the language in the-- of the statute as drafted, is there's a presumption that it would remain in juvenile court or to be transferred to juvenile court "but for" elements or, or evidence that it's not appropriate. And I, I read that as the law doesn't explicitly say that the burden is on the prosecutors. It-- my guess is if I'm the one asking for it to be moved to adult court or to stay there, I would have to prove and overcome that presumption.

**WAYNE:** Right.

**BRI McLARTY:** So I don't know if, necessarily, it requires a waiver. I think it definitely makes it easier for the defense attorney to make the argument for it to either transfer or remain in juvenile court.

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**WAYNE:** But I mean, the intent of this bill is to, is to maintain that privilege and that, and that constitutional right for the purpose of this hearing. As a-- what is the position on, on the-- from the county attorneys as it relates to that concept?

**BRI McLARTY:** That-- in attempting to narrowly fit and thread that needle, it has been drafted too broad to go beyond that Fifth Amendment protection for the purposes of being able to avail themselves of the juvenile court, rehabilitative services and, and problem-solving court. It says any criminal proceeding, any civil proceeding, but it doesn't narrow it to derivative of this criminal act and that's the issue.

**WAYNE:** All right. That's a simple amendment. All right. Thank you.

**BRI McLARTY:** Thank you.

**WAYNE:** Any other questions? Thank you. Next opponent. Seeing none, anybody testifying in the neutral capacity? Seeing none, we have three letters, two letters of support, one in opposition. Senator Cavanaugh, you may close.

**J. CAVANAUGH:** Thank you, Mr. Chairman and members of the Judiciary Committee. So just to kind of cover what everybody talked about. Well, I'll start with, I guess, Senator DeBoer's question. So we did work on an amendment to address exactly what you're talking about. We drafted an amendment that would be-- if you look at, at least page 4, it's actually-- address two sections: page 4, line 10 of the bill would add after or other such motion to transfer. Let's see, it would be inadmissible against the accused in any criminal activity or civil proceeding other than the motion to transfer. And then we would have added or for disposition in juvenile court. So it would have allowed these statements and statements to mental health professionals and in court to be used in the disposition phase, which is the determination, kind of, in juvenile court, not the adjudication phase, so basically, not the juvenile court version of trial. It still wouldn't be admissible. It would have been admissible in the sentencing phase, essentially. So we did attempt to address that. That didn't alleviate the county attorneys' concerns. I, as I've said before, willing to talk with folks to figure out a way to make this actually do what we want it to without undermining it. I would point out, I appreciate Lieutenant Marvin-- Martin, sorry, being here. And, you know, it's-- it is always hard for me to admit when a-- you know, the cops testify correctly, but I will. He's pointed out that this would prevent the use against in, in any or a-- other-- it would

allow somebody to use it in another proceeding. Technically, he's right. I'm happy to fix that. Basically, we would make it inadmissible against the accused. If you have a codefendant situation and they're worried about somebody admit-- using it as an admission for purposes of getting off, I think that's, that's an easy fix. We could just say it's inadmissible in any other criminal proceeding, so somebody, you know, co-defendant couldn't use it. But to that point, saying that somebody could go in, a child can go in and say, I did it, for the purpose of getting a codefendant off, that's simply not true, if we fix that problem, of course. Because you can always, even when you have someone else's admission, people get charged as co-defendants, co-conspirators, in some other way, along with someone. It happens all the time where you have multiple defendants for the same conduct, adult and child defendants. And so that happens all, all the time where you get-- people get charged and they do not dismiss charges against somebody just because somebody else fesses up to it and especially, if they have evidence showing that they could bring the charge against the adult. Jail phone calls already are admissible, separately admissible, in court proceedings. Let's see, what else did I want to address. So just in the broader context, what this is about is this is information we're not currently getting. Because in these transfer hearings, we-- you're going in and you've got the police reports, you have some sort of testimony, you might have the evaluation, but you're not going to have the juvenile telling, really, telling what happened, because they're going to be advised not to. So we don't have this information. If the objective is to make an accurate decision in these hearings, this is a way to get more information and more accurate information in those transfer hearings. And I would point out that, yes, the burden is on the state, technically, in the sense that to determine-- if a judge is determining not to transfer, the judge has to find that there was a sound basis exists for retaining the case in county or district court. So essentially, yes, the burden is on the state to prove that it needs to stay there. However, the defendant is hamstrung in their presentation of their version of events, their case as to why it should be transferred, because they can't give an accurate representation of what happened. And so, though the burden is technically on the state, we don't get a full picture of why it should be transferred. And so we are having-- we are, essentially, burden shifting in that regard, because a def-- a child is going to have to choose whether or not they're going to waive their right against self-incrimination and give the full story, if they want to have the chance at a transfer. And so-- and again, the, the question about, that Lieutenant Martin talked about, these kids who are

committing four separate felonies, that is, that is a problem. Those numbers are scary. But one of the factors to be considered is whether or not or what services they've had provided before, whether or not those have been successful. And so you can't-- this is not going to be somebody coming in on their fourth felony is all-- in all likelihood not getting transferred to, to juvenile court from adult court. Those are people who've already had a chance. They probably already had that first felony in, in juvenile court. And if they certainly didn't have the first felony in juvenile court, the fourth felony is not getting into juvenile court. And so that's not really, I think, what the situation we're talking about here. I'm trying to remember if I had any other questions or answers. Well, I had-- Senator DeBoer, when you were talking about whether you'd put your client on the stand, I wrote down, don't work with children or animals.

**DeBOER:** You're right.

**J. CAVANAUGH:** But the point of that phrase is they say that it applies to acting, but you don't know what they're going to say. I mean, even if we adopt this, I think you're still going to see people saying don't-- not putting kids on the stand in this situation because you don't know what's going to happen. You are-- but the objective here is to get an honest answer to a psychiatrist so that they can make an accurate representation so a judge can make a determination about where this should be, whether or not this should be in adult court or a juvenile court and we need more information to do that. And it's not going to change the standards of what criteria they're supposed to consider. It's not going to change any of those sorts of things and it's not going to change how the trial is going to proceed in adult court if it stays in adult court. All the other evidence is still going to be available. And so, I could keep talking, but I will answer any questions if you have any.

**DeBOER:** Are there any questions for Senator Cavanaugh? Looks like we've thoroughly vetted this.

**J. CAVANAUGH:** Well.

**DeBOER:** Thank you, Senator Cavanaugh. That will--

**J. CAVANAUGH:** Thank you, Judiciary Committee. Good luck with the rest of your hearing.

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**DeBOER:** --that will close our hearing on LB184 and open the hearing on LB507. Welcome to your Judiciary Committee, Senator Conrad.

**CONRAD:** Hello, Vice Chair DeBoer. I'm so happy to be here. My name is Danielle Conrad, it's D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d. I represent north Lincoln's fightin' 46th Legislative District. And with the committee's indulgence, just very quickly want to set the table. This is a measure to continue our efforts on juvenile justice reform. And this is specifically related to truancy reform. I'm going to reserve what is a longer opening that I prepared for closing because we have some impacted young people that are here that need to leave any minute. And I want to make sure that they have a chance to share their stories about how these truancy system has impacted their lives and they've got kind of a time-sensitive situation with transportation. So I'm going to turn it over to an incredible young advocate, Sam, to share her story. And I will be here for a robust close and Q&A with the committee if, if that's-- is something that the committee feels like they, they can indulge, kind of schedule-wise, with the hearing.

**DeBOER:** Are there any questions? I don't see any, Senator Conrad.

**CONRAD:** Thank you. Thank you.

**DeBOER:** Let's have our first proponent testifier.

**SAMANTHA HENRY:** Good afternoon, Senator Wayne and members of the Judiciary Committee. My name is Samantha Henry. That is S-a-m-a-n-t-h-a H-e-n-r-y. I am a resident at Boys Town. I participate in the Successful Futures program, a transitional living program for graduates after they graduate. I am a part-time student and work full time in Boystown headquarters. Today, I am testifying in support of LB507. I would like to thank you, Senator Conrad, for introducing this bill that would make meaningful changes for young people like myself. I understand it-- as I understand it, the bill would remove truancy from the law and provide juveniles who have excessive absenteeism from home or school with pretrial diversion and other services to address the needs of the youth and his or her family. Truancy is often a symptom of what is happening in the home or school. Allowing truancy to be the sole basis for a juvenile court to assert jurisdiction over a youth most often overlooks the underlying issues that are occurring in the family. Pretrial services for youth and families can be an opportunity for professionals to get a better understanding of the situations in home or school. They may be causing the excessive absences. They might, they might find out

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that the student is being bullied at school or is having difficulty learning and is afraid to ask for help. They may learn that the young person is missing school to provide child care to a younger sibling or to work and provide additional financial support to the household. This will give professionals the information they need to help youth and families, instead of punishing them for issues that may not be within their control. In my case, I was missing school because my mother was young and was more focused on recreational activities than taking us to school. I struggled in school when I would go and I was very behind in lessons and socially with my peers. I was bullied and felt like an outcast because I wasn't smart and was often overlooked by the teachers because I was too far behind. Had there been something or someone like this bill or the people in this room today fighting against charges for truancy or helping my teen mom, I would have had a better chance of getting a good education. I also would not have had to, had to go to multiple foster homes and schools within the same year, having to adjust every couple of months to a new environment. I believe that LB507 can prevent children from entering the system and save young people like myself from some of the painful academic and social challenges I went through. I respectfully ask that the committee advance LB507. Thank you for your support of youth who have been impacted by child welfare and juvenile justice systems.

**DeBOER:** Thank you very much, Ms. Henry. Are there any questions?  
Senator Blood.

**BLOOD:** Thank you, Vice Chair DeBoer. I just want to correct something. You are very clearly smart. Well done. Thank you.

**SAMANTHA HENRY:** Thank you. I did have that in quotations on the paper because--

**BLOOD:** All right. [LAUGHTER].

**SAMANTHA HENRY:** Yes.

**DeBOER:** I appreciate that. I will ask you one. So you originally got involved with the system because of a truancy charge? Is that right?

**SAMANTHA HENRY:** There were many things like-- that led to truancy through my mom being a young teen mom. I would say that a huge part of it is my mom was also in the system. She was very young, so she was also going through truancy while I was going through truancy, because we both were children. So I feel, let's say that that's a

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factor in the truancy that I did have was other things. But yeah, it was part of the reason.

**DeBOER:** Thank you very much. Other questions? Thank you so much for being here.

**SAMANTHA HENRY:** Thank you for having me.

**DeBOER:** Let's have our next proponent.

**ANAHI SALAZAR:** Good afternoon again. Thank you, 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. Education is critical to children's growth into healthy, productive adults. School attendance is a one-- is one among several factors that impact children's educational success. Efforts to ensure attendance are important but must focus on resolving obstacles to attendance for children and families in a supportive rather than punitive manner. Chronic absenteeism or excessive absenteeism should be resolved with supportive services rather than providing a pathway deeper into the juvenile court and juvenile justice system. For these reasons, we support LB507, which removes truancy as a juvenile status offense under court jurisdiction and reduces the risk of a teen and family encountering the juvenile justice system unnecessarily. Students' success and positive educational outcomes are important to the future of Nebraska and research supports the association between high rates of absenteeism and poor educational outcomes. Nebraska statute currently states that if the child has been absent for more than 20 days, the school shall not-- shall notify family. In Nebraska, during the 2020 and 2021 school year, 66,585 students, which is approximately 21.7 percent, of students were absent 10 to 19 days, 21,855 students were absent 20-29 days and 22,997 students were absent 30 or more days. Compared to the previous school year, 2019-2020, these numbers have significantly increased. LB507 does not propose to ignore the issue of chronic absenteeism, but rather implement a smarter approach to improving attendance that yields improved outcomes for our youth and families. When teachers were questioned about their concerns regarding chronic absenteeism, their responses and concerns came back, from lack of resources for young people and families, older students were having to stay home with him or siblings because parents had to work and there was no childcare. Another common theme was having-- was students having jobs after school, leaving the hours after work for schoolwork, preventing students from getting a good night's rest and being able to attend school the next morning. LB507 would provide young people and

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families with services to address the needs. The problem with Nebraska's current approach to improving school attendance through the court system is that the-- is the financial support is targeted at the end of the system, rather than investing in early intervention to address the situation before it becomes chronic. LB507 design-- is designed to, to correct that issue by investing in community-based interventions that have proved effective to encourage and support school attendance. The juvenile justice system is to-- the juvenile justice system, system's goal is to provide accountability and rehabilitation to youth whose actions violate the law and endanger public safety. Whenever possible, youth should be diverted from the system and have their needs met with-- without being pushed into the juvenile justice system. This is especially true when it comes to youth who are currently referred to the courts solely on being absent from school. Inappropriate juvenile justice system involvement has shown to have negative impact on educational achievement and increased likelihood for behavioral health challenges. It is important that our Nebraska state dollars committed to addressing absenteeism are directed to the most effective improvement programs. For all these reasons, we thank Senator Conrad for bringing this bill and thank the committee for considering this critical, important matter. I'm available for any questions.

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

**GEIST:** Actually, I do have one.

**DeBOER:** Oh, sorry.

**GEIST:** And I am not sure if you're the--

**DeBOER:** Senator Geist.

**GEIST:** --right person to ask. I'm sorry. I didn't mean to step on you.

**DeBOER:** No, that's okay. I just had to say your name.

**GEIST:** Yes, for the transcriber. Suzanne Geist. I'm, I'm not-- and I wasn't here for the opening and I'm sorry, I had something I had to handle outside. I'm confused on-- right now, when a juvenile is truant, their-- what triggers their services is being in the system. With this, are those-- are services triggered for this family and student if they're not in the system?

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**ANAHI SALAZAR:** I believe so. I believe it-- well, it refers them to community-based interventions or other resources, other than just putting them into the system.

**GEIST:** OK.

**ANAHI SALAZAR:** And I'm sure someone behind me would be able to answer that question more profoundly.

**GEIST:** And I'll, I'll-- I, I should have asked the introducer. And I'm sorry. I didn't get a chance to do that, so I'll, I'll keep going. Thank you.

**DeBOER:** Other questions? Senator McKinney.

**McKINNEY:** Thank you, Senator DeBoer. Quick question. You know, since people are going to come up and say that we need to, we need to keep this because it needs to be utilized as a tool to whatever-- hold kids accountable for missing school. Wouldn't the-- don't you-- I don't want to lead, but I guess if, if they're going to come up and say that they need to keep this because it's a tool to track kids or make sure they go to school, shouldn't the counterargument be if you're going to say as a-- if we're going to say, as a state, that we need to police truancy through the juvenile justice system, should we also, as a state, make sure that these juveniles have transportation, food at home, lights and all the other basic necessities a lot of kids that are, that are missing school like this need.

**ANAHI SALAZAR:** Yes, I would agree. I think from what I have researched, it has, it has shown that it's not for a lack of not wanting to be at school themselves. A lot of, especially, children that can't drive or can't, you know, walk themselves to school, it's just that they need-- families need those extra resources, like you stated, transportation, food and I think that tho-- having those resources would help absenteeism.

**McKINNEY:** Or even, you know, ways to wash your clothes at night. I know a lot of people that I was going to school, that I was going to school with probably didn't show up a few days because their clothes were dirty and they didn't want to come to school with stains or smelling bad and those type of things. We're not even meeting the basic necessities of most of these kids that would end up in court for truancy, but we want to hold them accountable through the courts. And I just think that's a horrible policy.

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**ANAHI SALAZAR:** Yes. I mean and I, in my prior experience as an educator, it was students had water shut off, shut off so they couldn't take a shower or they couldn't bathe and that was keeping them from coming to school. So there are just a skew of, of things that happen at home that could be easily preventable if we had these resources for, for families and students that would help them come to school.

**McKINNEY:** But we're supposed to care about kids in the state of Nebraska. Thank you.

**DeBOER:** Other questions? I do not see any. Thank you so much. Let's have our next proponent testifier.

**JENNIFER HOULDEN:** Good afternoon. Jennifer Houlden, J-e-n-n-i-f-e-r H-o-u-l-d-e-n, here on behalf of Nebraska Criminal Defense Attorneys Association, I'm the chief deputy of the Juvenile Division of the Lancaster County Public Defender's Office. And I just want to pick up on where Senator McKinney left off, which is I'm here to support LB507 not because I don't think truancy is a big deal, but because I think it is, perhaps, the most fundamental issue depriving the youth in Nebraska of equal opportunity in their future as adults. But what we have in the juvenile justice system is a square peg for a round hole problem. Lawyers, probation officers and judges are not the people to help kids identify what's going on that's preventing them from going to school. I am not a mental health professional. I'm a lawyer. And the reality is, is that school truancy, it's not even really your grandfather's truancy anymore. Fifteen years ago, I had kids that skipped school as clients. I had kids that were leaving. What we have now is a population of youth with unmet needs. Those are the kids in truancy court, kids who come to court having really basic solvable problems that the schools have not taken responsibility for or the parents haven't known how to navigate. They need community resources. They need social workers, they need educational specialists and they need meaningful accountability for the school to provide them a public education. And as a lawyer, I want to do everything I can for them, but court is not the tool for increasing consistent attendance in school. And I think that we need to look at the juvenile justice system for the purposes that it has, which is to divert youth from the criminal justice system and to rehabilitate them. And so community safety is always at the heart of that and I think that what needs to be reframed is that these youth who are not going to school are not community safety risks. They need assistance. It is, in my opinion, almost always mental health, community resources, family ability just to meet their needs to get them to

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school. So we have to do better. We shouldn't remove this from the juvenile justice system because it doesn't matter. We should remove it from the juvenile justice system because it's not what they need and it's not working. You cannot supervise someone out of their truancy. And it's really not truancy. It really is just a failure to be able to get to school and stay there for other reasons. I would also highlight that there are profound limited resources in the juvenile justice system for Nebraska. All of my clients in detention right now have had identified treatment needs and placements and have waited over 90 days as youth for treatment that we know they need. That is, in part, because we're using the juvenile justice system for truancy issues. And I think that when we see how that impacts community safety by depriving the higher-risk kids from the placements that they need, we can also see that truancy should be solved on a community level and not a court level. Thank you.

**DeBOER:** Are there questions for this testifier? Senator Geist.

**GEIST:** Thank you. I-- you're so right in so many ways. I, I, I would say I think there are some youth who may not fall under the category. It's not all-- they're not all-- I would just refrain from saying all. I do wonder if you see youth, though, in your practice, who sometimes, though maybe this is not the, the every kid, but there's sometimes, times when home is not safe. And there--

**JENNIFER HOULDEN:** Yes, I see that.

**GEIST:** Yes.

**JENNIFER HOULDEN:** So.

**GEIST:** There-- and, and in this, it does say to maintain the juvenile safely in the home.

**JENNIFER HOULDEN:** Safety in the home is an entire different section of the juvenile code.

**GEIST:** But it's maintaining them safely in the home, which sometimes their safety is maintained best away. And I'm not-- don't, don't go too far with what I'm saying.

**JENNIFER HOULDEN:** OK.

**GEIST:** I'm not saying we want to rotate kids out of the home, that I know what the-- but in some cases, that's best. In hopefully most, that's not.

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**JENNIFER HOULDEN:** What I'm saying is that the truancy, like jurisdiction, is not the jurisdiction to measure the safety of the home. That's for the abuse neglect 3A. And so, the fact that--

**GEIST:** Exactly.

**JENNIFER HOULDEN:** --the 3B jurisdiction is framed as-- and kids do get removed from the home for truancy on a semi-regular basis, less than 15 years ago, I'll say that. But if we're concerned about the safety of the home, we have a full complement of resources. We have 3A, we have the Department of Health and Human Services, we have prosecutors. But the 3B system, which is for those status offenses such as truancy and ungovernable youth, all that section says, is that unless it is absolutely necessary--

**GEIST:** Right.

**JENNIFER HOULDEN:** --to remove them from the home. And so.

**GEIST:** And sometimes, truancy is just the indicator, the red flag, that tips you off that there's a whole lot more going on here, right, than just a student not being at school.

**JENNIFER HOULDEN:** I completely agree with that. The problem is, is that probation is a juvenile justice agency that uses supervision as a primary tool for compliance. So it's very different to have committed a law violation--

**GEIST:** Yes.

**JENNIFER HOULDEN:** --that has elements and charges, lawyers. I'm a lawyer. I'm good at assessing that. The Supreme Court, the Court of Appeals have changed the status of what we call truancy into excess of absenteeism. Every reason that is not approved by the school with a doctor's note counts as unexcused. And so, it's just not really a legal test anymore. And I spend a lot of time, as do prosecutors and judges, asking questions of the available witnesses and parties in truancy cases and people don't know the answer.

**GEIST:** Right.

**JENNIFER HOULDEN:** Because the school's not at the table, the people who can provide these community resources are not at the table.

**GEIST:** Right.

**JENNIFER HOULDEN:** We spend a lot of time looking at each other going, well, gosh, don't they have an IEP? Shouldn't that work different? People come to court on truancy cases and complain about the school moving IEP meetings. So I, I, I just think it's just the wrong tool. I think it's very, very important. But I think we need to use what we know they need instead of, sort of, at this tipping point of, well, you're in court. The judge can't really-- it's just not a court problem. I think that's really, in essence, what I'm trying to say, is that it's frustrating because we're not able to use the tools that we have in court that do often really work with juvenile court, rehabilitative efforts with law violations.

**GEIST:** Yeah, I agree that we need more-- actually, I agree with a lot of what you're saying. I, I think we're actually kind of saying the same thing but coming at it from two different ways, because we definitely need more treatment and more services for families and for youth. It's almost non-existent and we really have to do better with that.

**JENNIFER HOULDEN:** I certainly agree with that.

**DeBOER:** Other questions? Senator Blood.

**BLOOD:** Thank you, Vice Chair DeBoer. I just-- I need to get my head wrapped around this, kind of bring it back to, to what I need to understand. So I'm hearing a couple of things. And some I agree with and some I don't agree with, so I'm going to ask you a question based on that.

**JENNIFER HOULDEN:** OK.

**BLOOD:** So I'm hearing that, well, there should be consequences for kids who break the law or do bad things or whatever. But then I'm hearing you, I think, say, we're more worried about the consequences of what's going on with that child that's causing them to break the law. And if we can address those consequences, we can have better outcomes all the way around, as opposed to rushing to punishment.

**JENNIFER HOULDEN:** Well, I think that that is absolutely largely true. Are you wanting to distinguish law violating behavior from school truancy in the 3B section?

**BLOOD:** Well, I keep hearing little snippets of where they seem to imply that it's something that's unlawful.

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**JENNIFER HOULDEN:** Well, it is a violation of the, of the juvenile code as currently written for a student to be habitually truant. What that means, being inter-- has been interpreted through appellate case law to, in my opinion, it, it sort of renders what people who are my age or older think of as truancy, skipping school, not going to school, making a willful choice to not be in school. It has been interpreted to be every kind of absence that the school does not agree is excused. So we have, in effect, transformed truancy in Nebraska into excessive absenteeism through the case law, but we're still treating it with a juvenile justice tool in court. But we're bringing all of the kids who need that help in, because it doesn't mean a willful choice to skip school anymore. That's not--

**BLOOD:** Right.

**JENNIFER HOULDEN:** --what it means.

**BLOOD:** And I--

**JENNIFER HOULDEN:** And I don't think I'm-- I, I feel like I'm definitely not ask-- answering--

**BLOOD:** No, you're actually answering exactly what I'm saying.

**JENNIFER HOULDEN:** --your question. OK.

**BLOOD:** Sorry. That was a roundabout way here. So. No, that's exactly it, is that we have consequences that-- instead, instead of the consequences of like, oh, they're not attending school and let's throw the baby out with the bathwater. We're saying the consequences that we're most concerned about are the ones that are preventing that child from going to school.

**JENNIFER HOULDEN:** The conditions that bring us to that--

**BLOOD:** Right.

**JENNIFER HOULDEN:** --point is what I'm certainly most concerned about.

**BLOOD:** Yeah. Absolutely.

**JENNIFER HOULDEN:** And, and what I really want to convey is the consequences don't work. They don't work. When you have a profoundly depressed child who has not been receiving the right services through IEP for a period of years that's developing social issues, being bullied or has medical issues, that child is not persuadable by a law

and order approach. That child is profoundly impaired in their ability to participate in school. And so if it worked, it would be working. And I think we just don't see that on the-- with all due respect to all of the hard working professionals in juvenile probation, the sort of justice approach does not really work when we have unmet needs, disabilities and deficiencies.

**BLOOD:** That's what I'm talking about: the two different types of consequences that people have in their heads.

**JENNIFER HOULDEN:** Yes.

**BLOOD:** I agree. I mean, we haven't even touched down on, you know, period poverty. We know there's this-- young woman is-- and, and adult woman that can't go to work or college because they don't have the correct supplies for when they have their period. And we know that that's going on, people that are, are challenged financially.

**JENNIFER HOULDEN:** And I, I don't like to stay with the anecdotal because I think it maybe, maybe [INAUDIBLE]. But I literally, last week, had a youth come in on a motion to revoke her truancy probation because she started having absences because she was having to take a Lyft to school. Because her mother was at work, there was no one else, there's not a bus available. Juvenile probation can't provide transportation. Juvenile probation can't solve the problem. So we had a 16-year-old girl taking Ubers and Lyfts to get to school and then she ran out of money. She was having to take an Uber to her after-school job, but then she was netting like \$3 and she just said, I did what I could as long as I could. But that's, that's real. And what I'm speaking to is the cases that I see in my truancy cases. And I'll admit, 15 years ago, I had kids who were skipping school in a little more classical truancy way. That's not the population that I'm seeing in juvenile court right now.

**BLOOD:** Fair enough. Thank you.

**DeBOER:** Other questions? Let me--

**JENNIFER HOULDEN:** Thank you. Yeah, you--

**DeBOER:** Sorry. Let me ask you quickly, I think what I hear you overall saying, your overall message to us is this: we're basically trying to take a kid who's hungry and giving them a motorcycle. Like it's just not the same. We're just-- we're not-- we're not fitting the solution to the problem.

**JENNIFER HOULDEN:** Agreed.

**DeBOER:** Is that correct?

**JENNIFER HOULDEN:** Agreed.

**DeBOER:** OK, thank you. Next proponent.

**DANIEL GUTMAN:** Good afternoon. Daniel Gutman, D-a-n-i-e-l G-u-t-m-a-n, I'm here on behalf of the ACLU of Nebraska. We're here to testify in support of LB507. We thank Senator Conrad for introducing this legislation, which is consistent with the ACL-- ACLU's goal to prevent the funneling of students into the school-to-prison pipeline. Truancy, as research has shown, is a risk factor for negative outcomes for students and leads to poor academic performance, dropping out unemployment or underemployment, and in some cases, jail or prison. The process for addressing truancy is intended to hold all people responsible for our students' education accountable. In practice, school districts often turn to law enforcement and the courts for enforcement of truancy laws hurting the way very-- hurting the very students they are trying to help and who are oftentimes in the most need of help. This bill remedies the issue. For those reasons, we, we encourage you to advance this to General File. I'll make one additional point based on the last testimony. We are concerned with the process known as net widening, and that is when a student or a young person is put into this system, put on probation, unreasonable terms are put on that person. For example, a 16-year-old who is told they have to be in at 9:00 at night. Then, of course, as, as 16-year-olds do, that is violated. They have entered the system for truancy, but now they are getting deeper. The net is widening and they are getting deeper into the system because of the conditions placed on them. That is a real concern that we have and one that's very real under current law. I'm happy to answer any questions.

**DeBOER:** Are there any questions for this testifier? Senator Geist.

**GEIST:** OK, so I so want to agree with you. But there are just families that I'm dealing with, and at least 20, so a number of kids, that represent a number of kids who for whatever reason skip school. And that is the first symptom of their issue. That is the first step that they take in down a long journey of not complying with authority. OK? And, and that behavior, when given no restraint, tends to spiral out of control. And I'm just wondering at what point where is the, where is the help for a family that's asking for help with

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their teen who, who wants this behavior to stop? And the family starts out intact, but when the kid spirals and continues negative behavior, it wrecks the family. It's not always a poverty issue, though, I'll say, I would love to say it always is. But with the families I'm dealing with, it is not. That can be part of it, but it is not the the bottom of it. It is that kids figure out how they don't have to comply with the rules. And I want-- I would like someone in the system to give a response to what help to give those families.

**DANIEL GUTMAN:** Well, I think that this bill actually addresses that very issue because, and I know Senator Conrad and others can speak more to this, but it-- what it, what it is intending to do is divert money and resources to community-based alternatives. I think what we see is in the research, when we talk about spiraling out of control, oftentimes children that are put into the juvenile system, which, you know, I mean, we have to be real about what that is. It's detention facilities, it's being stripped down, put in an orange garb, locked away. We see that every night in a detention facility is trauma for a child. And so what, what we're--

**GEIST:** Now, I'll accept that. But if you have a 13-year-old girl who is running around on the street for five days and her parents don't know where she is, there's trauma for the entire family. They don't even know where that girl is. And occasionally detention is safety for that kid, because at least the family knows where that kid is and that they're safe. Now, I'm not advocating that that is the solution, because I know it's not. But some of the families would say, OK, I know that that may not be the most fun place for that kid, but at least I know my daughter is safe. She's not being sex trafficked. She's not being raped. What do you-- we need some real solid answers to families that are going through this. I know it's not the juvenile justice system, but it's got to be something.

**DANIEL GUTMAN:** I think that the strength of this bill is that it acknowledges that issue. I mean, it doesn't say that we're just going to leave kids hanging. It says that there are children that may need some sort of intervention, but the justice system is not the intervention they need. And so it is providing resources to alternatives to that system to address those very real concerns. Our concern is when kids-- when those issues are addressed by a justice system that is not equipped to handle them. And I think that that's what this bill addresses.

**GEIST:** OK.

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**DeBOER:** Other questions? I do not see any. Thank you.

**DANIEL GUTMAN:** Thank you.

**DeBOER:** Let's have our next proponent testifier.

**SARA HOYLE:** Good afternoon, members of the Judiciary Committee. My name is Sara Hoyle, S-a-r-a H-o-y-l-e, I am here to testify in support of LB507 on behalf of Lancaster County. I serve as the Director of Human Services for both the city of Lincoln and Lancaster County. Juvenile justice and funding for nonprofit entities to carry out this important work are some of the primary functions of my office. In Lancaster County, the Human Services Department provides case management for youth and juvenile diversion. However, the service provisions for these youth are delivered through our community-based nonprofit partners. These services are possible through braided community-based aid funding, city and county funding and federal funds. LB507 carves a path where students with excessive absenteeism may be referred by a school, parent, guardian or custodian. It is then up to the county attorney to work with the school to refer the family to community-based resources or send the family to our diversion program for services. Lancaster County currently operates a truancy diversion program for both middle and high school students. The middle school program is pre-file and coordinated through our office with the partnership with the Mediation Center. Youth, families and the school participate in restorative truancy circles. From the circle, the case plan is developed. Last fiscal year, 88 youth completed a school refusal assessment, 54 youth were referred to the program, 18 youth were unsuccessfully discharged, which yielded about a 70-- 70 percent success rate for the kids going through truancy diversion. The high school truancy diversion program is post-file, it's facilitated through a partnership with Lincoln Public Schools. The school sees roughly about 150 youth per calendar year in this program. Students and families are offered in-home therapy supports and additional guidance through their school social worker. The program was modeled after an evidence-based program out of Kentucky. This program yields about a 50-- 50 to 60 percent success rate. In the abs-- if this-- if LB507 is terminating juvenile court jurisdiction over these cases, then there has to be adequate funding in place to serve these families and to incentivize them to get, to get to school. Lancaster County has historically spent the entire allocation of community-based aid funding with the majority of it going to our nonprofit community partners to support this work. We are in strong support of the additional allocation of \$3,500,000 to community-based

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aid as proposed in LB507 to expand services in Lancaster County. Thank you for your consideration and your efforts to help families through this bill. I'd be happy to answer any questions.

**DeBOER:** Are there any questions for this testifier? Senator Geist.

**GEIST:** I won't take long. I love hearing this, I didn't know that this was offered. Can you tell me how many other nonprofits, how many worked together to, to serve this diversion?

**SARA HOYLE:** Sure. Oh, it's-- offhand, I'd want to say probably about 30 different nonprofit entities. We say in Lancaster County, the magic happens in the community. We know that our families are not going to be connected with them-- with us for a long period of time, nor do we want them to be. We want them to know that in their neighborhood they can go to this community service organization. And that's where they are at, if they need help, if they need assistance with rent, food, anything like that, they're connected there.

**GEIST:** So how do they get to you? How do they get to that diversion? What's the process?

**SARA HOYLE:** Through the county attorney.

**GEIST:** OK. So instead of going through the juvenile justice system, the county attorney sends them to this diversion?

**SARA HOYLE:** Yes. And then I have caseworkers that work with the family to develop the case plan. And then all of the service provisions are provided in our community.

**GEIST:** Is Lancaster County the only community that does that?

**SARA HOYLE:** I think Douglas County does something similar too.

**GEIST:** So OK. So does that keep the student from having a-- anything on their record, any kind of status offense on their record? It just is--

**SARA HOYLE:** If they go through diversion, yes.

**GEIST:** OK, thank you.

**SARA HOYLE:** Yes.

**DeBOER:** Any other questions? Senator DeKay.

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**DeKAY:** Thank you, Senator DeBoer. With these students, is some of this a mechanism because they're just being rebellious or is this-- are they acting out for a cry for help? And within, within that context, are they looking and how successful are they going through a diversion program going forward?

**SARA HOYLE:** So OK, there's a couple of different questions in there. When we're working with families, I think in any capacity, one of the first things that we do is an assessment to really determine what the need is. Is it the student who is intentionally skipping school or are there more things happening at home? And then it's pulling in that family and addressing what the primary needs are of that youth and that family going forward. Your success is going to depend upon the services that you have in place in your community and how they address that family. Really, it's getting family buy-in and student buy-in and then getting the right service provision in place. I mean, with our middle school truancy program, it's a little bit more successful. I don't know if it's because of the age of the student for getting to them younger or if it's because we have more of the restorative justice pieces in place for that. I'm not sure.

**DeKAY:** Thank you.

**SARA HOYLE:** Did that answer your question? OK.

**DeBOER:** Other questions? Senator Holdcroft.

**HOLDCROFT:** Thank you, Vice Chair DeBoer. Can you explain to me again, I mean, it sounds like these social programs are in place currently. Is that correct?

**SARA HOYLE:** That's correct.

**HOLDCROFT:** So how does LB507 change things so that you get more, I guess, use out of those services?

**SARA HOYLE:** Right. LB507 would have the capacity-- right now, the county attorney screens everybody that's coming through and they can make the decision as to does this person go to juvenile court depending upon any type of prior interaction with the court system or looking at the case specifically? Or do they go directly to our program? If they're going directly now to our program without having that juvenile court intervention in there, then the resources that I currently have, I'm stretched already. And there are resources that we don't have that [INAUDIBLE] already spoke to, and Senator Geist too, as well, as far as different places in the community for

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therapeutic supports where kids can go and be safe. And, and so if we're looking at sending more kids into our program that maybe have this higher risk, the counties need funding to support that or it's not going to work.

**HOLDCROFT:** So you mentioned \$3.5 million would be in-- infused.

**SARA HOYLE:** I mean, we'd take more.

**HOLDCROFT:** I didn't, you know, and the fiscal note doesn't have anything in it. So where is the \$3.5 million coming from? I can ask, I can ask Sen-- the senator, when she comes. Thank you very much.

**DeBOER:** Other questions? I have a question for you. So right now you're getting referrals from the county attorneys.

**SARA HOYLE:** Correct.

**DeBOER:** Could you take those county-- those referrals from a school if, if this was no longer-- if truancy was no longer a status offense? How would you then get referred to at that point?

**SARA HOYLE:** Yeah, and it sounds-- and that would also be, I think, a question for Senator Conrad. It sounds the way that I had read the bill, that the referrals would still go through the county attorney's office, since they're the ones that oversee juvenile diversion. It's through the county or the city attorney. But then if they didn't follow through with diversion, they they're--

**DeBOER:** Got it.

**SARA HOYLE:** Yeah.

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

**SARA HOYLE:** Thank you.

**DeBOER:** Next proponent.

**JARED WAGENKNECHT:** Hi, my name is Jared Wagenknecht, J-a-r-e-d W-a-g-e-n-k-n-e-c-h-t. I am an educator at a diverse public school in north-central Omaha and I'm speaking on behalf of the Nebraska State Education Association. I'd like to start by commending LB507 for taking on two significant issues: keeping youth out of the criminal justice system and addressing the daunting crisis of student absenteeism. Removing truancy as a juvenile status offense is a major

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step in the right direction. Schools should not be an entry point into the criminal justice system. Our job as educators is to connect students with knowledge and skills they need to understand the world around them and shape it. We don't sign up for this line of work to make criminal referrals, and I can say from experience that it is heartbreaking to see students end up in the court system. Yet the current state law requires school officials to refer students with 20 absences to the county prosecutor. This, too, is heartbreaking. We know that these students need resources and help rather than prosecution. The current practice is not only at odds with our primary duty to help students, it's also applied in fundamentally inequitable ways. There are wide variations in the discretion that is used to handle such charges between counties across the state. A student's county of residence should not be asked how likely they are to be charged. We also know that students of color are significantly more likely to be charged with truancy. This is troubling and unjust. A just system works to identify how we can help individuals succeed rather than penalize those who mess up. Educators across the state will tell you that one of the most significant barriers to student success is the widespread crisis of student absenteeism. Regardless of school, location, wealth or demographic makeup, this problem is everywhere. LB507 helps address this problem by providing a process for youth to receive resources and support from community groups and allowing referrals for such interventions to occur earlier. Truancy occurs at 20 days of unexcused school absences. As a classroom teacher for the last 14 years, I can tell you that this is often way too late to catch students up when they've missed this much school. LB507 utilizes a lower threshold for intervention and a less punitive remedy. As a result, students become eligible for intervention in time to get them back on track. When thinking about what programs will replace court intervention, it's important to note that the success of these programs will depend on our ability to ensure appropriate staffing and financial resources. In urban counties, we'll need to ensure enough resources to handle the significant volume of students who need support. This is particularly noteworthy as the Legislature weighs significant fiscal considerations, such as lowering the top tax rate and tax cuts for private schools-- or for donations to private schools. In remote rural areas, we'll need to ensure appropriate staffing and capacity to serve students. Having worked three years with juvenile offenders in northeast Missouri, I know that can be a difficult logistical challenge. Removing truancy as a juvenile offense is the right thing to do. I urge this committee to support LB507, but I also urge you to ensure we're giving community programs and schools resources and [INAUDIBLE]--

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**WAYNE:** Thank you for your testimony.

**JARED WAGENKNECHT:** Yeah.

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

**JULIET SUMMERS:** Good afternoon, Chairman Wayne, members of the committee. My name is Juliet Summers, J-u-l-i-e-t S-u-m-m-e-rs, I'm here representing myself as an attorney with experience in both juvenile and education rights law. I also was negligent. I received a letter of support for this bill from a retired juvenile court judge, Lawrence Gendler, and I did not get it to the committee in time. So I did want to note that for the record and that I will be forwarding it as well, from his experience both as a former prosecutor and a judge believing that this is the right approach to free up resources in our juvenile courts, to respond to those youth who are really scaring us rather than taking the time on these habitually truant cases. But also then being able to put some of those resources, some of the financial resources much farther upstream. So speaking from my experience, both as a juvenile public defender and also as a lawyer representing kids and families and educational proceedings, I'm here to support LB507. Because, to kind of get to some of Senator Geist's questions, our current process is just too little too late, and it's the wrong tool to respond to what the real need is for kids and families. So by the time you're adjudicated on a 3B for being habitually truant from school, that can be half a year or even up to two years later after the school year when you actually had those absences. I once represented a young woman who had been pregnant and given birth, and I was representing her a year and a half later on a habitually truant case because she had missed school in order to deliver and care for her child. And so that was a, that was a student who really needed resources and support and the ability to access child care, etcetera. Two years later, the juvenile court didn't have much to do to resolve that issue. And so LB507 would ra-- it doesn't take away any tool that Ms. Hoyle spoke about in terms of diversion and being able to offer resources to families in the communities. That's where-- it truly is, that's where the magic happens. Even currently after a kid is charged and placed on probation, what does the probation officer do? They try to refer them to some of these community-based resources that they should have had access to much sooner. I'd also note that 84 of our 93 counties have diversion programs. They all look a little bit different, and some of the counties that don't access neighboring counties' resources. So there is an ability to do this, to offer these services sooner for families

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to really help address what the root causes are of truancy. My final note is my reading of the bill is this only applies to truant from school and not truant from home. So kids who are chronic runaways, this bill doesn't, doesn't address them or take them out of the jurisdiction of juvenile court. It's specific to the school truancy. I'd be happy to answer any other questions you might have.

**WAYNE:** Any questions from the committee? Senator DeKay.

**DeKAY:** Yes. Is this the same letter from Lawrence Gendler?

**JULIET SUMMERS:** Oh great, it was-- it is. Glad you have it.

**DeKAY:** I didn't know if he was going to submit a second one or not.

**JULIET SUMMERS:** Nope, that's the one. That's the one.

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

**JULIET SUMMERS:** Thank you.

**WAYNE:** Next proponent. Next proponent. Seeing none, we will move to opponents. Any opponents? Welcome back to [INAUDIBLE] day. Welcome back.

**BRI McLARTY:** Thank you, Chairman Wayne, members of the Judiciary Committee. My name is Bri McLarty, that's B-r-i M-c-L-a-r-t-y, I currently work as a deputy county attorney, primarily focusing in juvenile law. I'm here representing the position of the Nebraska County Attorney's Association. I want to be very clear. This is opposition light. There's only one particular part of the bill that we have an opposition to, and that's the complete elimination of the independent jurisdiction for truancy. You had some great testimony earlier about how the term "perpetually truant" has been interpreted by the Court of Appeals to be very broad. I would say as a county attorney, as someone who works with probation officers, we do not want these truancy cases any more than people want them in our, in our court system. We have so many that we recognize that intervention earlier was so necessary. So what we would ask the committee to consider is maybe narrowly tailoring and being more specific with that language to give clear direction to the school, to county attorneys about what is considered truant. And that is the where the parent is doing everything to get the kid to school, the school is making every accommodation, and it really is the kid walking up to the school and then turning and going away. I have a few, I'd say I

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get about 60 to 70 truancy referrals a year from my local school district. I would say only about three are true trancies where this is the kid that goes in for first period and then skips out the rest of the day. Those, I do believe have a place in the juvenile court system. They fall into what we call a thinking trap, and probation is set up with services like aggressive replacement training to really address that, to address those thinking traps, those mindsets and delinquency behaviors that could eventually or possibly turn into criminal activity. And probation is set up to address those. But what some of the other proponents have testified to is so accurate, intervention needs to happen, it needs to happen earlier, and we desperately need this money. So when I say opposition light, it is just so that small elimination of independent jurisdiction for actual truant behavior. The rest of the bill, the county attorneys, we like everything about it. We appreciate the money. We are usually at the table for these communities. We are part of the Community Services Task Force that do these community-based grants. We do the referrals right now for these programs. So we really do want to see this. I do have some answers to some questions, specifically Senator DeBoer's about the referral. Page 15 allows for referrals from the parent themselves, from the school. The only thing I would note is language on page 21 and 22 puts an affirmative responsibility on the county attorneys to go above and beyond to refer to community-based systems and services. That was part of a compromise with Senator Pansing Brooks last year on that truancy bill, on LB568, in exchange for keeping that narrow, impossible, independent jurisdiction. So if the committee were to say, no, we're just going to keep that complete elimination, we would ask that that be removed. Because if we're not going to be prosecuting, we do not want to be the ones that have to go above and beyond and take the role of social workers if the infrastructure is there for an additional referral process. Like I said, I helped run our truancy diversion program, I helped set it up. I worked with community-based aid grant. If you have any specific questions about how the grant operates, how that is done and services and how referrals are made, I'm happy to answer because--

**WAYNE:** Thank you--

**BRI McLARTY:** --I do this in my own committee.

**WAYNE:** --for your testimony. Any other questions from the committee? Thank you for being here today.

**BRI McLARTY:** Thank you.

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**WAYNE:** Next opponent. Next opponent. Next opponent. Seeing none, we'll move to neutral testimony. Neutral testimony. No, you cannot testify in neutral. You got to pick a side.

**SPIKE EICKHOLT:** I wish I could have actually.

**WAYNE:** Welcome.

**SPIKE EICKHOLT:** Good afternoon. 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 Education Rights Counsel as their registered lobbyist. Education Rights Counsel provides education, research and legal representation to families and children and in the educational system. Our vision is educational equity for every child by removing legal barriers so that all children can stay in school and succeed. We do support the bill and we do support the bill's intent. The only reason that we're neutral is there are just some technical things that we feel that the bill does not quite address. I don't mean to say these now to the committee. I have been in contact with the introducer, I can explain those things directly to her. But I think it sort of, it sort of deals with a question that Senator DeBoer asked, and that is sort of-- maybe you didn't ask this, but maybe I'll rephrase what I thought you were asking, and that is why is the county attorney involved in referring these? And that's, I think, just a way that our statutory scheme has developed, that-- and I think Ms. Holden [PHONETIC] talked about this as well, that this is looked upon as a similar to a law violation or deliberate disobedient decisions of the child, and it's kind of been funneled through the county attorney. And so what you have now, you have these local diversion-type programs that provide services and which this bill does increase funding for and does try to facilitate. But it still has the sort of the prism, if you will, of going through the prosecutor's office on a local level. And if that's going to be reformed, there's just some technical things to do with as far as what the state and the county attorney is allowed to do and not allowed to do if the bill is enacted. I can tell-- talk about those now. But if it's not necessary, I don't need to, other than just put those on the record. And we are happy to work with the introducer and the committee on achieving the goals of the bill.

**WAYNE:** Any questions from the committee? Hearing none, thank you for being here. Any other neutral testifiers? Welcome.

**ELAINE MENZEL:** Thank you, Chairman Wayne and members of the Judiciary Committee. For the record, my name is Elaine Menzel, E-l-a-i-n-e

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M-e-n-z-e-l, here on behalf of the Nebraska Association of County Officials. I'm appearing here today in a positive, optimistic neutral position. So I apologize. Our only concern is related to the issues that the county attorney, Ms. McLarty, brought up. So optimistic that those issues can be addressed. With respect to-- we would, would be nearly able to support it, with the exception of those concerns, relates to the community-based aid because we are strongly supportive of that community-based aid program and we appreciate the strength that the Legislature, the Governor and Executive Branches have provided us towards that program. That is one of the areas that I think that the state has been a good partner with respect to providing funding for some of the provisions related to services and programs for young adults. And there is a really good report about-- let's see, there's about 80 counties that are currently awarded programs throughout the state. There's a report from the Crime Commission, and I would be glad to forward you links to that and the diversion report that provides a better overview of those programs. So and importantly, I think, note we'll always be glad to assist in terms of providing additional assistance for these programs. I do serve on the grant committee associated with this program and of interest-- the wants well exceed the ability to provide that funding. So with that, I'll take any questions and attempt to answer them.

**WAYNE:** Any questions from the committee?

**ELAINE MENZEL:** Thank you.

**WAYNE:** Seeing none, thank you for being here. Next neutral testifier. Welcome.

**AMBER PARKER:** Hi. A-m-b-e-r P-a-r-k-e-r, Amber Parker. So I'm testifying here on the neutral side of things because I feel it's of great importance to come forward with parents that I've talked to, that this truancy laws have been an absolute nightmare for. I've talked to parents where in most of the situations their children have went through medical areas and they could not believe that there was no abuse, there was no record, there were not criminals, and here they had to appear before judges and give account of why their child was missing so many school absences. It was as if the state was policing their parenting on when they were only trying to exercise their parental rights and taking care of their child. Which brings me to a point that I haven't heard many talk about, and that is that Nebraska does not have that parental rights are fundamental in the state. What does that mean with a lot of these bills that are taking place and being heard? What that means is that there's a lot of power

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in the courts. My understanding is that without the strict scrutiny, we have rational basis, which means that there doesn't have to be compelling evidence of abuse. So if you have a family that was in a situation like that, that is my concern, of saying that they-- the state can come in and pull them out, or let's say that child happened to steal something, going into a different scenario, and tie that together and they tie together and say, well, you're unfit. And oh, by the way, CPS came and looked at your house and your kitchen, you were in a remodel and things were sticky on the floor and there were fast food bags of food all over the place. What could they do? Come in and take your child. And I actually saw a situation like that and know of a situation that happened here in the state of Nebraska. I'm not sure on the truancy side of things. I cannot talk about the fullness, I was not able to review the entirety of the bill. But I want to let you know, back in February 3, 2014, Senator Brad Ashford, I believe, had created the truancy laws, which had become a nightmare in the state. And county officials, according to the world-- Omaha World-Herald back in 2014 said there are raised concerns about the burden on county attorneys to review the exploding number of truancy referrals. The Douglas County Board and the Nebraska Association of County Officials to call for repeal of the truancy law. I just want to point out that there's no point of putting an extra burden on, on these areas of where we already feel a lot of pressure. And there's no point of making parents feel that they're being policed by a state through truancy laws. And without these fundamental parental rights in the state of Nebraska, the parents really are open to a lot of control, government control and coming in and even taking their children. And I've seen it happen.

**WAYNE:** Thank you. Thank you for your testimony. Any questions? Seeing none, thank you for being here. Next neutral testifier. [INAUDIBLE], don't do that again.

\_\_\_\_\_ : [INAUDIBLE].

**WAYNE:** Hearing none, Senator Conrad, you are welcome to close. While she comes up, we have seven letters: two in support, two in opposition, and through-- three in the neutral position. Senator Conrad to close.

**CONRAD:** Thank you so much, Chairman Wayne. And thank you, committee, for your indulgence to a very abbreviated opening to allow the young people to testify. I really appreciated their taking the time to be here and to engage in the process as well. So I think we actually had a really smart hearing with a lot of important questions from the

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committee and important feedback from stakeholders across the spectrum who are working on these issues. I'm happy to go into the long and short of a lengthier opening or closing statement. But the bottom line is this, we've continued to make progress in Nebraska in our juvenile justice reform efforts. Those efforts have paid dividends in terms of having better outcomes for kids, for families, for the state, for taxpayers. You can look no farther, for example, than the Chief Justice's annual reports in the State of the Judiciary, where he notes the progress, the reduction in recidivism, the improved outcomes in our collective juvenile justice reform efforts. This is one small piece in continuing that effort, and this solely looks at the truancy jurisdiction, the excessive absenteeism from school. And rather than allowing that to be a basis of jurisdiction to pull a kid and a family into the court, we retain everything else, but we utilize a referral process with the schools, with the county attorney to wrap services around the kids and the family to address the absenteeism. Now, some of those funds for those ser-- programs and services are already available, as Ms. McLarty talked about, through the Crime Commission. Senator Holdcroft, I think you're right. I think the fiscal note is a little bit confusing, and our hope was to bolster some of those funds available. I think part of it kind of goes with how the bill is written, kind of taking a look prospectively. So you're going to essentially see, I think, a justice reinvestment-type savings from the existing program, then back into the programs and services in the out years. And that's why it's not showing up in the fiscal note. But I think it does read in a kind of confusing way. And I think everybody agrees that programs and services out of that bind administered by the Crime Commission are good and helpful, and we should try and bolster those. So I will triple check with the Fiscal Office and the Crime Commission about that, just to make sure that we all have clarity on that piece. But I'll tell you this, whether it was dealing with COVID absences, whether it's kids in club sports dealing with absences, whether it's a host of different issues affecting families across the state and across the socioeconomic kind of spectrum, what I'm hearing from stakeholders and folks in my district is we're kind of at a weird place with this situation. The schools are kind of pointing at the county attorneys, and the county attorneys are kind of pointing at the schools. And they're both, both saying like, it's not really us, it's really the other ones that are kind of responsible for getting your family entangled in these systems. And then while that's kind of happening, a lot of vulnerable families are caught in the system. And once you get entangled in these systems in particular-- particular if you're already a family that is struggling with

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resources, it's really hard to disentangle from those systems and additional consequences that come from, from that entanglement and that surveillance. And it can have significant consequences for the child, for their education and for the family at large. So looking at the experiences of our sister states, if we can tighten up the way these kids and families get the services they need outside of a more carceral kind of jurisdictional kind of setting, that's a good thing. And it achieves our, our shared public safety goals. So that, that's the long and the short of it. Happy to answer questions.

**WAYNE:** Any questions from the committee?

**CONRAD:** It's also very warm in here.

**WAYNE:** Really? I was, I was just freezing. [INAUDIBLE].

**CONRAD:** I know I'm on the hot seat, but it's very warm in here compared to my other committee.

**WAYNE:** Senator Holdcroft.

**HOLDCROFT:** Thank you, Chairman Wayne. Thank you, Chairman.

**CONRAD:** Yeah.

**HOLDCROFT:** Senator.

**CONRAD:** Yeah.

**HOLDCROFT:** Senator. It sounded to me like they're counting on about \$3.5 million. That's what I heard from the county folks for to be able to expand their services to accommodate, to reduce the amount of truancy that's going to the juvenile system. And, and, and, and so, I mean, I understand the structure instead of, you know, trapping them in the juvenile court system where now we're going to be able to send them into these expanded community services, but it doesn't-- I'm not feeling real confident about the funding yet to be able to expand that.

**CONRAD:** OK.

**HOLDCROFT:** And until we see that, I mean, you've taken away the hammer. These families have already demonstrated that, you know, they, they're not sending their kids to school or, or the kids aren't interested in going to school. So now, you know, what's to get them

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to go to these community services if, if the community services are not there. Would you like to address that?

**CONRAD:** No, I appreciate that, and I'd be happy to work with you, Senator Holdcroft, to get really tight and a lot of clarity on the funding piece, because I think that it's important for the program in its current existence and moving forward if reformed through this measure. But I, I think the, I guess kind of counterpoint that I would say to your statement is, and I know we all use the turn of phrase to make a point quickly in this environment, but we shouldn't have hammers in juvenile court or particularly related to status offenses, right? The whole point of juvenile court is rehabilitation, it is not ever meant to be punitive, right? That's the whole point of juvenile court. That's the whole reason why we developed a separate juvenile system, is because it's supposed to be a different penological model than what we see in the criminal justice system, which does have punitive aspects, right? But because, excuse me, but because these are kids, but because our goals are different to rehabilitation, we shouldn't think of it like a hammer and particularly as related to status offenses which don't-- which don't impact our shared public safety goals in the same way that criminal offenses do, right? The only way that you can commit a status offense is because of your age, you're a kid, you're under the age of majority and you're doing something that if adults did, it wouldn't be criminal, right? So think about, for example-- nothing in this measure removes any of the other criminal penalties for anything else, right? For if you're a kid and you're smoking cigarettes under age or you have-- attend a keg party underage or whatever, and you would come in contact with the system through those behaviors. But those things can still be prosecuted, right? I mean, it doesn't remove any of the other criminal penalties that exist. It only-- it's very narrow. It only looks at truancy, excessive absenteeism from school. And that happens for all different kinds of reasons, right? And what it says is when that happens, we're not going to use a hammer. We shouldn't use a hammer. We should figure out what's going on there, and we should wrap services around the kids. Now, if the kid is in danger and this kind of acts like a red flag, the courts retain jurisdiction. And there's numerous avenues through civil, through child welfare or through juvenile justice to figure out what's going on there and to address it appropriately. This just looks at the excessive absenteeism, just at the truancy piece. And schools are still going to be clocking that. They're still going to be recording that. So if somebody gets to a level that is high, like 20 absences or whatever the magic number might be, then that's the

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trigger to refer for the services instead of filing a court case. So that's just-- it's a, it's a bit nuanced, but it's very narrow in terms of its approach. It doesn't remove any other sort of criminal penalties in other contexts. It doesn't remove any other sort of jurisdictions where the county-- county attorneys or the schools utilize other. It's just looking at that, that truancy piece and saying, like, this kind of actually doesn't fit within our criminal justice kind of shared public safety goals or even child welfare goals to a certain degree. It's just, it's kind of an antiquated-- it's kind of an antiquated concept, like you heard one of the public defenders talking about before and Ms. Parker mentioned a bit in her brief overview and history of kind of how Nebraska has taken this up. Truancy was kind of a mess across the state. Senator Brad Ashford came in as part of a broader juvenile justice cleanup. He was trying to bring some uniformity to an arbitrary system. Now that one-size-fits-all approach is not really working, is kind of what we're hearing from a lot of the stakeholders. And that's why you hear, you know, great feedback from incredible folks who have way more expertise than I, retired Judge Gendler. I passed out a supportive letter from the Nebraska Department of Education this morning as well, which really pleased to have their support. And the folks working on the front lines of these systems are saying this, this antiquated system really isn't advancing their public policy goals. So with this slight nuance change in terms of the jurisdiction, we can still support families, we can still support kids in need, but we can do it a better way, a more thoughtful way that's better aligned with a rehabilitation kind of focus and keeping the kids in school, rather than kind of a hammer, so to speak.

**HOLDCROFT:** Thank you.

**CONRAD:** Yeah.

**DeBOER:** Other questions from the committee?

**CONRAD:** OK. Fun to see you all. Thank you.

**DeBOER:** I don't see any. So with that, we'll close the hearing on LB507 and we'll open the hearing on LB473. So welcome, Senator Geist, to your Judiciary Committee.

**GEIST:** Well, good afternoon. Thank you, Vice Chairman DeBoer, and good afternoon, members of the Judiciary Committee. For the record, my name is Suzanne Geist, S-u-z-a-n-n-e G-e-i-s-t. I represent District 25, which is the southeast part of Lincoln and Lancaster

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County. OK. LB473 is a bill that is the result of several years of listening to numerous families who have children caught up in the judicial system. This could not be more timely. It's been an honor to walk with these families, but it's also one of the most difficult journeys I've taken as a state senator. Because of this journey, I've become acutely aware of the gaps in our system and the numerous ways we're failing our young people and failing these families. I've heard horror stories from young girls missing from home for days, only to be picked up by law enforcement, returned home and to run again. Stories of sex trafficking, rape, abuse by adults, dangerous out-of-home placements, out-of-state placements, months of time away from school, away from families, suicide attempts, overdoses, unbelievable trauma for the youth and their family. All the while, they're operating within the system, and it's often our own juvenile justice system. What's going on right now with these youth in our state has come to a point where something needs to be done. These youth are hurting, their parents are hurting because the system is not only letting down the youth, but it's also hurting the parents and the families. There's currently a major gap in services for these juveniles in the juvenile justice system. I've watched as the child's behavior continues to escalate-- we were just talking about this-- because they're not getting the help and services they need. These kids are smart. They've learned to play the system, they know just how far they can go and what they will experience with no consequences. And at this point, I'm just going to make an aside and say consequence is not necessarily a hammer. Sometimes it's a stop. It's a parent or a system saying stop. We have to stop the behavior. It doesn't mean they get thrown into detention, it doesn't mean that we hit them over the head with a hammer. It means we stop. We make attempts to stop their behavior. The stress this puts on parents and families, law enforcement, ultimate-- ultimately, the stress it puts on the system is hard to calculate. Early on, I attempted to address this issue with broadening detainment. And of course, I was met with great resistance, and probably rightly so. I don't know. I can't judge because I don't have a perfect solution. My goal, my intent is not to harm these kids, but to protect them from harm. Another goal is to assist these youth with intent services before they get involved in the system. We met during an interim study with those agencies that are involved with this issue and discovered a solution that seemed to have broad agreement. This bill is the result of some of those discussions. And before I address the bill, let me give you a little more information. Between June 30 of 2021 and June 30 of 2022, there were 108 juveniles who were involved with probation or Health and Human Services and probation sent to other states for

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treatment or to be detained. Fifty-two of those youths were probation-involved and 56 were Health and Human Services and probation-involved. So how can we as a state, send that many juveniles out of state? Once the juvenile has completed their time in these facilities, they are sent back to their families with no support and no reunification services. And according to an interim study put on this past-- or a year ago, the state of Nebraska spends \$9 to \$12 million a year to send our troubled youth out of state. So my bill, LB473, was created to start serving these youth in Nebraska. This bill will create a pilot program for a safe and secure treatment center. The center will focus on providing intense mental health treatment, family outreach, education and family reunification. As we've consulted these families, these are the main areas we've identified that will be beneficial to help get their children back on track. And I want to add an aside that mental health and the seriousness and the rampant nature of crisis mental health issues that are going on in our community, whether it's our schools or our community centers or whatever that these children are under, must be addressed. The vision for this bill is to provide a home-like facility, not a detention center. However, it is a place that makes it difficult to run. One of the issues these children have in common is they run. It's a major element of the feedback we've received from every family with which we've consulted. But how that is accomplished is not yet addressed. I'm willing to work with anyone who has solutions to how that can be addressed. But I want to point out that this is not a barred room, this is not a locked room. This is something different, something that currently does not exist in our state. And I also want to point out that the center will have 16 beds. It will be staffed with highly specialized therapists to provide the services described above. I admit this is a starting point to provide much-needed care and treatment to juveniles in our state. I don't have all the answers and I don't claim to, but it is such an important conversation for us to have as a committee. You will be hearing from people behind me about how bad of an idea this is and that I-- and that I want to lock kids up. And I adamantly do not. As I've said, that is not the intent of this bill. When we say secure, we mean a place where if a juvenile runs, they're brought back time after time. And again, whatever we can work on together that helps secure that juvenile for their own safety and the safety of the community. The staff would have the proper de-escalation training and will also understand the issues that these juveniles need and provide them extra help. I cannot state how strongly we need to have this discussion and how committed I am to these families and

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bringing some solutions to this issue. With that, I would be happy to answer any questions you may have.

**DeBOER:** Questions for Senator Geist. Senator Blood.

**BLOOD:** Thank you, Vice Chair DeBoer. And thank you for sticking out today, Senator Geist, it's going to be a long day yet, huh? I have a bunch of questions, and it's about the way the bill is written, not about the concept. I agree that we need to do more things for our young people and, and I like the way that you described it. But how you described it is very different than what's written in the bill, so I have a couple questions and I'm hoping you can clarify. So at the beginning of the bill, it talks about an eligible county, but at the end of the bill, it says primary class. How many cities do we have in Nebraska that are primary class?

**GEIST:** There is only one. And actually, I would--

**BLOOD:** And, and that is--

**GEIST:** And that is--

**BLOOD:** Lincoln.

**GEIST:** --Lancaster County. And I would like to partner with any-- well, you heard Lancaster County already has available truancy detention.

**BLOOD:** Right.

**GEIST:** They have other services that may lead to this, lend to this. It is a pilot program. It is a county that I think would be open to partnering on something like this.

**BLOOD:** But the way this bill is written, it's saying it's to operate a pilot program, a new pilot program.

**GEIST:** Yes.

**BLOOD:** But yet we're taking out-- we're taking \$12 million from the General Fund--

**GEIST:** Yes.

**BLOOD:** --to carry out a grant program that basically already exists and calling it our own pilot program, because they already have their pilot program, right?

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**GEIST:** No.

**BLOOD:** OK, so they--

**GEIST:** This is brand new. This is not existent.

**BLOOD:** So you said you were partnering with them.

**GEIST:** Yes. No, I'm just saying I would like to. But we don't currently have this in, in Lancaster County.

**BLOOD:** OK.

**GEIST:** This is a new concept.

**BLOOD:** So the grant then wouldn't go to that organization that already exists. So to do--

**GEIST:** There's not an organization that already exists.

**BLOOD:** OK, so that organization that you're partnering with is--

**GEIST:** No, I'm saying I want to partner with Lancaster County. I'm not saying there is an organization that exists doing this. This is not--

**BLOOD:** No, I-- I'm, I'm clear--

**GEIST:** --existing.

**BLOOD:** --on that.

**GEIST:** OK.

**BLOOD:** I'm saying I keep seeing pilot program.

**GEIST:** Yes.

**BLOOD:** And I keep hearing partner. So would we be giving basically that money to the partner?

**GEIST:** Yes.

**BLOOD:** So why doesn't the bill say that?

**GEIST:** I do not know.

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**BLOOD:** So it makes it sound like people are going to be able to turn in grants--

**GEIST:** Um-hum.

**BLOOD:** --and request the ability to do this pilot program.

**GEIST:** Yes.

**BLOOD:** But what I hear you saying, and if I'm wrong, please correct me.

**GEIST:** I will.

**BLOOD:** So what I hear you saying is that we're just going to give the money to them, but we're going to make it sound like a pilot program, which it's still a pilot program because I understand, I understand why you're calling it a pilot program, but you're using existing resources, right?

**GEIST:** No.

**BLOOD:** Lancaster County. You've said you are.

**GEIST:** No, I'm, I'm asking Lancaster County to partner with me. But there is no part-- there is no partnership yet.

**BLOOD:** So if they don't want to partner with you, you're going to give the money to somebody else that applies for the grant?

**GEIST:** Absolutely.

**BLOOD:** OK, I, I do think that we need to work on the language because I feel like it's basically we're going to give them \$12 million and that sounds like--

**GEIST:** I would be happy to work on the language.

**BLOOD:** --what your plan is.

**GEIST:** Yes, I would be--

**BLOOD:** If that's the--

**GEIST:** --happy to work on the language.

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**BLOOD:** If that's the case, and I think the way we write this, I mean, we're talking about eligible counties in the front. And in the very end, it's like, oh, by the way, we're really talking about Lancaster County. That's the thing that concerns me. And the other thing that occur-- concerns me is that it looks like we're gonna allow the ability for a private company to step in. And what we've seen in other juvenile detention, I don't want to say juvenile detention, excuse me, in other areas where they've tried to help juveniles or when the prisons are taken over by private entities, the jails are taken over by private entities, is that they, they tend to exploit the employees. So I would be concerned if we would take it outside of the state. If we're giving them state money, we should have state employees, not an organization that comes in and takes it over for us. That would be something that I would be against.

**GEIST:** For instance, you would be opposed to a-- then does that mean like community services?

**BLOOD:** I'm talking about--

**GEIST:** You don't like--

**BLOOD:** --running the facility.

**GEIST:** --community--

**BLOOD:** I'm not-- community services, I have nothing against. If you're bringing in people for counseling or you're bringing people in--

**GEIST:** Um-hum.

**BLOOD:** --for behavioral issues or you're bringing people in for drug rehab or family reunification, I believe I saw in the bill.

**GEIST:** Right.

**BLOOD:** Those are all good things. But the way it's written, I interpret it as maintaining the center.

**GEIST:** Um-hum.

**BLOOD:** That would concern me, too, Again, because we're using \$12 million of state funds. So if we're going to do this, is it a state entity or a county entity? And if it's a county entity, who's ultimately responsible when we give \$12 million. So again--

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**GEIST:** Well, I think all of your, your-- those issues, maybe not all, but those two--

**BLOOD:** It's all language.

**GEIST:** --are certainly something we can work together with. My concern is that we find people who will do this. That is what I would like, if-- I want someone to do this.

**BLOOD:** And I thought you'd be interested knowing that when I traveled out west that a lot of the kids that we sent for help in, like, Wyoming that come back to our state, they come back because we have outstanding bills there and they refuse to continue to take care of those children because we're in arrears in how much we reimburse them.

**GEIST:** Well, there's a lot of other issues besides just paying.

**BLOOD:** No, there's a lot of other issues, but--

**GEIST:** So.

**BLOOD:** --a lot of people aren't aware of that. So it's really unfortunate since they're so far away from the metropolitan area on that end of the state, they don't have choices.

**GEIST:** And they're far away from their families. And there's a lot of issues with sending kids out of state.

**BLOOD:** I'd be happy to sit down and just go line by line. I mean, to me it's-- to me, it's a really simple bill, but it leads to something different than my-- how it was explained in the introduction for me.

**GEIST:** OK. Well, we can work on that.

**BLOOD:** Fair enough. Thank you.

**DeBOER:** Other questions? Senator McKinney.

**McKINNEY:** Thank you. Thank you, Senator Geist.

**GEIST:** Sure.

**McKINNEY:** A couple questions. Is 16 beds enough?

**GEIST:** No, it's not. Just to be blunt. No, but it's all that we can do without-- that's all that we could do quickly. There's-- once you

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exceed 16 beds, then you get into a whole lot of regulation that slows all of this down. And I would like this to happen quickly. And so, no, it is far inadequate. What I would like to do, though, is to start here. And if this model proves successful, be able to replicate it in other counties.

**McKINNEY:** How--

**GEIST:** So it's small enough that a smaller county could replicate it.

**McKINNEY:** How long would they stay?

**GEIST:** You know, that would be given what the person needs and what's affordable. What's able to be reimbursed, what's affordable, that's all an insurance, and probably Medicaid in some places, issue.

**McKINNEY:** Because that's my concern, is we're not defining how long we're saying we're pulling kids in and figure out what's wrong and trying to--

**GEIST:** Yeah.

**McKINNEY:** --help them. Because my fear is that it will turn into a long-term detention.

**GEIST:** Yeah. And, and actually what usually happens is just the opposite of that, is that kids aren't kept long enough, which is usually a very limited amount of time. And then what we're doing that's a little bit different, I think-- now hopefully people behind me are going to tell me, no, we're going to do this-- is the the services that would happen with the kid and the family, so that it helps when that kid goes home or to help keep that family together because it's such a disruptive time for the family. So it needs to be long enough that, that that transition happens easier and short enough that it, that it's beneficial and affordable. So it's kind of a balancing act. I don't have the perfect answer for you, but usually insurance is the one that dictates that.

**McKINNEY:** All right. And how will the family outreach piece work? And I ask this because I work with many juveniles and I've talked to many juveniles that have ran away in a system. And a lot of them don't-- they run away not because they just want to offend or--

**GEIST:** Right. Right.

**McKINNEY:** But its--

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**GEIST:** They run away for a reason.

**McKINNEY:** They run away because a lot of them have told me, I don't feel loved at home.

**GEIST:** Yes.

**McKINNEY:** I don't want to be there. I left home because I don't feel loved, and forcing me to go back and it's not working. So how is the family outreach piece going to work? Because although we're saying parents' rights and things like that, we have to think about the juveniles who, yeah, you might on the surface look like a great parent, but your kid doesn't feel loved--

**GEIST:** Right.

**McKINNEY:** --and welcome at home.

**GEIST:** Right. I think that's super important. One of the-- now, I'm going to qualify that most of the parents that I've worked with are custodial parents and they're good parents. They're-- actually, I would say that's 90 percent of the parents that I've worked with. However, what you're talking about is another part of this equation that also has to be taken into consideration. And so what I see as the family unification part is done with people that that is their expertise. And there are, to your point, some kids that are addressed here that that is the bottom-line issue. Sometimes it's not. And so the experts are who would work, now, and I said highly specialized. That's another reason this is small. We don't have a lot of highly specialized people in Nebraska that do this work. But that would be their job of working with the student, working with their family, and making those determinations. And teaching, in some cases, each other how to health-- how-- what a healthy environment is like and how to make one and how to maintain that.

**McKINNEY:** So would this facility have to be constructed or are there currently some, some vacant building--

**GEIST:** I don't know. I have--

**McKINNEY:** --somewhere?

**GEIST:** I really don't know. I hope that there's some vacant building that really needs a good cause, but I don't know.

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**McKINNEY:** And my last thing is there's a bunch of conversations about building things to detain people, whether adult--

**GEIST:** Yeah.

**McKINNEY:** --or juvenile or the past five years in our state. And what I've been hearing from a lot of people, juveniles and parents, is that why is it so-- why is it so easy to build, to house us or hold us, but it's so difficult for us to get our basic needs met. And those things, if addressed, eliminates the need to build anything.

**GEIST:** I sure hope so, because I think there's an experiment going on in north Omaha right now where we focused on that last session. And I'm hoping, and actually I'll tell you, Senator, that, that that for me was a vote of huge hope. I want that for north Omaha, I want that for all of our communities in poverty that we can-- I think that's a responsibility of all of us to help those in need. And not only help their, their financial situation, but help their needs. And what we're seeing with our youth right now is an outgrowth of those needs not being met. And a lot of times kids respond in ways like they run from a situation, because they can't deal with it. A lot of that is mental health issues because of the pressure that they're in in society. So I think we do need to address those. Hopefully we're in the process of doing that, and individually we should look to do that. I think that's a personal responsibility for those of us who have a lot of resources to do that. So, so I'm hoping that we're doing both and.

**McKINNEY:** All right. Thank you.

**GEIST:** You're welcome.

**DeBOER:** Other questions for Senator Geist. Senator Ibach.

**IBACH:** Thank you very much. I just have a couple quick questions.

**GEIST:** Sure.

**IBACH:** Just for clarification. This would be for young women and men?

**GEIST:** Yes.

**IBACH:** OK. And then I'm just a creature of habit, but are there any programs currently in existence in other states or--

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**GEIST:** There are treatment centers for youth in other states, and we send our youth to treatment centers in other states. We don't have intensive just treatment, we do have detainment. But we're looking not so much of the detainment aspect, though it's a light part of it. We just want to keep them there. And yet we don't have intensive treatment, especially in a, in a setting like this that is like a single youth could get intensive treatment, but not in a community sense.

**IBACH:** I think that would be a very important part of it. Thank you.

**GEIST:** Thank you.

**DeBOER:** Other questions from the committee? I do not see any. Thank you so much.

**GEIST:** I will stick around.

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

**JENNA MOULTON:** Hi. Thank you. My name is Jenna Moulton, M-o-u-l-t-o-n, and I'm here because I'm a mother of three. My oldest is 15 years old, and for the last year and a half, he has had some very high-risk behavior. We have had to send him to extensive inpatient treatment out of state for 60 days. He came back. He was in intensive outpatient treatment for four months with Boystown. They dismissed him. They could no longer help him. He was an inpatient at Emanuel for mental health. They dismissed him. They said they can no longer help him. And he's a runner. In September, he entered the juvenile system. He left home, he broke into a car, stole alcohol and broke a 60-year-old man's nose in the process. That was in September. Since September, we have had to file eight missing persons reports for our son. He leaves for days on end, causes chaos around the city, causes chaos within our home because we're out looking for him. And then when the police find him, they bring him right back to our house, and he does it all over again. I am scared. I am terrified, and I am concerned for his life, his sisters' lives and our lives. We have worked with the prosecuting attorneys to try and get him the help that he needs. But he's not even been adjudicated yet for his crime that happened in September. And for us yelling, we need help. We need help. Our son needs help. So he's just been out of a downward spiral. And we know that, like this place, a treatment facility like this where it's not detainment, but it's something where he can get help and find the skills, therapy, mental health, chemical use

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treatment, I just, I feel like we just-- we need help. And I know that this bill is something that we are very, very for. The article in the Nebraska Examiner yesterday, or on the 13th, just-- it sounded just like our story, so familiar. And yes, that's all I have to say.

**DeBOER:** OK.

**JENNA MOULTON:** Any questions?

**DeBOER:** Are there-- thank you so much for being here. Are there questions from the committee? I'll ask you a couple. So you've sort of exhausted all the places that you think, I mean, it sounds like you ex-- sounds like--

**JENNA MOULTON:** Yes.

**DeBOER:** --you've exhausted all the places.

**JENNA MOULTON:** We've exhausted everything it feels like.

**DeBOER:** And, and you think that something like this might be a different-- or you're just ready to try anything?

**JENNA MOULTON:** I think something like this is-- not necessarily willing to try everything. I mean, I am, I'm desperate. But I think, you know, it's-- we sent him to an inpatient, you know, treatment facility for chemical use, and it was a nice escape for him. I mean, not escape it. He learned some tools and skills, but it's not everyday life. You know, it's, it's, it's a rehab. He, he didn't have-- I mean, he went there at 14 years old and he was the youngest by six years, even though it was still for young people. And so it's just there's not, there's not the, the support that he needs. It's-- I don't know what he needs, but since he's been in the system, it's been out of control and it's, it's more detrimental for him and more dangerous for him than anything, because there's no repercussions. He can-- they, you know, police officers, you know, they just bring him back and he knows that he can just leave whenever. So we need a secured facility that's not necessarily detainment. Does that make sense? Did I answer that?

**DeBOER:** Yeah.

**JENNA MOULTON:** OK.

**DeBOER:** You did. OK, thank you.

**JENNA MOULTON:** Thank you.

**DeBOER:** Are there other questions? I don't see any. Thank you so much for being here. Next proponent, please.

**JIM HEGARTY:** Hello, Senators. Thank you for taking time to listen to us. My name is Jim Hegarty, H-e-g-a-r-t-y. And Jenna is my daughter, so her son is, is my grandson. And, and I certainly appreciated the comments of Senator McKinney. In this particular case, though, I can tell you that this child is surrounded by an absolute army of love. We have spent the last two years of our lives, almost every waking moment, trying to figure out how to keep him alive because he is on the streets taking drugs that he doesn't even know what he's taking. In some cases, by the handful. We get Instagrams of him passed out in parks on concrete, unconscious with bongos and bottles lined up for as far as you can see. And, and as Jenna said, he finally entered the judicial system in September because he got tracked down by these people that he stole alcohol from and he fought them trying to get away, broke this man's nose, was arrested. And since that time, as Jenna said, we filed eight missing person's reports. There are instances in which he has been gone for eight solid days. All of us up every single night scouring the streets of Omaha, looking for him, looking, you know, a complete community of social media, everybody trying to figure out where is he at. Because we're terrified that we're going to get that call that no parent wants to get. And that is, is that, we're so sorry to tell you this, but Milo is gone. And so we scour the streets. We track him down. We call the police. The police go and get him. The police bring him back. He showers. He eats. He goes back to sleep. He may stay home a day, a day and a half. Gone again. And this has been going on not for just like a brief period of time. This is destroying his parents. I am watching this happen in front of me. And I mean, you know just as well as I do, we cannot be anything close to alone. I mean, I think this is an epidemic that's occurring. These are all kids from Westside. These drugs are all pouring out of that school. And, and it is terrifying to see what is going on. And so, you know, I've called the police when Milo was at my house, I caught him smoking dope in my attic. I called the police. The police came, they confiscated his weed and they left. So I'm sorry that I've run out of time, but if you have questions, I'm happy to answer them.

**DeBOER:** Thank you, sir, for bringing your story here. Are there questions from the committee? Senator McKinney.

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**McKINNEY:** Thank you, Senator DeBoer. And thank you for your testimony. And my apology if it came off as if I was saying that parents don't love their kids.

**JIM HEGARTY:** No, no, I understand completely.

**McKINNEY:** From speaking with youth, they don't feel love for--

**JIM HEGARTY:** Of course.

**McKINNEY:** --whatever reason.

**JIM HEGARTY:** Of course.

**McKINNEY:** That is not understood. And that's all I was trying to say.

**JIM HEGARTY:** Of course. Absolutely. And I think clearly there are-- we know that there are so many environments where that isn't happening and, and there is neglect. I just wanted to be clear that in this case, this child is surrounded by, I mean, it isn't just our family. It is a network of parents that are all doing everything we can to find a way to keep Milo alive. And there is, there is a preadjudication hearing. And I wanted to also say, if I have a moment, that the Douglas County Prosecutor's Office, the juvenile department, they are, they, they are bending over backwards to help us. They are expediting, trying to do everything. This, this, this prejudiciary hearing that he has on the 21st is designed to get an ankle monitor on him before he's in probation so that maybe that would help or-- so everybody is trying to do everything. I think the, the concept of having a place that Senator Geist is proposing where there is, there is a way to detain them, but in a different, in a different method where it's more therapeutic and provides perhaps Milo with the structure and opportunity that he needs that clearly he's not getting now.

**DeBOER:** Are there other questions?

**McKINNEY:** Thank you.

**DeBOER:** Other quests-- other questions from the committee? I'll ask you this, just I think I heard you say that he's been to Boystown. Is that right?

**JIM HEGARTY:** He's been through their intensive outpatient. So he went to Hazelden Betty Ford, probably the premier treatment program for youth maybe in the country. They took him even though he was like a

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little bit younger than they like. He spent at least 60 days there, you know, got a lot of information. He came back and then entered Boystown's intensive outpatient program and-- but it's just not demonstrating a sincere interest in change and in stopping using. I mean, he is, I would say, in the grips of addiction. He's running so that he can use. He is running so that he can drink, so that he can take pills, so that he can smoke whatever it is. I mean, I think he's in the grips of it.

**DeBOER:** So the primary problem is the addiction.

**JIM HEGARTY:** I would say, coupled with mental health. I think it's a dual diagnosis situation for sure, as it is, I suppose, in many of these cases.

**DeBOER:** Thank you very much, both of you, for testifying.

**JIM HEGARTY:** My pleasure.

**DeBOER:** Any other questions? All right.

**JIM HEGARTY:** Thank you.

**DeBOER:** Thanks. Next proponent.

**AARON HANSON:** Members of the Judiciary Committee, my name is Sheriff Aaron, A-a-r-o-n, Hanson, H-a-n-s-o-n. I do apologize for my informal appearance, I could not get back to the office to get a suit on. And I was told that I needed to have some type of official uniform on, because I am armed so. This is an important bill. I think we have to come to grips with the fact that we swung the pendulum too far in juvenile justice reform. I've heard people talk about community-based services today. And absolutely we need them, we need a lot of them. But I've also heard a lot about people saying we need to stay away from one-size-fits-all approaches, and that's true. Some of the kids that we're talking about here need intensive psychiatric care. I was at a statewide sheriffs meeting, mandatory training for new sheriffs. And I will tell you one thing I heard all the way across the state, Panhandle to Missouri River, all these sheriffs are struggling with juvenile justice issues. I don't know if it's getting to all of you, but you should ask your sheriffs and you should ask your county attorneys. It's not a north Omaha thing or a south Omaha thing or a western Douglas County thing. It's a Nebraska thing. And it's not necessarily a poverty thing. Poverty does exacerbate these problems, for sure. But I can tell you that recently I've been dealing with mothers specifically of human trafficked daughters, teenage girls

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traumatized. They're addicted to running. They're addicted to hurting themselves. They are addicted to substance abuse to mask the pain. They're addicted to dangerous sexual lifestyles and being human trafficked. And it-- as, as I started to work with those young women, it clicked. Very similar behavior to what I saw with the young men that I've been working with for years in the gang lifestyles, the self-harm, the running, the risky behavior. Senators, we have to find safe places to put these kids where they cannot run and traumatize themselves more. I've spoken with experts in juvenile psychiatric care. It's their story to tell, not mine, but they had said we need-- if we're going to do this right-- we need a safe PRTF in this area big enough to keep enough of these high-risk kids for up to a year for treatment. Thirty to 60 days will not cut it. And I'm tired of standing over dead kids, white kids, black kids, Latino kids, boys, girls. I'm tired of it. I'm tired of the rape and the trauma and the violence. We need to focus on the core issue and not the hashtags. We need to help these most vulnerable young people, give them a chance at a better life. Thank you. I'll take any questions you have.

**DeBOER:** Other questions? Senator DeKay.

**DeKAY:** Thank you, Senator DeBoer. Thank you for your testimony today. With this bill, with the 12-- or 16-bed facility, in Douglas County, and I know up in my district there's a county facility, is there any room through therapeutic environment for these kids to be able to be accessed into your system to make more beds or more rooms available for this counseling that could take up to a year? I know up in Antelope County, I visited that facility and it's a lot smaller facility, but it's a more sparsely populated county. But there, there's a-- it seemed, and it's brand new, state of the art. And I think there's a potential in that county and possibly other counties that would have more beds available to offer these kind of counseling to get these kids off the street to counseling and what they need to get well and be able to be back with their families and not have to-- their families worrying about them running or using drugs or whatever else happens when they're out of the house.

**AARON HANSON:** Well, Senator, Douglas County, I'm not, I'm not involved in oversight of corrections. But I can tell you that I do think there is something to be said when you're talking about psychiatric treatment and care and rehabilitation. Obviously, we should try to push rehabilitation and psychiatric care into our juvenile detention facilities. But juvenile detention facilities are juvenile detention facilities, and they're not necessarily PRTFs or psychiatric, psychiatric care facilities. And so but I think that

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that comes right back to the point. We need that hybrid between the two. We need a place where young people can get that intensive, extensive psychiatric treatment to unwind the trauma, but one that they can't just walk away from. Right now they are, foster homes, group homes, unless it's a PRTF, a secure PRTF, they're walking away from it left and right. And the trauma gets worse.

**DeKAY:** And I agree with that. And you are right, this is not just a Douglas County, Lancaster. It's a statewide epidemic, if you want to call that, going forward with kids. So just trying to figure out ways to make more programs available to help more kids in a shorter amount of time.

**DeBOER:** Thank you, Senator DeKay. Other questions? I do not see any. Thank you so much for being here.

**AARON HANSON:** Thank you.

**DeBOER:** Let's have our next proponent.

**DAN MARTIN:** Good afternoon, members of the Judiciary Committee. My name is Dan Martin, D-a-n M-a-r-t-i-n, I'm here before you as a representative of the Omaha Police Officers Association and came here today to testify in support of LB473. Been a police officer for 18 years, many of those years I spent in high-crime areas and have had-- I've actually spent it all over the city. But I've had a direct opportunity to meet with multiple system-involved youth who are out of options, as well as their parents, and no place to turn. When I talk to the parents, I've talked to many of them, they've asked me to share their stories. But along with Sheriff Hanson, I think that story to tell-- their story to tell. But they are frustrated. Their child runs away over and over and over again. It affects their entire family, their jobs, their livelihoods. And they're worried to death, and they have no place to go. And we bring these children back time and time again with no consequence. We can put an ankle monitor on them and they cut it off and they go back to home. And to what Senator McKinney said, a lot of these kids do come from chaotic and homes that they probably shouldn't be at in the first place with-- and I understand that. And we have to fix both sides of the system. The young people that I have had the opportunity to meet are, you know, system-involved and lost in the shuffle and the gaps of this juvenile justice system that we have, as Senator Geist proposed. We're desperately in need of a facility that is secure. That is not necessarily almost a mid-level placement for kids that need help and they can get help, education opportunities, family unification

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resources, mental health therapy. And I think LB473 provides that, and I urge you to support.

**DeBOER:** OK, thank you. Are there any questions? Senator Blood.

**BLOOD:** Thank you, Vice Chair DeBoer. Thanks for coming in again.

**DAN MARTIN:** Thank you.

**BLOOD:** So I'm hearing two different things. So I'm hearing they're not going to be locked up, it's not going to be like a secured facility.

**DAN MARTIN:** Yeah, I was probably--

**BLOOD:** But I've heard law enforcement say secure.

**DAN MARTIN:** So I think I used a bad-- I don't think I used the word properly. I think it's a place where they can be contained and come back to. But they're not going to be-- I don't believe it's a locked facility 24 hours a day.

**BLOOD:** But don't we have that in Omaha in two different locations? And we're building a huge facility on 72nd and, I want to say Center, where they tore down that insurance building. Doesn't Community Alliance do everything that is already in this bill?

**DAN MARTIN:** You know, I think this, this is a place for when we-- especially when we talk away about runaway children that are out that these, these parents talked about today, a place for them to go. It's a one-stop shop for all of these treatments, that is--

**BLOOD:** Which is that Community Alliance in Omaha?

**DAN MARTIN:** Well, I don't know much about the Community--

**BLOOD:** Yeah.

**DAN MARTIN:** --Alliance, so I can't speak to what they do.

**BLOOD:** That's interesting. I just, we've had two people from our end of the state talking about Lancaster County for a 16-bed facility. To me, it's just kind of confusing. This-- I'm not picking on you.

**DAN MARTIN:** Yeah.

**BLOOD:** Just I'm a little confused.

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**DAN MARTIN:** No. And I don't know enough about Community Alliance to answer that question.

**BLOOD:** Highly recommend it.

**DAN MARTIN:** I would love to learn more--

**BLOOD:** I've sent a lot of families there.

**DAN MARTIN:** --about it. I will. That's my homework tonight.

**BLOOD:** There you go.

**DAN MARTIN:** All right.

**DeBOER:** Other questions? Senator McKinney.

**McKINNEY:** Thank you. Thank you for your testimony. I guess what I'm trying to figure out is we passed this bill, the facility is filled up with 16 kids. Then what do we do? Because everyone knows 16 isn't enough.

**DAN MARTIN:** I think that's why this is a pilot program. See if it works. And if it works, we can expand it.

**McKINNEY:** But in the meantime, what do we do about the ones that can't get in?

**DAN MARTIN:** That's a great question and one that I've been trying to help figure out and solve, because there's so many gaps in the system, as you're aware of. And like Senator Geist said, there's, you know, a lot of kids that do have all the love and support in the world, but there's just as many kids that don't, and they have nowhere to turn. And so they turn to the street, to gangs, to other programs. They know no better. And so both sides of the system have to be fixed. And I think this is a great program as a pilot. If it works, let's expand it.

**McKINNEY:** Thank you.

**DAN MARTIN:** Thank you.

**DeBOER:** Other questions for this testifier? Senator Ibach.

**IBACH:** Thank you. I just have one quick question. Is this-- I'm trying to visualize the facility and, and the folks that work there. Would this be like a step above or beyond YRTC in Kearney?

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**DAN MARTIN:** I think it would be an in-between kind of facility. Not necessarily secured like juvenile detention center, but not being placed back in the home on an ankle monitor. It's, it's a place where we have all these gaps in the system with these parents that, you know, they can't-- they have nowhere to turn and nowhere to go. And they know that if their son runs away over and over and over again, they're just going to be brought back. They're going to have to not sleep that night because they're going to be worried that he's going to run away again and end up seeing a picture of them on Instagram on a park bench in Omaha. It's-- we have to fix this.

**IBACH:** Thank you very--

**DAN MARTIN:** This is, I think, a step in the right direction.

**IBACH:** OK, thank you.

**DeBOER:** Other questions? Senator McKinney.

**McKINNEY:** So I'm thinking about Douglas County right now, and I know this is kind of tailored towards Lancaster, but they're building-- well, I guess I don't know if it can be opened or not, but the juvenile justice center or whatever. But then you still have that campus that they currently, the DCYC. Do you know what they plan to do with that?

**DAN MARTIN:** Well, I know what I'd like them to do with that. I don't know if that's going to happen. I-- the juvenile, juvenile justice center in Douglas County is obviously a controversial issue. And I can get into the details of why that is and why I think-- the problems with that and some of the solutions. But my hope is that they can keep that current facility for--

**McKINNEY:** Well, the one problem--

**DAN MARTIN:** --something similar to this.

**McKINNEY:** The one problem is technically it don't have enough beds, if you take into account the average population currently.

**DAN MARTIN:** Yes.

**McKINNEY:** So what are we going to do with all those kids?

**DAN MARTIN:** That's a great conversation that we should have, because I would love to have that with you.

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**McKINNEY:** Right. But I'll just say that because it's like we're saying we need these type of facilities to help kids, but we're gonna-- Douglas County is technically about the shutdown a space--

**DAN MARTIN:** And I've been opposed to that.

**McKINNEY:** --a space that could hold 150-plus to open up a facility that holds, what, 60 or 70?

**DAN MARTIN:** Sixty-four. And I've been on the record opposed to that since its inception.

**McKINNEY:** I opposed it, too.

**DAN MARTIN:** Hey, we agreed on twice today. What is happening? But yeah, I agree, that's going to be a just another compounding issue that this problem is-- and we need to figure it out or Douglas County officials need to help us figure that out. We need to all be at the same table. I've gone to a lot of those committee meetings. And so I hope that we get that figured out before they decide to open this, I think, in June so.

**McKINNEY:** Yeah, that's this summer.

**DAN MARTIN:** Yes.

**McKINNEY:** Thanks, sir.

**DAN MARTIN:** Thank you, Senator.

**DeBOER:** All right. Other questions for this testifier? I do not see any. All right, so thank you very much for being here.

**DAN MARTIN:** Thank you, Senator.

**DeBOER:** Let's have our next proponent testifier. Next person who is in favor of the bill.

**KENDRA HAIFLEY:** [INAUDIBLE].

**DeBOER:** That's OK, you can fill it out later. Come on up.

**KENDRA HAIFLEY:** Sorry.

**DeBOER:** And one of the pages will get it for you afterwards.

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**KENDRA HAIFLEY:** Thank you. My name is Kendra Haifley, K-e-n-d-r-a H-a-i-f-l-e-y, I'm here in support of this bill because I personally am watching a mental health crisis at my son's school. He goes to school here at Lincoln East. It's a school known to have money. And there have been three suicides within the last month and a half. One was my son's best friend. He was 15 years old. And as I'm sitting here, I have been talking to social workers, I have been talking to people within the schools, I've been talking to psychologists. And my son was struggling with anxiety and was having a lot of issues. We started seeing it about six months ago, well, probably about nine months ago now. But we tried to get him in for mental health help. We tried to get him on a bunch of different waiting lists. We spoke with police officers, which were the-- that was our first resource. Those were the only people that were actually able to help us at a certain point in time because nobody could get us in. We were either told there's nobody-- that we can, that we can get you on a list, we'll call you. And a lot of times we were just turned away. And my son's best friend took his life January 3rd. And just a week ago, another girl at our school took her life. And so this is a huge issue. We have had a lot of the social workers from the school I've asked, what can we do? Part of it is some families don't have access to even be able to pay out of pocket to take these kids and to get them, you know, any sort of help. And we are sitting here asking, begging for help, and there is no help. We are having Bryan West Hospital is the only place that we can take kids, and they are turning kids away that are going in there and saying, I am going to take my life. And they are sending them home to us parents. And that is what we sit there and wake up every single night and check to make sure our children are still alive. I go into my son's room probably 70 times a night, and my son has already previously had trauma with losing two children. I lost two children already, so he's lost two siblings and my dad took his life. And so my son was begging, I was begging for help and nobody could help us. So to have a facility like this where we can turn-- help some of these kids and help turn their lives around and get them the help that they need, I mean, we are in a mental health crisis. It's not just at our school. I know another child out in O'Neill recently took their life. I mean, this is all across the state. If this can get 16 kids help as a pilot program and then we see what else we can do to really get this help, how can anyone be against that?

**DeBOER:** Thank you so much for your testimony. Let's see if there are questions from the committee. Are there any questions for you? I don't see any. Thank you so much for being here. Let's have our next

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proponent. Anyone else who would like to speak in favor of the bill? Let's have a, a-- the first opponent then. First opponent. Anyone here to testify in opposition to the bill? Is there anyone who would like to testify in the neutral capacity?

**AMBER PARKER:** A-m-b-e-r P-a-r-k-e-r, Amber Parker. It's pretty hard to speak after a testimony like that. But clearly there are parents crying out in this state. I think it would be wise to bring clarification on the parental rights and the terminology of parental rights being fundamental, because we have parents that clearly care for their children and are fighting, and their children are not making decisions that are, are good and could endanger other family members as well as people in the community. And I've heard of stories like this myself. I just wanted to clarify that if Nebraska were to pass a parental rights bill saying that parental rights are fundamental, there's nothing of wording like that, to my understanding, that's even existing. If we pass a parental rights bill, like, saying parental rights are fundamental in the state of Nebraska, that gives more than legal teeth. And what that does is for then the parents that are not good parents and abusive, that brings, if we call it-- and I'm not an attorney-- but a provision, excuse me, a provision, we'll call it a protective way and a filtration process that those children, if there's compelling evidence showing abuse, then they can be-- the judge can enter in that way and take that child then away from that home. And that's why I, I advocate for that. And again, I see that as a common thread in everything we're discussing. Now, getting to the treatment side of things, we have something happening that not only in the state, it's happening across the United States. You had a show where it was a recruitment for kids to commit suicide and do stories of, of their own suicide. In fact, I actually know of a person who saw someone following that trend and saved their life. I would have never thought I would have had to come forward or hear some of these hard testimonies, but it's very important that we do take proactive measures. I believe that in testifying on the neutral side for me today is the wise thing to do because that is a lot of money and I would like to see it existing. But as I understand Senator Geist saying there's nothing existing, there is a cry for help that is happening. And I'm coming forward to tell you I've heard it from other families as well. Our schools are not supposed to be daycare centers, nor the teachers in degrees in counseling. We cannot use their ability and education to substitute and put a weight upon them and make that like holding grounds, even when we look at the truancy side of things. So tying it together to say, the treatment center I believe we should look into, and I know

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we've done legislative resolutions to see test pilot programs in the past. And I believe it would be wise to do so because parents are clearly crying out in Lancaster County. There was recently a story that had happened, I believe it was in a junior high and where children were sexually assaulted. OK.

**DeBOER:** Just a second, Ms. Parker. Let's see if there are any questions for you. Are there any questions? Senator Holdcroft.

**HOLDCROFT:** Amber, you've talked a couple of times now. Can you give me a little more about your story? I mean, you seem to speak with some authority.

**AMBER PARKER:** Sure.

**HOLDCROFT:** Do you represent any organizations or are you speaking for yourself?

**AMBER PARKER:** No, I'm, I'm a concerned citizen. I, myself, as a child, was considered high risk and I had to be adopted out of the home that I was in.

**HOLDCROFT:** OK. Thank you.

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

**AMBER PARKER:** And I would like to say, no criminal record. In Jesus' name. And no, I never was in sex trafficking or anything like that as well.

**DeBOER:** OK, let's have our next neutral testifier.

**SPIKE EICKHOLT:** Good evening, members of the committee. My name is Spike Eickholt, S-p-i-k-e, a last name is E-i-c-k-h-o-l-t, I'm appearing on behalf of Voices for Children in a neutral capacity. You're getting a copy of my testimony. We appear neutral, because we do believe that what Senator Geist has got here is a really good idea. And she is attempting to fill a need that is certainly out there, as you've heard from people testifying today firsthand. The concerns that we have are generally technical in nature. We just want to make sure that the bill is specific enough that it carries through with the legislative intent that Senator Geist has expressed here today and has-- and also provides adequate direction to the Crime Commission to make sure that the funds for the pilot program are adequately, properly spent. I'm just going to kind of outline some of

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the points that I just want raise. A residential treatment facility with medical-based mental health is certainly beneficial for Nebraska, particularly if it's close to home. There are facilities out of state, and as you heard from her earlier today, and I just know from people who work in juvenile court, that is generally the option, unfortunately, to have children have to go out of state for this kind of service. The concern that we have is, one, is that the title of the bill uses the term secure, and that is a term of art and a term of statute. 43-245 is-- defines what it means to be a secure facility or a staff secure facility. And those are things that imply or do mean detention, detention facilities. So it's somewhat inconsistent with Nebraska law, as well as federal Juvenile Justice and Delinquency Prevention Act, in that you cannot detain youth who are in for a 3B or a 3C, because those aren't law violations. And that's what this bill is intended to address are those people-- children who are not necessarily committed a crime or are either truant from home, ungovernable or just need some sort of special service likely due to addiction, likely due to mental health. But they haven't at least committed a serious enough violation to, to warrant detention. And that's sort of a gap in system-- to do here. I think everyone agrees that detention is not treatment. So we should maybe to separate those two to make sure that's clear. Secondly, and we did actually have an amendment drafted that we did share with Senator Geist's office, I think yesterday actually is when we got it back, so it wasn't really in time for the hearing. I didn't want to circulate it to the committee just yet because I don't know if I have had a chance to go through it with-- or if you had a chance to go through with Senator Geist just yet. But we did reach out and make some suggestions. One other thing we suggest with the bill is that whatever recipient entity gets this, that they actually be licensed or accredited by the state like other facilities are. That's not too bad. That's not too-- we'd respectfully suggest that's not too unreasonable of a request to expect when you're appropriating the money. Finally, one other suggestion that we have, you heard a bill earlier today for room confinement. This is going to be a new type of facility. So similarly, those statutes that require those facilities to sort of note and correct and record if juveniles are confined in a room or whatever, we should-- think should apply to whatever this facility is as well, since it is going to be a new type of characteristic. I'll answer any questions, if you have any.

**DeBOER:** Are there questions for this testifier? I don't see any. Thank you for being here. Do we have any other people who would like to testify in the neutral capacity? Seeing none. As Senator Geist

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comes up, I'll note for the record that we have three letters of support. Senator Geist to close.

**GEIST:** Thank you. And I will make this short, because I know you all are getting antsy and I can appreciate that. First, I want to thank those who testified because, as you can see, these are very emotional issues. They're tough. They're hard on the family. And it's an honor to work with these families. I want to clarify a couple of things. One of the things that makes this center unique that I did not cover is that they would take people that, that other treatment centers turn away. Often people are turned to-- our youth are turned away for behavior issues, which is why they're there. But it is, it, it is a problem. And it is one of the reasons that there is high turnover of kids in, in some, in some treatment, in responses to some treatment. Also, Senator Blood, I wanted to let you know that Cedars in Lincoln used to have a place like this, and they had to close because it-- well, it was a high-intensity program for kids and they had to close because of funding. The funding was cut. And here I was talking about sometimes the kids are abusive, they're turned away because of their difficult behavior or they're abusive. What the difference would be here is that the kids would be returned. If they run, they would be returned to the facility. They wouldn't be returned home, they would be returned to this facility. And with high-level-- people who are trained at a high level in de-escalation training and skills. So we're envisioning something different. And, and what in our lingo, as we've talked, it's a mid-level facility, so not a detention center like YRTC. It's also not home. It's somewhere in the middle. And how that looks and how we achieve that-- and I had trouble, I know Spike did give our-- my office some suggested changes, which we're looking at. I couldn't hear everything you said because it's hard to hear back there what is said here. So we'll work-- I'm willing to work with people who are interested in, in making this happen. You can see it's a need and it's a need across the state. Anyway, I appreciate your attention and I'm open to any questions you might have.

**DeBOER:** Other questions for Senator Geist? Senator DeKay.

**DeKAY:** Thank you. Thank you, Senator Geist, for bringing us forward today. This-- these are needed facilities. Obviously, 16 beds is not nearly enough. Probably not even enough--

**GEIST:** Right.

**DeKAY:** --for Lancaster County.

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**GEIST:** Right.

**DeKAY:** These kids need help. In a lot of cases, they probably want help. Their parents need and absolutely want help for these kids.

**GEIST:** Yeah.

**DeKAY:** Going forward, if and when this facility is implemented, I would like to be able to see across the state, whether it's in Douglas County, Dundy County, or Dodge County, the help is out there. I mean, there's-- I hope there's programs that can mirror what we're trying to accomplish with these kids going forward and alleviate some of the stress and anxiety that are in the lives of these kids and their parents. So I appreciate that.

**GEIST:** I agree, Senator DeKay. And I think what we heard from one of the moms that was talking about the intense mental stress that's going on with kids in schools, we're going to see that more and more. Right now, we're probably going to start seeing the flower of what happened with kids during COVID. And in my opinion, ARPA dollars are around. We need to look after our number one resource in our, in our state, and that's our kids. And, and these are vulnerable kids that we're talking about. And so anyway, I'm committed to seeing this through and making something happen with this. So thank you.

**DeBOER:** Other questions for Senator Geist? With that, we'll end our hearing on LB473, open the hearing on LB339. I'll turn it back over to Senator Wayne. Welcome to the Judiciary Committee, Senator McKinney.

**McKINNEY:** Thank you. Good evening, Chairman Wayne 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 in the Legislature, which is in north Omaha. We are here today to discuss LB339, to provide for confidentiality of prosecutions and adjudications of minors, extend jurisdiction under the Nebraska Juvenile Code, provide requirements for custodial interrogations of juveniles and young adults, prohibit the use of certain statements, prohibit sending juveniles out of state, provide for use and reimbursement of reporting centers, and establish a family resource and juvenile assessment center. According to some data from Douglas County in the Douglas County Youth Correction Center data on admissions, admissions to DCYC decreased nearly 60 percent between 20-- 2007 and 2020, from 1,750 to 717 admissions. Although there are decreases, there are still racial disparities. Over a ten-year period, from 2009 to 2019, the average

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admissions by race as follows was 53 percent black, 29 percent white, 15 percent Hispanic, 2 percent Native American and 1 percent Asian-American, which is a clear disproportionate, if you look at the populations as far as minorities compared to whites. I decided to bring LB339 because just like our adult system, our juvenile justice system and child welfare system is a mess. And its failure is directly drive, in my opinion, our overcrowding in adult prisons. It does not-- this bill does not carry all the issues I have with the juvenile justice system or the child welfare system, but this is my part. Since my time and prior to my time in office, all I've heard from concerned community members was, what do we do about the juvenile justice system and the child welfare system? Parents feel as though they are not heard, nor have any power. Juveniles feel failed and disregarded by many within and outside of the system. I brought this bill with them in mind because I believe that although they were accused of an offense, their faces, one, should not be plastered in the media. What if they are found not guilty or found to not have no involvement? Google searches do not just erase themselves and the media rarely retracts statements or posts or doing meaningful follow-up currently. Because the negative matters more than a positive in my opinion. And so it's important, if we really care about our kids, to protect them. We must also factor in scientific advances in research about brain development and maturing. This is why this bill raises the age of jurisdiction to individuals under the age of 22. Their rights should also be protected, so they should not be into interrogated or questioned without, one, knowing their rights and, two, having a parent or guardian present. According to a report done by the Sentencing Project, the United States stands alone as the only nation that sentences people to life without parole for crimes committed before turning 18. Twenty-five states and the District of Columbia have banned life sentence without the possibility of parole for people under 18. In nine additional states, no one has served a life without parole for offenses committed before 18. In this national survey of life and vital [SIC-- virtual] life sentences in the United States, it found that 1,465 people were serving juvenile life without parole sentences at the start of 2020. This number reflects a 38 percent drop in the population of people serving juvenile life without parole since our-- since 2016, and a 44 percent drop since the peak count of juvenile life without parole figures in 2012. This count continues to decline as more states eliminate juvenile life without parole, and Nebraska should fall in line. Juveniles also should be kept in the state. Doing so causes many un-- not doing so causes many unintended consequences, especially mentally for the juvenile and for his or her family. If the state or counties

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are going to take responsibility in taking kids away from their parents and supposedly holding them accountable, then we must also be pro-- then they must also be prohibited from shipping them out of state and not keeping that responsibility and taking care of our kids. And I cannot really fathom any legitimate reason, I know many say, for mental health or treatment or things like that. But if that's the case, then the state or the county should pay for those families to go see those kids. And currently, I don't know if any, any county or the state assist families in going to see kids that are shipped out of state. And if they're not willing to foot the bill, then you shouldn't be sending kids out of state. I've known many individuals who were sent out of state, and today, most of them are sitting in a state prison. So avoid coming up here advocating for a broken system that continues to stick to the status quo. It's also important to utilize community resources that do amazing work with our juveniles, such as Day and Evening and reporting entities. They are the boots on the ground and should be utilized and funded adequately and timely. Many face challenges because of slow reimbursement processes, and if they need more resources to cover operational [INAUDIBLE] they need-- it's hard for them to stay open because of the slow reimbursement process. This is why, in my opinion, the Department of Human Health and Human Services and probation needs to get their respective acts together. And this is really important to note that when the state ended Saint Francis in privatization, the utilization of Day and Evening reported services decreased after it happened. And I'm not sure if DHHS has a plan to get back on track before we took over instead of privatization, so hopefully if they come up behind me, they say something about that. Because once we ended privatization, those referrals either decreased or got eliminated for a lot of providers. Lastly, most importantly to me, is setting up a framework for a family resource and juvenile justice center. Some, some, some community partners are doing amazing work, but I think the issue that we have in the juvenile, juvenile justice system and you talk to a lot of parents, you hear about a lot of amazing resources in the community. But a lot of those, a lot of those parents don't know how to access those resources. And I think if we had a family resource center or a juvenile justice assessment center, we could evaluate not just the juveniles but the families as a whole to figure out how can we help them, how can we improve the youth and the family. Maybe it's a financial issue, maybe it's a health issue. But if we're just going to just throw the hammer at kids and then throw the hammer at them and then release them back into a burning house, I don't know how we're ever going to solve this issue. I think a family resource center and juvenile assessment

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center will help that. And I got the idea from an idea in Las Vegas. They have family resource centers and juvenile assessment centers across Las Vegas, where it's 24 hours. If a kid needs to get away from home, they could go there and not have to worry about ending up in the system because of it. And I think that's important because kids are running, and they're running away from help because the solution has been, we're going to lock you up to help you. Instead of come in, Wendy, let, let us figure out what's going on with you and with your family, and let's try to find a way to improve it. But if you're going to tell a kid, I have to lock you up to help you, then I probably would run too. I want help, I don't want to be locked up to get help. And that's, and that's something that we really need to think about. But with that, I'll take questions. Thank you.

**WAYNE:** Senator DeKay.

**DeKAY:** Thank you, Senator Wayne. Senator McKinney, as I alluded to in the last bill, are there facilities in Omaha where, where we're talking about this that would be able to accommodate and we could utilize those facilities going forward on a fast pace?

**McKINNEY:** I would say no, but I know there are some projects in the works. I know there's a project, I think, in Senator Wayne's district that kind of does the metal-- that is supposed to be doing the mental health thing. But currently, to date, if there are, I don't, I don't know about them. But I don't-- yeah.

**DeKAY:** Thank you.

**McKINNEY:** No problem.

**WAYNE:** Senator Geist.

**GEIST:** Just briefly. I would say I think some of the things that you're saying and some of the things I'm saying are kind of the same thing, so. Thank you.

**McKINNEY:** No problem.

**GEIST:** I appreciate that. That's all.

**WAYNE:** Any other questions? Seeing none, thank you for being here. First, we'll start with proponents. I wasn't sure. She, she kind of had her hand moving and I wasn't sure.

**SPIKE EICKHOLT:** Good evening, 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. Everyone has left so I'm here on behalf of the ACLU of Nebraska, the Nebraska Criminal Defense Attorneys Association, and Voices for Children in support of LB339. You're receiving a copy of my statement-- or my testimony for ACLU of Nebraska as well as Voices for Children. This bill has a lot of very-- a lot of different things with respect to juvenile justice reform. I think Senator McKinney summarized all of them. Some of them are pretty self-evident, but I just wanted to kind of elevate or isolate or talk about a couple of the components of the bill because they sort of relate to some bills that you've heard earlier this year. This is an omnibus bill, but one of the things that the bill does is what we would submit is an important provision and that would require that when law enforcement, when questioning a youth who is in custody, notify their parents or guardians that the youth is being questioned by the police. We heard this issue being discussed and we talked about the bill that would prohibit law enforcement from using deceptive practices. This is a different way to maybe approach that dilemma. It would require that once a youth is being questioned by police while in custody and interrogated, that a parent or guardian to be notified. It's really not much of a step, if you will, of the current law, because our current statute, 29-401, require that law enforcement notify a parent or guardian once a juvenile is detained or taken into custody or arrested. This would require the notification prior to being questioned. I think most people, if you contact your-- people in your district asked you, I think-- and mistakenly that if a law enforcement officer was talking to a child if there's any obligation to contact their parents, there's not. Secondly, the bill also provides for tailored Miranda advisements to children when they're being questioned by police. And those are the traditional you have the right to remain silent. You have the right to have an attorney. But they're tailored for perhaps a younger person to actually appreciate what they mean. One of the other things this bill does is it extends juvenile court jurisdiction for youth offenders to age 21. If you look at the ACLU letterhead and the last maybe three pages of that attachment, it's a summary of what other states do throughout the country with respect to juvenile court jurisdiction. If you look at sort of that guideline-- it's called a age matrix and it's from the Interstate Commission on Juveniles [SIC]-- on the far sort of right column, it has the maximum probation age among the other states. And what that really means, that term means the actual age of jurisdiction that the juvenile courts have. And if you look at those, most of those other states are 21, 22, age 25. You know, others are 18, 19. Nebraska is age 19. The majority of

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them, if you just do a summary-- and I didn't count them all-- have extended jurisdiction in the juvenile court for youth offenders. That's important because when we talked earlier about the juvenile transfer hearing, when you're looking at considering transferring a child who's charged age 16 with a crime, one of the things that adult courts will simply say is that well, they're only going to be in the juvenile court for a couple of years now. They're going to age out at 19. But if we had this provision to extend that jurisdiction, that will give more of an opportunity for that child to be meaningfully rehabilitated and meaningfully supervised by the juvenile court. So that is one very important consequence of the bill.

**WAYNE:** Thank you. Any questions from the committee? Do you have any other important consequences from the move?

**SPIKE EICKHOLT:** Well, there's lots but could be here for a while.

**WAYNE:** Oh, just pick one more.

**SPIKE EICKHOLT:** One of the things-- because the bill does make some reforms of the sentencing statutes to end what's called de facto life sentences. In 2012, the U.S. Supreme Court held that children under 18, if they're convicted of murder or a serious crime, cannot be sentenced to a life without possibility of parole. So the states, including Nebraska, had to reform their first-degree and second-degree murder statutes to provide for at least the possibility of parole. What's happened is that we still have a situation where a youth offender could receive basically a de facto life sentence where it's not an actual life sentence, but it's 80 to 100 years total time or 80 to 200 years total time. What this would do, it would provide for an adjustment for those youth offenders so the sentencing range for those sentences-- for those crimes that exist is lower slightly in the bill. If you look at the ACLU handout-- and Senator McKinney referenced, referenced this before-- 32 states and D.C. have no one-- have banned or have no one serving life without parole for children. And if you look how Nebraska is compared to our border states, most of our border states-- I think with all the exception of maybe Missouri, since they're technically a border state-- have made reforms to their system that would be similar to what's proposed in LB339.

**WAYNE:** Any other questions from the committee? Any other ones? Seeing none, thank you for being here. Any other proponents? Seeing none, any opponents? Any opponents?

**BRI McLARTY:** Good afternoon, Chairman Wayne and members of the Judiciary Committee. My name is Bri McLarty. That's B-r-i M-c-L-a-r-t-y and I'm here representing the opposition position from the Nebraska County Attorneys Association. While there are some sections of LB339 upon which the association believes compromise or even support for the policy changes could be given, the bulk and the heart of the bill, the sentencing guideline, changes the creation of a new young adult subset and the changes to the current case law and practice for custodial interrogations are what we consider to be dramatic policy changes that the association opposes. As a juvenile county attorney, I'm very familiar with literature and medical studies on the development of the adolescent brain. I understand where Senator McKinney is coming from in looking at making these modifications to extend jurisdiction and create special protections for those under 22. But this is a very patchwork attempt at a very complex issue. The classic takeaway from all these studies that we see is that the frontal lobe and for the cortex, which is where a lot of logical reasoning and decision-making happens, isn't fully formed till 25, but that's an average. As someone who practices in juvenile law, I can tell you that juveniles run the gamut developmentally and determination of those-- of their intelligence, the culpability or the competency of the juvenile is really best left to the trier of fact or the judge, as they are so wildly different. They need to look at the encompassing of all circumstances to make a determination about the appropriateness of juvenile rehabilitation services. This brings me to sections concerning the sentencing guidelines and extending jurisdiction to under 22 for those convicted of Class IA and IIB felonies. These felonies include things like premeditated murder, second-degree murder, which includes an element of intent, human trafficking of a minor, sexual assault of a child or the defendant is over 19 and the victim is under the age of 12. The County Attorneys Association believes that substantial reductions and lower automatic parole eligibility is not appropriate for convictions of these crimes, nor is carving out extended juvenile court jurisdiction. Current statutory scheme provides judges with substantial discretion to impose sentences within the statutory scheme. I'll touch on a few remaining items with my remaining time. Regarding sections addressing custodial interrogations, safeguards are already in place that allow for advisement of rights and a framework by which defense attorneys may challenge the efficacy of those advisements and seek for statements to be admissible. Section 10 clarifying the notification burden of law enforcement, we feel it's fine. It pretty much codifies best practices and what we see in our day-to-day work. So there's no objection to that. Section 4

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extends the notification from parent to the phrase, "parent, guardian or custodian." This is a language we would like to see changed as it better encompasses the array of family types we see and recover outlier situations like, for example, where a juvenile doesn't have a parent because their rights have been terminated and the, the department is their legal guardian. So this would ensure that we are making the right notification to the right legal custodian of the child. And so there's other places where we've-- there's compromise. For example, the day, day reporting services. I do agree with Senator McKinney. We do need to see more cooperation between Probation and HHS. We have crossover youth or kids where we see the families as well as the juveniles needing services. It is kind of a pointing-- you pay; no, you pay. So that type of coordination, we believe, would be appropriate. And all I--

**WAYNE:** Thank you for your testimony.

**BRI McLARTY:** Thank you.

**WAYNE:** I'm pretty sure somebody will ask questions. Senator DeBoer.

**DeBOER:** Yes. Thank you, Senator Wayne. You were talking about areas where you don't oppose but might be willing to support and it was going very fast there end so I think what you were talking about was the family resource and juvenile assessment center and also the--

**BRI McLARTY:** Day reporting, yes.

**DeBOER:** Say, say it slow.

**BRI McLARTY:** Day reporting.

**DeBOER:** The day reporting, yes.

**BRI McLARTY:** So day reporting services, to briefly explain what it is, it's a place in which they have adult supervisors for juveniles. We typically-- when we had the service available in my community, we'd use it for kids that maybe were suspended. So they had in-school suspension, they were on probation. We would have them go there and the probation officer would set up services. They would either meet with their community youth coach, they would make sure that they got their education materials so that they could still work on school while they were suspended. So kind of provided a supervisory oversight so the juveniles weren't just left home alone or left in a place where they could possibly pick up new charges. As for the juvenile assessment center and the family resources center, our ask--

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our request for this would be to not limit it to the first metropolitan class, that if it's a pilot program, to allow it to be any community to apply for it. For example, when we were looking at restorative justice services and do the pilot programs for that about four or five years ago, this is where, like, victim youth conferencing came out of. We have pilot programs both in Lincoln and Scottsbluff. And so when it went statewide and the Office of Dispute Resolution started providing funding to local mediation centers and working with county attorneys to start implementing those type of preventative pretrial restorative justice programs, my community in Fremont, we were able to take the Scottsbluff approach and model and drop it right into our community and get going because we already had a county of similar size that had done the pilot program and had figure out how all these pieces work. And I feel like the state would be for if there's a pilot program in Lincoln, if it could be exported to Omaha because they have similar size resources or at least working components. So we just ask if there's a pilot program that it be open to all communities to apply so that similar communities could attempt it and then we can copy it, is what we'd like to see. Because it's a great idea. We see a little bit of this already here in Lincoln with the CEDARS program that just started about two years ago. And then in Omaha, you kind of have a mismatch with the Juvenile Assessment Center that handles kind of more the delinquency, but then you see that multidisciplinary approach with, like, Project Harmony and the work that they do there.

**DeBOER:** OK. Thank you.

**WAYNE:** Any other questions? No, I was just thinking, I was just thinking about what you were talking about. Seeing none, thank you for being here.

**BRI McLARTY:** Thank you.

**WAYNE:** Next opponent.

**ELAINE MENZEL:** Good afternoon--

**WAYNE:** Welcome.

**ELAINE MENZEL:** --again, Chairman Wayne and members of the Judiciary Committee. For the record, again, my name is Elaine Menzel-- it's E-l-a-i-n-e M-e-n-z-e-l-- here today on behalf of the Nebraska Association of County Officials in opposition. I will echo the support for the portions of the bill that Ms. McLarty testified to.

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Our concern with the bill at this time is on page 22, line 7. We would be happy if you would just strike by a county order for purposes of prohibiting counties from placing individuals outside the state. For purposes of illustration, what that-- happens in Scotts Bluff County is that they would have to take you to Madison or Papillion, Omaha or Lincoln, given that those are the locations of the current detention facilities. Those would, at a minimum, be 366 miles, whereas right now, they can go to Cheyenne for the lower amount of 100 miles or one and a half hours, which if I do my math correctly, that's roughly four times the amount of time that it would take to go to that facility. So essentially, that's my testimony related to our opposition. And if there's any questions, I would be glad to attempt to answer them.

**WAYNE:** I have a question. So when you take someone to Cheyenne, how, how long does that kid sit in order for paperwork to-- for an interstate compact to be done?

**ELAINE MENZEL:** I must admit, I don't know.

**WAYNE:** OK.

**ELAINE MENZEL:** And my limited knowledge from talking to the county officials there is that they must have some type of agreement already based upon their using. But I don't know that for sure.

**WAYNE:** OK because it's-- usually it's done by-- per child. I don't know if you can just do a general agreement. Because I know in Douglas County, it takes a-- I mean, a kid sits for six, seven months before he gets transferred to Arizona. So I was just wondering. OK.

**ELAINE MENZEL:** Well--

**WAYNE:** If you had a streamlined process, I was trying to figure it out.

**ELAINE MENZEL:** I would be glad to further ask about it to-- and get back to you if you would like me to.

**WAYNE:** Yeah, that would be great. Thank you.

**ELAINE MENZEL:** OK. I would be glad to--

**WAYNE:** Oh, Senator DeBoer.

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**DeBOER:** Do you have some kind of-- Senator McKinney, I think, mentioned this in his opening about helping families to go visit their children. So do you guys-- do you know of anybody that has a program that would pay for families to go visit their kids out of state?

**ELAINE MENZEL:** I'm unaware of them at this time.

**DeBOER:** OK.

**ELAINE MENZEL:** Perhaps they work with some private organizations in that area or-- for the purposes of our opposition, the distance would be the factor in terms of, but-- so we would face those issues with other counties with respect to being required to go distances. For instance, I believe it was Senator DeKay's area in Madison when they came together as roughly 11 to 15 counties or something like that to form an interlocal to create a detention facility so that they weren't have to travel all across the state to get to some of those. I'm deviating from where your question was going, but that was related to some of those issues, I believe.

**DeBOER:** OK. Thank you.

**ELAINE MENZEL:** Thank you.

**WAYNE:** Any other questions from the committee?

**ELAINE MENZEL:** Thank you for your time.

**WAYNE:** Seeing none, thank you for being here. Any other opponents? Welcome.

**ALGER STUDSTILL:** Good afternoon, Chairman 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. I am the deputy director responsible for the child welfare operations for the Division of Children and Family Services within the Department of Health and Human Services. I am here to testify in opposition to LB339, which makes several changes to the juvenile code and requires DHHS to establish a family resource and juvenile assessment center. We appreciate Senator McKinney's willingness to meet with DHHS to discuss the impact of this bill. LB339 creates a family resource and juvenile assessment center as a pilot program. However, it does not indicate when the pilot is to start or end, nor the intent once the pilot is complete. LB339 would require DHHS to provide assessments and services to youth and families 24 hours a day at no cost. In researching other state

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models, DHHS found that the state of Nevada has long-standing family resource centers established by state law. Nevada published a 2020 report highlighting braided funding as one of the most successful sustainability mechanisms for resource centers. This report highlights additional states that use similar braided funding models, including Colorado, Pennsylvania and Utah. Community partners in Nebraska should be considered in developing a sustainable funding model for the assessment center. Additionally, if the population served by this bill is intended to include youth who could be eligible for probation or diversion services, their role would be at the assessment center should be specified. LB339 extends the age of majority to 22 years of age for individuals adjudicated in juvenile court, for IA and IB felonies. This could increase the population at the youth rehabilitation and treatment centers and would increase the eligible age to be committed to the YRTC's. Individuals over the age of 19 would necessitate sight and sound separation from juveniles in the facility under 19. This could require additional facilities to be built. LB339 states that a juvenile who is adjudicated under the Nebraska juvenile code shall not be transferred out of state. As written, this would apply to all youth in DHHS custody. Currently, there are 3,365 youth in foster care. Approximately 133 are placed out of state. Of the 133, 99 are placed with relatives or kinship caregivers, 16 with parents, 7 in independent living, and 11 are placed in a facility. Given these considerations, I respectfully request the committee not advance this legislation. Thank you for the opportunity to testify and I'd be happy to answer any questions.

**WAYNE:** Any questions from the committee? Senator Holdcroft.

**HOLDCROFT:** Thank you, Chairman Wayne, and thank you for coming today. Can you-- I've never heard of braided funding. Can you explain that, please?

**ALGER STUDSTILL:** So braided funding, Senator Holdcroft, is where not only is one entity that's responsible for providing the funding; it's where multiple organizations. So it could be local nonprofits, it could be federal funding, it could be city or county funding that's all braided together. So it's the, the sharing of resources to make something happen.

**HOLDCROFT:** OK. Thank you.

**WAYNE:** Any other questions? I have a few questions. Do you guys currently provide for travel for family to go out of state to visit those individuals?

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**ALGER STUDSTILL:** At this time, I can't speak to the specifics as if that's provided or if there's anything that would prohibit such, but I'd be happy to follow up and provide a response.

**WAYNE:** So out of the 133 families, you don't know if they're, if they're being seen by their parents or not?

**ALGER STUDSTILL:** Well, as I mentioned earlier, 99 of those are with relatives or caregivers. And typically when that happens, that means they're near permanency and so parents rights may or may not be intact. Of those 133, 16 are actually placed with a parent, 7 are independent living, and then there's 11 which are placed in a facility. Those 11, those young people are seen monthly by their assigned caseworker. And so what I would need to follow back up with the committee is if there's anything that allows for the parents to be paid to go and see those children.

**WAYNE:** So that 11 that's being seen mostly by the caseworker, is that a physical case or-- is it physical face to face or is that a telephone call, Zoom call, technical-- technology type thing?

**ALGER STUDSTILL:** It's physical. The caseworker flies to wherever that state is where that young person is located.

**WAYNE:** So, so we have made a fly a caseworker out there, but we don't have money to fly a parent out there?

**ALGER STUDSTILL:** The caseworker is acting as the caregiver of the child if they're in our care. And so the piece that I would need to follow up on is if there's any legal restrictions for funding to be used for their payment to travel.

**WAYNE:** No, they're, they're in your custody. They're not in your care. The parent still has rights.

**ALGER STUDSTILL:** Correct.

**WAYNE:** Unless their rights are completely terminated, at that point, that's different. So if they're in your custody, I'm trying to figure out if we know 11 are placed in a facility, how we don't know whether or not parents can visit them or not or we're paying for that.

**ALGER STUDSTILL:** So I'm not saying that they're not being visited. What I'm saying we would have to follow up on is if it's allowable for us to pay for them to visit. Nothing prohibits a parent from

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visiting their child wherever they are, as long as their rights are intact.

**WAYNE:** OK so then looking at state models, what in the, what in the bill do you agree with?

**ALGER STUDSTILL:** Our presence here today is to speak in opposition to those pieces that I've highlighted. So in regards to other things that are mentioned in the bill, we're only here speaking on those few issues which were highlighted in my testimony.

**WAYNE:** Is there somebody else from DHHS that can answer some of these questions here?

**ALGER STUDSTILL:** I'm here on behalf of the department today, but if there are other questions in which you have, we can be glad to follow up.

**WAYNE:** So when you studied the research model out in Nevada, what were the obstacles as it relates to the research out in Nevada-- resource centers in Nevada versus here? Did they work? Are they working?

**ALGER STUDSTILL:** Based on the report that's provided by Nevada, they are seeing great results. However, it's not department led. Those resource centers are owned/operated by either local nonprofits or community organizations and so it's not the department or the government entity that's responsible for staffing or responsible for the day-to-day operations. Those are operated by the community.

**WAYNE:** Does this bill prohibit you from operating-- from, from partnering with a community person to, to, to work and establish those facilities here? In my understanding, you guys are just in control. It doesn't prohibit you from, from contracting out to local nonprofits.

**ALGER STUDSTILL:** As written, those things are unclear. But also part of what's in Nevada is it's not just about being in control because Nevada is not fully in control. They're only one piece of how the model is funded. So that's where the braided funding comes into play.

**WAYNE:** Yeah, but that doesn't make sense because the funding may come from three different areas, but if a kid has a facility in the care of the state, the state is the one-- are you saying those kids in Nevada are not in the care and custody of, of Nevada?

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**ALGER STUDSTILL:** The Nevada program is not solely for youth that are in care. It's a preventative model. Most resource centers are typically designed to serve young people that are not even involved in juvenile justice or child welfare systems. And so based on the Nevada report, most of those young people being served are community based.

**WAYNE:** And then Nevada-- just so I'm clear that based off of what you read in the Nevada report, they are seeing successful results.

**ALGER STUDSTILL:** They have seen success, but there's concerns for sustainability.

**WAYNE:** OK. Thank you. Any other questions? Senator Geist.

**GEIST:** So if a student or a child is in detention in Lincoln YRTC or whatever, right now, a parent should be able to come in and visit. Is that--

**ALGER STUDSTILL:** If they're in a detention facility?

**GEIST:** Yes, yeah.

**ALGER STUDSTILL:** I'm unsure as to any particular rules that a detention facility may have.

**GEIST:** OK.

**ALGER STUDSTILL:** As it relates to YRTC, I would have to follow up on the specifics of visiting and how that's designed for the YRTCs.

**GEIST:** But if-- OK, that's all. Thank you.

**WAYNE:** Thank you. Any other questions? Seeing none, thank you for being here.

**ALGER STUDSTILL:** Thank you.

**WAYNE:** Next opponent. Welcome.

**MIKEL LAUBER:** Thank you. Chairman Wayne, members of the Judiciary Committee, my name is Mikel Lauber, M-i-k-e-l L-a-u-b-e-r. I'm the director of news at 10/11 in Lincoln and I'm speaking on behalf of Media of Nebraska, which represents the state's newspapers, broadcast media and associated digital outlets. Our primary role is to advocate for access to public information and transparency, not just for the news media, but for the general public. We're concerned about the

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portion of this bill that would hide the identities of those who are under 18 that the courts have decided should be charged as an adult. When someone who is under 18 is charged as an adult rather than a juvenile in Nebraska, under state law, it means the court has used a balancing test and determined that the need for public protection and societal security has outweighed the practical and nonproblematical rehabilitation of a juvenile. When the decision has been made by a court that a juvenile should be charged as an adult, it's important that that process is just as transparent in their case as it is for every other individual charged in adult court. This transparency is both for the sake of the public who has a right to open government and to be informed about those who've been charged with crimes in their communities and also for the sake of those charged to ensure they receive the same opportunity for public scrutiny of law enforcement and the courts as those who are over 18. This openness is vital for an informed public and for government accountability. This transparency is the reason the public and the news media have a right to attend and observe court proceedings and the reason that media outlets report on the judicial process in our state. Under this bill, we're concerned that it would mean the media and the public would be largely shut out from proceedings involving those under 18 who are charged as adults. When I first became aware of this bill, the case that came to mind was the tragic shooting death of Lincoln Police investigator, Mario Herrera, in August of 2020. It was the first time a Lincoln police officer was killed in the line of duty for more-- in more than 50 years. There was obviously a significant public interest in seeing the person who held-- the person responsible held accountable. Felipe Vazquez was 17 when he shot and killed Officer Herrera. He would ultimately be charged and tried as an adult for murder. He was convicted of first-degree murder and sentenced to life in prison. The hearings and trial were covered by the state's news media and attended by members of the public. This allowed the public to see the justice, justice system work in response to a terrible crime in our community. After his sentencing, Vazquez was charged with another murder that occurred earlier in March of 2020. With this bill in place, law enforcement and the courts would have to tell the public that regardless of the crimes committed or the public's interest in the case, state law requires the entire process to be confidential. Even today, with a convicted killer serving a life sentence in our prison system, it would be illegal for the courts or law enforcement to tell the public who is responsible for this crime. This is obviously an extreme case, but it's an important example of the type of information this bill could conceal from the public.

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Protecting juveniles in our justice system to give the-- give them the best chance at rehabilitation is a noble cause.

**WAYNE:** Thank you for your testimony today.

**MIKEL LAUBER:** You bet.

**WAYNE:** Anybody with any questions? So would you be amenable to say if-- after the motion to transfer is denied or one's not placed in denied and he's-- he or she is in district court?

**MIKEL LAUBER:** Yeah, I think, I think the basics of what we're going for is if it's, if it's happening in adult court, we'd be concerned if that process, which is transparent and open now, would become closed, so.

**WAYNE:** The issue is that we, we start cases in adult court, whereas many other states start them in juvenile court.

**MIKEL LAUBER:** Sure, sure.

**WAYNE:** So should-- would you prefer us to start them in juvenile court?

**MIKEL LAUBER:** I guess-- I mean, that would, that would be preferable, you know, just, just because when that decision is made of whether they're in adult or juvenile court, obviously we're not the experts determining whether that chance of rehabilitation outweighs the public interest in finding out about the case. So we, we're going along with the courts in the end.

**WAYNE:** Well, that's why I'm trying to-- I'm trying to come up with a happy medium--

**MIKEL LAUBER:** Yeah.

**WAYNE:** --instead of trying to-- I mean, if the issue is-- and part, and part of it is I just looked-- KETV and I have no problem mentioning them. Blake Miller, 18, was convicted of changing-- convicted after changing his plea. And what it says in the caption underneath his name is Omaha teen convicted of manslaughter in best friend's death. He was-- then we got the same 18-- we got a different 18 year old that says 18-year-old man arrested in Washington County for homicide. Do you see a difference in words there, 18-year-old teen versus 18-year-old man?

**MIKEL LAUBER:** Yeah.

**WAYNE:** Both adults.

**MIKEL LAUBER:** Um-hum.

**WAYNE:** Now if I add to the fact that one's white and one's black?

**MIKEL LAUBER:** Um-hum.

**WAYNE:** I think that's part of the problem--

**MIKEL LAUBER:** Yeah.

**WAYNE:** --is we don't always cover people fairly when they're eight--  
16 to 18. And so we're trying to make it fair by saying, how about  
you don't cover them until it's in adult court?

**MIKEL LAUBER:** Yeah. Yeah and that-- until it's in adult court, I  
think that we would have no problem with.

**WAYNE:** But what-- all we're talking about is county court original  
charge--

**MIKEL LAUBER:** Yeah.

**WAYNE:** --preliminary hearing--

**MIKEL LAUBER:** Um-hum.

**WAYNE:** --where it goes to district court. Because we're talking  
mainly felony cases.

**MIKEL LAUBER:** Yeah.

**WAYNE:** And then at that point, it's ten days--

**MIKEL LAUBER:** Yep.

**WAYNE:** --to file a motion to transfer, which we all just heard about  
earlier. And then 15 days, you have to have the hearing. So when  
you're talking about not reporting something, you can-- I mean, you  
report that it's an 18-year-old individual. You just don't report  
their name until that motion is denied or accepted, right? Like,  
what's the harm of that from a public perspective?

**MIKEL LAUBER:** I think if that's what, if that's what the bill--

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**WAYNE:** No, no, I'm after--

**MIKEL LAUBER:** Yeah, yeah, I mean--

**WAYNE:** --we're having a dialogue about amendment.

**MIKEL LAUBER:** --I think that would-- you know, I myself personally, you know, we didn't-- as Media of Nebraska, we didn't speak about in that, in that regard so I probably--

**WAYNE:** No, I won't put you outside--

**MIKEL LAUBER:** But--

**WAYNE:** --of your authority. So could you--

**MIKEL LAUBER:** Yeah.

**WAYNE:** Could you take that back to him and let's have a conversation about it?

**MIKEL LAUBER:** Yeah, absolutely.

**WAYNE:** OK.

**MIKEL LAUBER:** I think that would be perfectly reasonable. The last thing we want to do is blast somebody's name out there where the court ultimately decides that they should be in juvenile court.

**WAYNE:** Right.

**MIKEL LAUBER:** Because they've got a good chance of rehabilitation that outweighs the public's interest.

**WAYNE:** So that's what happened in Omaha multiple times with the 11-year-old who got transferred and his name has completely been out there forever.

**MIKEL LAUBER:** Yeah.

**WAYNE:** I can name multiple cases.

**MIKEL LAUBER:** Yep.

**WAYNE:** So I think we're trying to find a happy medium. So if you--

**MIKEL LAUBER:** Yeah.

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**WAYNE:** --can ask your organization that and--

**MIKEL LAUBER:** Yes.

**WAYNE:** --maybe we can work on an amendment. I don't even know if Senator McKinney will agree to that or not.

**MIKEL LAUBER:** Sure. Understood.

**WAYNE:** I'm just having a conversation.

**MIKEL LAUBER:** Yeah. I think the main concern is those cases that go to adult court, stay in adult court, somebody is convicted in adult court--

**WAYNE:** Right.

**MIKEL LAUBER:** --that we can't report that name.

**WAYNE:** I understand. Thank you.

**MIKEL LAUBER:** You bet.

**WAYNE:** Nex-- oh, any other questions? Next opponent. Next opponent. Seeing none, moving on to neutral testimony. Man, we are gonna go buy a lotto ticket today.

**DANIEL MARTIN:** I know, I know.

**WAYNE:** You guys have agreed twice and now you're neutral? Welcome back.

**DANIEL MARTIN:** Thank you. Again, my name is Lieutenant Daniel Martin, D-a-n-i-e-l M-a-r-t-i-n. I'm here as-- representing the Omaha Police Officers Association as the vice president of that organization and an 18-year veteran of the police department. I originally-- if you look at my blue sheet, I was in opposition to this bill. I've had a lot of time to reflect today, go over this. And this bill has a lot of really good bones. It's got some bones that are broken, but it's got a good foundation. There's a lot of things that we like in there. There's a lot of things that we don't. But again, we come to Lincoln every year and we talk about juvenile issues and we try to fix everything and try to make everybody feel good. And half the time, nothing works. This is a good starting point for the OPOA, other stakeholders, DHHS, Probation, Senator McKinney to come together and build off this. Let's start off with things that I love about this

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bill. I love that-- the expanded use of day and evening reporting centers, I think are really important, especially for accountability. I'm glad that that's in there. And I also like the idea-- and we'll have to talk to DHHS about leave-- keeping kids in Nebraska. I think maybe with potentially new infrastructure that was introduced earlier today, that's a step in the right direction. And I love, love, love the establishment of the family and juvenile resource pilot program. How that gets there, how that is done is not up to me. But oftentimes, I see juveniles in the system that don't get any services at all until they're in the system. So things I don't like: extending juvenile confidentiality protections to offenders between the ages of 18 and 22. Those who are legally considered adults in any other circumstance restricts access to information needed by law enforcement, media and other stakeholders to advocate for victims and ensure public safety. And we are steadfastly opposed to seek and reduce mandatory minimum sentences for adults under the age of 22 under certain crimes. We simply cannot support efforts to reduce mandatory minimums for those 18 to 22 that removes discretion from prosecutors that seemingly, seemingly disregards the rights to justice for victims and their families. While neutral on LB339, for these reasons, the Omaha Police Officers Association and I think law enforcement community in general would love to support this bill and are ready and willing to collaborate with the Legislature on meaningful attempts at reform that promote rehabilitation while preserving the safety and security of our citizens.

**WAYNE:** Thank you. Any questions? I would just say I think between the two bills and the testimony-- I had a meeting earlier, but I was still kind of listening on my phone. I think we were-- we're talking and we'll have more conversations with you and other stakeholders.

**DANIEL MARTIN:** Perfect.

**WAYNE:** Any other neutral testimony? One more. Have a safe drive back.

**DANIEL MARTIN:** Thank you.

**AMBER PARKER:** A-m-b-e-r P-a-r-k-e-r, Amber Parker. I'm testifying on the neutral side because I was looking at this. There's a lot of areas and quite frankly, without a attorney present, I wouldn't feel comfortable to 100 percent support any bill. I think it's important to know what existing legislation would be removed and what would be changed or codified. And so anyhow, I want to focus on the LB339 on the areas of prohibiting sending juveniles out of state. You know, I look at the foundation and say, why in the world are we sending

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Nebraska kids out of state? Why don't we have resources in the state ourselves? You know, right now with inflation and gas and-- you know, we're not always guaranteed we're going to have those areas. So we need to take proactive approaches to make sure that we have a good foundation in the state to take care of children, as well as those kids that need an outlet to go so that they're not running risks. You know, when you're looking at children and running risks, you can have some children that do not feel safe at home and they're going to stay with their friends and run away and run away. And then those abusive parents want to bring them back. You're going to have kids and running risks who they, they, they have a rebelliousness and they want to go with what social media is doing or whatnot and they don't care. And they want attention or they don't want attention. They're going to do what they're going to do. You have different groups. And what we need to do is as a state, we need to make sure that these spaces are covered. And it really greatly bothers me. One hundred thirty-three children are out of state. My question is, if they're in Nevada, are they now in Nevada's care in the state? Where is that line of the accountability of who's keeping track of that child? When we're dealing with children in high-risk situations, we have children in sex trafficking and human trafficking. And I'm sorry, I don't trust everybody that works for the government. And to me, it seems very concerning to me not to understand where the, where the filtration process is to make sure that these children that are in those high-risk areas-- and not just those children, but how are we making sure that they're not being in some type of situation because of their high risk and that door opens for them to go into another state and somebody abuse within the government system and take them into sex trafficking and human trafficking? Because I'm going to tell you, the children that are in high-risk situations are forgotten. And I wish this room was so full and people were lined up around the Capitol on this because our state, there are areas we have done a horrific job. And I've heard horror stories and that's why I'm spending my whole day today to come down and say we have to do a better job. I agree; prohibit sending juveniles out of state and involve their families in care.

**WAYNE:** Thank you. Any questions from the community-- committee, committee? Seeing none, thank you for being here. Any other people testifying in a neutral capacity? All right. We'll-- for the record, as Senator McKinney approaches, we have five letters for the record; three in support, two in opposition. Senator McKinney to close.

**McKINNEY:** Thank you. Thank you to everyone who came to testify, whether proponent, opponent or against. I guess I'll start with the

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DHHS's opposition, I guess. I mean, whether-- so it doesn't identify when it starts or stops. You could offer a suggestion to that. You could offer a suggestion to assist with intent, but I think I was clear in my intent when I talked to them another day. Talk about braided funding. And in the bill, it says family resource and juvenile justice center shall house multiple community providers under one roof and provide assessments and services to youth and families to address their immediate and ongoing needs. Whether-- I guess I might just need to clarify that language to say partner with them so you could use services, I guess. What else? They won't pay for families to go see their kids, but they pay for their workers to go hop on, hop on planes to see kids. That's very alarming. And that's the problem with the child welfare system is they don't care about-- if they really cared about the kids, we wouldn't have to ask the question, do you guys help families go see kids that you send out of state and then not even have an answer. Didn't offer any suggestions and didn't want to offer no suggestions but want to come oppose bills. This is why agencies should not be allowed to be proponents or opponents to bills. They should be forced to be neutral because when they come, especially in opposition, they refuse to offer any suggestions of what would get them to be supportive of a bill and that's the problem. The media, I'm cool with figuring out some language, but if a juvenile adult-- if a 16-year-old is sent to adult court and beats the case, are you going to retract that statement or take that post down? And that's the problem I have is just because a juvenile was sent to adult court, that doesn't mean he or she is going to, going to be convicted. So who's going to put that story up to say ex juvenile that was 16 was found not guilty? Because what I've seen in most cases is they don't retract those stories. They don't even take those, those posts down from Google, but they want to post it in the name of let's, let's make sure the public can see everything. But they don't care about that kid who gets accused of a crime at 16, beats the case, applies for college and somebody at that school goes to, go-- does a Google search and says, oh, we can't admit this kid because he was charged with a crime. So it is what it is. It was good to hear at least OPOA come neutral and say what they liked and what they didn't like. And I'm willing to work on that as well. And with that, I'll take any questions.

**WAYNE:** Any questions from the committee? Seeing none, thank you and that will close the hearing on LB339 and today's hearings. Thank you all.