

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 29, 2024

WAYNE: Oh, I was looking for this all last night. All right, all right, all right. All right, all right, all right. All right. We're going to go ahead and start here. Good afternoon, and welcome to the Judiciary Committee. If you don't know, it is the best committee to ever be in the Legislature. My name is Senator Wayne. I represent Legislative District 13, which is north Omaha and northeast Douglas County. And we will start off by having in-- senators and staff do self-introductions, starting to my right.

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

BOSN: Carolyn Bosn, District 25, which is Lincoln, Lancaster County.

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

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

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

DeKAY: Barry DeKay, representing District 40, which consists of Holt, Knox, Cedar, Antelope, northern part of Dixon County, and northern part of Pierce County.

WAYNE: Also joi-- joining us today are our committee pages: Isabel Kolb, who is a political science and prelaw major at UNL; and Ethan Dunn from Omaha, who is a political science major at UNL too. This afternoon, we'll be hearing five bills, and they will be listed in the order outside the room. To my right, by this column over here, there are blue testifier sheets. If you are planning to testify, please fill one out and hand it to the pages. That'll make sure that we have accurate wecords-- records. If you don't want to testify but you would like to record your presence, please fill out a gold sheet. Also, it is our policy that all letters or records must be submitted by 8 a.m. the morning of the hearing. Any handouts submitted by testifiers will be a part of the exhibits. If you have handouts, we ask that you have ten copies. If you don't have ten copies, please give it to the page ahead of time, so that way we can have those copies for the committee during your testimony. Each testimony will begin-- we'll begin every bill with the introducer's opening statement, followed by proponents, then by opponents, then by those testifying in a neutral capacity. After that, if the senator chooses to, they can have closing statements or they can waive closing. We ask to make sure all testifiers please state and spell your last name

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so we can have them for the record. Also, we'll be using the three-minute light system. It starts off as green. One minute left, it'll turn yellow. And at the red light, we will ask for you to wrap it up. I would like to remind everyone, including senators, to please turn off or vi-- silence your cell phones. And with that, we will start with LB1185. Senator Lowe. Welcome to your Judiciary Committee for the last time.

LOWE: What happens if I come back?

WAYNE: Yeah, that might be a problem.

LOWE: Yeah.

WAYNE: Well--

LOWE: Especially with my wife.

WAYNE: I understand.

LOWE: Chairman Wayne and members of this great Judiciary Committee, what an honor it is to have my last bill of my eight-year tenure before you. My name is John Lowe. That's J-o-h-n L-o-w-e. And I represent District 37, which includes Kearney, Gibbon, and Shelton. This is my last session as a state senator, and I just could not end my time here without bringing just one more bill to my favorite committee. LB1185 is a bill that I decided to bring after hearing-- having discussions and meetings with law enforcement officers throughout District 37 and the state. They have concerns with individuals who will come up to them during the middle of a traffic stop or during other official interactions with an individual and shove a camera or phone in their face. This is a problem. This behavior not only causes problems for our police officers, it causes what could be dan-- a dangerous situation. My initial reaction after hearing from our police officers was maybe we ought to-- we should just ban this type of interaction outright altogether. It is my understanding that there have been several U.S. appellate court decisions that have made clear that citizens have the right to record police officers as they work and interact with the public. But I also believe there's a pathway that allows for citizens to record police osser-- officers during their official duties while at the same time giving our officers and those that they are talking with some breathing room and for the state to step in and create a clear pathway to de-escalation. LB1185 makes it an offense of o-- obstructing a police officer if a third party is recording the

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officer within 10 feet of the officer's interaction. LB1185 does not prohibit the recording. LB1185 does not prohibit an individual from being-- who has been stopped or pulled over by an officer from recording the interaction. LB1185 says that a third party must maintain a 10-foot buffer if they are going to record the interaction. I believe that LB1185 creates a safer environment for our police officers, for the individual who has been stopped by the officer, and all ensuring that the third-party individuals maintain the right to record and provide citizens' oversight of police officers. With that, I'm happy to answer any questions.

WAYNE: Any questions from the committee? Seeing none. Will you be here for closing?

LOWE: Of course.

WAYNE: OK. Thank you. First proponent. First proponent. Welcome back, sir.

TERRY WAGNER: Thank you. Thank you. Good afternoon, Senator Wayne, members of the committee. My name is Terry Wagner, T-e-r-r-y W-a-g-n-e-r. I'm the sheriff of Lancaster County, and I'm here today on behalf of the Nebraska Sheriffs Association, Police Officers Association of Nebraska, and the Police Chiefs Association of Nebraska. LB85 [SIC] would provide a safety zone for officers actively involved in law enforcement work. Nothing more, nothing less. There are those who would say this bill was introduced because law enforcement doesn't want to be recorded doing something wrong or to deny an individual's First Amendment rights. On the contrary, we welcome being recorded. We have had in-car cameras for over 30 years and body-worn cameras for over the past decade. These recordings have been invaluable in clearing officers of false accusations or wrongdoing and providing photographic evidence in court. On rare occasions, officer's misconduct has been uncovered and dealt with. We actively solicit video recordings by citizens at the scenes of crimes for their evidentiary value. Let's look at the reasoning behind the introduction of LB1185. If you can, imagine yourself attempting to take somebody into custody, they are resisting, and the struggle is on. As you are working to overcome that resistance, a person you don't know, whose intentions are unknown, whose relationship to the arrestee is not known, gets very close and holds an object in front of them 1 or 2 feet from your face. I can guarantee the officer's total focus needs to be on the struggle before him or her. And now his or her attention has to be divided to determine whether this person holding up the object is a threat or

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not. Should the citizen contact turn into a deadly force encounter, the person videotaping the contact within 10 feet could be in grave danger. Likewise, if an officer is first on the scene of a crime and begins medical first aid for the victims or begins conducting a crime scene investigation, citizens should not get closer than 10 feet to prevent interference with medical personnel or contamination of the crime scene. LB1185 simply provides that safety zone so officers can focus their attention on the task at hand and not have to worry about any outside interference. If someone wants to video an arrest, they can safely do so from 10 feet away under LB85-- LB1185. Thank you. And I would be glad to answer any questions the committee might have.

WAYNE: Any questions from the committee? Senator McKinney.

McKINNEY: What's the, what's the current law on this? Like, if somebody is currently recording officers, what's the current distance that they are required to be away?

TERRY WAGNER: There is, there is no distance, Senator. Most people use good sense and stay a ways away, but, in some cases, somebody videotaping an officer could get right up next to them at either a traffic stop or scene of an arrest or any kind of encounter.

McKINNEY: How often does that happen?

TERRY WAGNER: Well, it happens all the time. I mean, media's very good about following our directions on our request to ob-- observe the zones we have set up. And-- but it, it's becoming more common when there are citizen encounters, where folks will regularly videotape officers and, in some cases, just get right up close to them. I know it's happened. I don't know how often.

McKINNEY: So there's no data to say how many times per year somebody, when a officer is making a arrest or a traffic stop or whatever, somebody is recording an officer or trying to record an officer, how many occurrences is somebody getting under 10 feet or less?

TERRY WAGNER: I have no way of knowing that, sir.

McKINNEY: OK. Thank you.

TERRY WAGNER: Since it's not a crime, nobody keeps statistics on that.

McKINNEY: OK. All right.

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DeBOER: Thank you, Senator McKinney. Are there other questions from the committee? I don't see any. Thank you so much for being here.

TERRY WAGNER: Thank you.

DeBOER: We'll have our next proponent. Next person in favor of the bill. Now we'll move to opponents.

SPIKE EICKHOLT: Good afternoon, Vice Chair DeBoer and members of the committee. My name is Spike Eickholt, S-p-i-k-e; last name is E-i-c-k-h-o-l-t. I'm appearing on behalf of the ACLU of Nebraska and the Nebraska Criminal Defense Attorneys Association as their registered lobbyist in opposition to the bill. The bill would make it a crime for a person to record either video or audio within 10 feet of while that officer is engaged in duty. That's what the bill does. The example, respectfully, that Sheriff Wagner gave about a person shoving an object 1 or 2 feet in an officer's face when they're trying to arrest somebody is a crime already. That is obstructing already. If you look at the bill itself, it replicates the current statute-- statutory language. And it's on page 2, lines 5 through 7: If any person, by using or threatening to use, violence, force, physical interference, or obstacle, intentionally obstructs, impairs, or hinders a law enforcement officer. That's obstruction of a peace officer. That's already a crime. Many people who support these bills talk about instances in which officers are spit on, they have something shoved in their face, they're interfered with. That's criminal. This already-- this would add more. This would prohibit somebody from recording not just with a phone, but audio. So for instance, an officer comes to my door. My Ring camera is recording everything that's happening. I'm within 10 feet of that officer. Presumably he's actively engaged or she is actively engaged in their job because they're doing their duties. I'm committing a law violation under this bill. Similarly, many trucking companies and so on have video and audio recording in the cab. If somebody stops them in a traffic stop, that's recording. You're within 10 feet of the officer. That's a violation. The courts are clear, and they have been uniform across the country, that people have a right to observe peace officers while they're on duty and they have a right to record. I passed out my testimony. Nebraska's in the Eighth Circuit for the federal courts. There's an Eighth Circuit case, Chestnut v. Wallace, in which dealt with a bystander who was arrested by observing police arrest somebody else. And it dealt with a tort of-- oh, qualified immunity defense that the officer was trying to assert. But this-- Court of Appeals discussed citizens' rights to observe and record. And they did note that every circuit court to have considered the

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question of whether a person has the right to record police activity in public has held that they do. So for policy reasons-- and really, frankly, because this bill is unconstitutional-- we'd urge the committee to not advance it. I'll answer any questions if anyone has any.

DeBOER: Are there questions from the committee? Senator Blood.

BLOOD: Thank you, Vice Chair DeBoer. So, Spike, I had trouble hearing you.

SPIKE EICKHOLT: I'm sorry.

BLOOD: Why is this not constitutional?

SPIKE EICKHOLT: The, the courts have been clear that people have a right to observe and record police while they're on duty.

BLOOD: Right.

SPIKE EICKHOLT: Full stop. You don't have any right to interfere with an arrest. You don't have any right to distract an officer who's trying to do their job. You don't have a right to intervene and bother the cops when they're trying to do their thing. But if you want to record or observe them, the courts are clear. You have that right. You can't be arrested for that, and so on.

BLOOD: OK. Thank you.

DeBOER: OK. Other questions? Senator DeKay.

DeKAY: Thank you. And that's in statute that the 10-foot barrier-- that's a-- just that you have to be away?

SPIKE EICKHOLT: I haven't looked at what all the-- I haven't looked at all the scenarios in which the courts have said that you have a right. They come up in a variety of different issues. Sometimes people are prosecuted for resisting arrest or obstructing a peace officer or some similar thing. And maybe some of those laws had a 10-foot barrier. A lot of them come up-- a lot of the cases discuss instances in which someone is arrested, detained, but not charged with anything. So there's not any kind of criminal case going on, but they sue the police department or sue the peace officer. The officer then claims qualified immunity and there is a discussion of whether the officer was operating within the scope of their authority by arresting somebody. I-- with respect to the 10 feet, I'd argue that's

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just an arbitrary limit. In other words, I think you can probably commit the crime of obstructing a peace officer from 20, 30 feet away-- by shouting, having a PA system, something that interferes with that arrest. And I understand what Senator Lowe is trying to do to accommodate some sort of middle ground, but I think the 10 feet is really just kind of arbitrary.

DeKAY: That was going to be my question. Were-- what the distance would be or what circumstances would come into play that would-- could possibly distract a police officer to turn for a second and make that whole situation go south.

SPIKE EICKHOLT: I wish I'd have brought the case, but there was a case that our Supreme Court affirmed a conviction for somebody for either obstructing a peace officer or interfering with a peace officer. That happened in downtown Lincoln. The downtown Lincoln police-- the, the Lincoln police were doing a DUI investigation of somebody. And it was right during bar close, and so, of course, you can imagine people walking on the sidewalk. And some guy was hollering and distracting the officer, and then they were charged with it. And I, I don't know the facts specifically, but I assume it was more than 10 feet away.

DeKAY: Thank you.

DeBOER: Thank you, Senator DeKay. Other questions? I don't see any. Next opponent.

KORBY GILBERTSON: Good afternoon. My name is Korby Gilbertson. It's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm appearing today as a registered lobbyist on behalf of Media of Nebraska, Incorporated in opposition to LB1185. I won't try to repeat a lot of what Spike said, but I will bring up that there was a very similar piece of legislation that was passed in, in Arizona-- only that piece of legislation was 8 feet, not 10. And it was thrown out for being unconstitutional, a restriction on First Amendment rights to observe. If you want to know more about other cases, I can go into those as well. But one of the things that we talked about-- and I think Spike kind of touched on this-- but if you had a circumstance where someone was pulled over in an automobile and the passenger wanted to record, they would be obviously less than 10 feet away. The problem with this is they need to then, as Sheriff Wagner said, they need to move so that they would be more than 10 feet away. My observation is police officers don't usually like it when someone gets out of the car during a traffic stop, so that might lead to other problems. Sheriff

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Wagner also brought up the fact-- and I think he said that body-worn cameras have been invaluable in clearing officers of wrongdoing and that they like having those recordings. The problem with that is they are not public records. So the public doesn't have access to them. And even if a-- they are usually referred to as an investigative record. And even if the case has gone through the court system, they still do not release those because they still say they are part of the investigative record. So I, I think that's fine to argue that but only if they would be available to both sides. And with that, I'd be happy to answer any questions.

DeBOER: All right. Are there any questions from the committee? I don't see any. Thank you for being here.

KORBY GILBERTSON: Thank you.

DeBOER: Our next opponent. Anyone else in opposition to the bill? Let's go with our first neutral testifier. Anyone in the neutral capacity? Seeing none. I'll announce for the record that there were 7 letters: 1 in support and 6 in opposition. Senator Lowe for your close. Whenever you're ready.

LOWE: Senator Wayne said he was coming back for my close. I'm going to wait. No. What an honor this is to have my last bill up before the Judiciary Committee. I, I remember Senator Chambers berating me every time I came in here and sat down. I want to thank the testifiers that came in-- Sheriff Wagner, others that came in in support but didn't speak. I didn't want to belabor this today. There were many law officers who wanted to come in and speak in favor of this bill. This is not just for the interest of the police officers. It's also for the interest of the individuals that may be interacting with the police officer. They become nervous when a camera is shoved in their face and they want to know why they're there. Why's it happening? You know, our media used to be the ones with the cameras. And they looked like the cameras that are sitting over here. They're, they're not these all-powerful little black boxes that we carry with us. Everybody's got a camera and they all want to record what's going on, and sometimes it needs to be recorded. They, they want to make sure everything is done right or they want to catch a slip-up somewhere, whether it is the individual that's getting nervous because they're being recorded or because-- I'm, I'm talking very slow on your account. I didn't want you to miss this.

WAYNE: I didn't. I wanted to be here for your closing.

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LOWE: But I feel sorry for the people behind me and the last bill introducer also. But it's, it's-- our law enforcement officers have a tough enough job the way it is without individuals interfering. And the wingspan of a man is 6 feet. So something just outside that seems reasonable to me for somebody to stand back as the law enforcement officer is having an interaction with this individual, and that's why we came up with 10 feet. And so-- you don't know what's happening in people's minds, and, and-- so that's why I brought this bill. We have law enforcement officers that are being harassed by people constantly. Not only are they video-- videoing and, and taking pictures of the officer. They're also doing it of their families. And it, it's-- I don't care if somebody is attacking me in my position, but it's not nice when somebody is attacking my family.

WAYNE: Senator Blood.

BLOOD: Thank you, Chair Wayne. So for clarification, you're saying that this bill should also-- it also applies to their families, but that's already a crime.

LOWE: No, it, it, it doesn't apply to that family. I'm saying it, it's happening now, and people are getting more and more bold as, as they're doing things.

BLOOD: All right. So, so in closing, when you were saying that, you weren't referring to the bill.

LOWE: No, I wasn't referring to the bill.

BLOOD: OK. Thank you.

WAYNE: Any other questions? Senator McKinney.

McKINNEY: Thank you, Chair Wayne. Thank you, Senator Lowe. I know you had mentioned that, you know, law enforcement officers are being harassed and they feel un-- uncomfortable with individuals recording them. And I think part of the reason people began to record law enforcement officers-- part of the reason was because law enforcement is hesitant to release body cam footage. And at one time, there was no body cam footage. So would you be open to making body cam footage more public or public?

LOWE: The law enforcement officers that I spoke to were not uncomfortable with being recorded. They, they, they, they think it's OK to be recorded. They, they want to be held responsible. The, the uncomfortable people are those being-- interact-- that, that, that

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are in-- interacting with the law enforcement officers. And what could be just a normal stop could escalate into something more serious just because they're recording.

McKINNEY: OK. But even to take that away, would you be open to making body cam footage public?

LOWE: I think that's a new bill and maybe should be discussed next year.

McKINNEY: OK. Thank you.

WAYNE: Any other questions from the committee? Seeing none. We have 7 letters: 1 in support, 6 in opposition. And I'm just going to take time because you are a classmate of mine that-- in my community, we talk about giving people flowers. And so it is the last committee day for you and our last day that we'll be in committee. Will you give that to Senator Lowe? So I wanted to give you your flowers--

LOWE: The love is all around today.

WAYNE: I wanted to give you your flowers personally because although I think you've only voted for two bills in the eight years of mine-- here's what I will say, is you were always honest. You've always been logical. And when you can't get to a point, you just tell me you can't get there. And I think that is lost among many of our colleagues, to just have an honest dialogue. And I appreciate the evenings at Billy's and talking through things and your perspective because you challenged me to be a better senator. And hopefully I, I challenged you to be a better senator. But the open and honest conversation on why you, you can or can't get there has always been helpful and it made me be, I think, a better person on the floor. So I wanted to give your last committee hearing and say thank you for being there from day one from Bellevue when we first met over at Offutt Air Force Base doing a shot of water.

LOWE: Woof. Woof.

WAYNE: Yeah, it was just a shot of water. Don't worry about it. We didn't have any alcohol that night. But, no. Seriously, you, you are a gentleman. You've been a scholar, and you've, and you've represented your community very well. So thank you for being here and thank you for ending your last day with me.

LOWE: It's been an honor serving with, with you, Senator Wayne and Senator Blood. These eight years drug on at times, but they went

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really quickly this last year. So thank you very much for everything you've done, and, and both of you represent your districts very well.

WAYNE: Thank you.

LOWE: So thank you.

WAYNE: And that'll close the hearing on LB1185. I have to go back in Revenue because my bill's still up, so.

DeBOER: That will open the hearing then on LB1224. And Senator-- Senator Jen Day. Senator Day, you are welcome-- let's try to take as much time-- welcome to open. Welcome to your Judiciary Committee.

DAY: Thank you. Good afternoon, Vice Chairwoman DeBoer and members of the Judiciary Committee. My name is Jen Day. That's J-e-n D-a-y. And I represent Legislative District 49 in Sarpy County. Today, I'm here to introduce LB1224, which would make it illegal to use a tra-- a tracking device or application on another person without their consent. The idea for this legislation came after hearing the story of an Omaha woman who found out that she was being tracked on her phone and also through the use of an AirTag snuck into the bed of her truck by her estranged husband. Although her ex was arrested for stalking and then had charges reduced to disturbing the peace, both sets of charges were dropped because this specific act does not meet Nebraska's stalking statutory requirements of an intent to intimidate or harass. Unfortunately, this is not an isolated incident. Both in Nebraska and nationwide, this is disturbingly common. Last year, there was a class action lawsuit filed against Apple with 37 direct victims of AirTag stalking in the case. And additionally, following the murder of an Ohio woman by her ex-boyfriend, investigators found a tracking device attached to her car. This specific case prompted an illegal use of tracking device bill, which is working its way through the Ohio state legislature and recently unanimously passed their state senate. In addition to Ohio, 19 other states, including Michigan, Illinois, and Virginia, have moved to ban nonconsensual electronic tracking. The issue right now is that, in a number of states, including Nebraska, stalking laws involve an intent to intimidate, which does not exist in this situation. Much to the contrary, what makes this situation so disturbing is the victim often has no idea they're being tracked. As a result, there's a huge gap right now and these cases are unable to be prosecuted. This was the case in Omaha, where the Douglas County Attorneys Office concluded that secretly putting an AirTag on someone's phone wasn't a violation of any specific law. I think we can all agree that digitally tracking

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someone, whether a partner, stranger, or acquaintance without their knowledge is invasive, grotesque, and something that would already be illegal if the technology existed when we wrote our state's stalking laws. Simply put, we have to evolve our laws to match when technology is being used in a malicious manner. Since 2016, the Department of Justice has reported that twice as many stalking victims are now targeted using technology compared to, to traditional methods. To address this, LB1224 creates a penalty for installing a mobile tracking device on another person's property without their consent. The bill is written in a manner that would apply to trackers like AirTags or installing a tracking app on someone's phone. The penalty for a first offense would be a Class I misdemeanor. A second offense prior to stalking conviction or an offense while the victim had a protection order against the offender would raise the penalty to a Class IIIA felony. I also want to highlight that this bill has a number of exclusions. Our goal when we wrote LB1224 was to prohibit the specific act of digitally stalking someone without their knowledge with a tracking device. However, there are a number of reasons you could use these devices in good faith. For example, a business putting a tracking device on one of their vehicles, legal guardians of at-risk adults, parents monitoring-- monitoring where their children are, and it is not our intention to legislate these situations. Our focus is on the idea that it should be illegal to use these digital tracking devices to stalk someone, and the exclusions were necessary to create this narrow focus. Before I conclude, I would like to highlight one amendment we're recommending: AM2721. This clarifies language that allows businesses to put a tracking device on vehicles they own and aligns with our scope of the bill. We don't want to touch the status of any other circumstances except for these cases where you have people using devices in a clandestine manner to track and stalk people without their permission. LB1224 presents a critical step forward in addressing digital stalking through the unauthorized use of tracking devices. We all agree that Nebraskans have an expectation of privacy, and this bill updates our statutes to close the gap in our legal framework that currently leaves victims vulnerable and unable to seek justice if this is violated in a specific situation. You'll be hearing testimony from the Nebraska County Attorneys Association, Voices for Hope, and the Nebraska Coalition to End Sexual and Domestic Violence. But with that, I am happy to try to answer any questions.

DeBOER: Are there questions from the committee? Senator Blood.

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BLOOD: Thank you, Vice Chair DeBoer. Thank you, Senator Day, for bringing this important bill forward. I, I got a question for you, though.

DAY: Sure.

BLOOD: So you and I are both aware of some of-- I'm going to use this as an example because this is something that you and I can relate to-- are aware of some people utilizing tracking methods for dirty campaigning.

DAY: Right.

BLOOD: So these same methods can be used on these victims. So we can take these mobile tracking devices off of vehicles and make it illegal, as we certainly should. But then we still have to Geofinder and Find Data Now and Spokeo and mSpy. There's, like, ten others-- those are the ones that I can think of right now-- where if I've got your phone number, I can find you anywhere. So are we playing whac-a-mole or do we need to broaden what we can and can't do?

DAY: I think that's a good question, and it's something that I think we definitely need to at least start a conversation on because it's a, a serious issue whichever method is being used. And I think that-- but I think that there's always-- has to be a balance between making sure that we're protecting individual liberties while also making sure that we're protecting potential victims in any situation. So I-- obviously, this bill would not apply to those other situations and--

BLOOD: Which, if, if I were--

DAY: Right. And when--

BLOOD: If I was going to harass somebody, I would just find a different method.

DAY: --it would be difficult to legislate that. Yes.

BLOOD: And this would be cheaper.

DAY: Yes. Right. But I think the-- you know, this is the first time we've even talked about any kind of digital stalking in Nebraska, so we are essentially today hoping to at least start a conversation. And whatever that turns into in the future, we would like to at least get to work on doing some kind of protection for folks.

BLOOD: It's really unfortunate that technology has made it easier--

DAY: Right.

BLOOD: --for people to violate-- to violate people's privacy and--

DAY: Exactly.

BLOOD: --to harass victims.

DAY: Yes. Agreed.

BLOOD: And, and we can pass bill after bill after bill--

DAY: Right. And there will always be technology evolving faster than we can produce legislation. Right? We know that. But we can't continue to just do nothing about it as technology evolves because I feel like we're already behind in terms of how technology has adapted to make it easier to stalk someone and then proceed to victimize them through violence of some kind. And so-- yes, there are other ways that people can access someone's location, but I hope that, at some point, we can start doing something about it with legislation. Whether that's one thing or all the things is yet to be seen.

BLOOD: [INAUDIBLE]. But it could be done to protect us as well. I used geotags when someone kept stealing my signs. And we were able to track it--

DAY: Yes.

BLOOD: --back to their house when they stole them, so.

DAY: Right.

BLOOD: It could be used for good things too.

DAY: Yeah. For good as well. Of course.

BLOOD: Thanks.

DAY: Yep.

DeBOER: Other questions from the committee? Senator Bosn.

BOSN: Thank you. Thank you for bringing this bill. I-- is this legislation mirrored after another state's legislation?

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DAY: Ohio, yes.

BOSN: The, the reason I ask-- if I'm looking at page 6, line 11, subsection (d) says: The offender has a history of violence toward the victim. And maybe this is a conversation somebody after you or you and I can have at another time--

DAY: Yeah.

BOSN: --does that require a conviction or does that mean-- what is-- a lot of times, we have to have a prior conviction before we can do an enhancement, which this is, because it goes to a IIIA felony. And so I-- if that is your intent, then-- I just worry that a prosecutor may come in and say, well, it's all outlined in their protection order. Is that enough to show a history of violence or is that not, not enough?

DAY: I think that's a great question. And I don't know the answer to that--

BOSN: OK.

DAY: --but I'm happy to--

BOSN: Fair enough.

DAY: --figure that out. Yeah.

BOSN: I just wondered if that section came from another state who has [INAUDIBLE] that's enough.

DAY: We di-- yes. We-- and-- yeah. I'm not sure if-- that's exactly where the-- what the difference is between Nebraska and Ohio. But we did get this from some Ohio leg-- legislation. And I'm happy to figure that out.

BOSN: OK. Thank you.

DAY: Mm-hmm.

DeBOER: Thank you, Senator Bosn. Other questions? Senator Day, I have one.

DAY: Yes.

DeBOER: Is there-- since-- this kind of got triggered by what Senator Blood was asking you. Is there a way we could, like, modify or amend

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our stalking statute as it is now to incorporate, like, more of these things? I don't know. That's just something I didn't know if you guys thought about or--

DAY: I'm not sure. That might be a good question for somebody behind me who has a better understanding of the law than I do.

DeBOER: Yes.

DAY: Yeah.

DeBOER: All right. Any other questions? OK.

DAY: Thank you.

DeBOER: Thank you, Senator Day. Will you be here to close?

DAY: Yes.

DeBOER: All right. First proponent. Welcome.

RACHEL BOLTON: Thank you. Good afternoon. My name is Rachel Bolton, R-a-c-h-e-l B-o-l-t-o-n. I'm testifying on behalf of the Nebraska County Attorneys Association in favor of LB1224. I currently serve as a deputy county attorney at the Sarpy County Attorneys Office with a focus on domestic violence. I prosecute any crime where the defendant and the victim meet the definition of intimate partners. I'm testifying in support of LB1224 today because I have personal experience with victims of the actions that this, that this bill would criminalize: individuals who are being tracked without their consent. This is criminal behavior, but it is not a crime in Nebraska. My experience has been primarily with individuals who are also the named victims in other crimes who have been or are being tracked by their abuser. One instance came to my attention when a victim of a domestic assault who began to share the other ways that she had been abused by the defendant. She casually mentioned to me that she had found out he had been tracking her without her knowledge. Another one came in after the victim had taken her vehicle into a car shop and the auto mechanic had located a tracker on her vehicle. An investigation was conducted and a request for a warrant was submitted for a stalking charge. But after reviewing the investigator's warrant request, I did not believe that I had the facts necessary to support a stalking charge, and I was unable to prosecute under any other current laws. The sentencing provisions that are proposed by LB1224 mirror the sentencing provisions of the stalking statute, which makes this offense a Class I misdemeanor, the

same classification as a third-degree domestic assault, violation of a domestic abuse protection order. I believe that this appropriately reflects the severity of this behavior and the level of victimization that these victims experience. The provisions also allow for the enhancement of the classification for various reasons. These enhancement provisions allow for the offense to be classified as a IIIA felony, the same classification as a subsequent stalking offense, subsequent domestic assault, or subsequent violation of a domestic abuse protection order. The protection and-- order enhancement provision is particularly important to me, as protection orders presently do not prohibit the tracking of a protected party. So long as the tracker does not communicate with the victim, the respondent to a protection order could, in theory, place a tracker on the victim's vehicle and not be in violation of that protection order. We live in a world where technology makes our lives better and also, in some ways, worse. Using an app to track your teenagers or your spouse or your friends is-- and family is accepted. It is a piece of technology that many people benefit from in their daily lives. But like most technology, it can be abused. And it is being abused. There are people who are tracking others without their consent, and it is not currently a crime in Nebraska, but it absolutely should be. I ask that you vote in favor of LB1224. And I thank you for your time. I would welcome your questions.

DeBOER: Are there any questions from the committee? Senator Bosn.

BOSN: Thank you. Thank you for being here. So you heard the questions that I asked--

RACHEL BOLTON: Yes.

BOSN: --Senator Day about the language specifically referring to a history. Do you see where I was going with that?

RACHEL BOLTON: Yes, ma'am.

BOSN: OK. Can you tell me how you think this bill covers that? Or do we need to tighten that language up a little bit?

RACHEL BOLTON: I actually had the same thought that you did. I think that tightening the language would be a good idea. I think if the intent is for there to be a requirement of a previous conviction of violence with the same victim, that--

BOSN: Or even disturbing the peace of the same victim or--

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RACHEL BOLTON: You-- yeah. You could, you could expand language to any crime that lists the-- has the same named victim listed.

BOSN: Right.

RACHEL BOLTON: Which I, I think the idea of disturbing the peace is, is beneficial because many crimes do get pled down to that, but they're still listed as the victim of that type of crime.

BOSN: Have you prosecuted specifically stalking charges?

RACHEL BOLTON: Yes, ma'am.

BOSN: OK. So the example that Senator Day gave of an individual who found a tracking device I assume is the same that you're referring to in paragraph 3 of yours. What, what did you think was missing? Because the putting on of a tracking device on someone-- I guess we look at that from both the perspective of the victim and the intent of the defendant, right?

RACHEL BOLTON: Yep.

BOSN: But it-- I mean, what other purpose would they have but to intimidate and harass them? I mean, is there a case law that says that wasn't enough?

RACHEL BOLTON: No, but the way it-- so the way that the stalking statute is written-- it's actually a, a, a cluster of statutes. It's harassment and stalking, and they're all built together. And then there's the definitions in there. So the definition of harassment is a, is a course of conduct which can be in a short period of time or a long period of time, but it has to be a course of conduct that, in my opinion, the, the victim has to know that that course of conduct is occurring. So if, if, in theory, if someone is tracking somebody and they don't know, you can't be intimidated or threatened if you don't know something is happening.

BOSN: Well, arguably, you're upset every day thereafter that you know, right? I mean--

RACHEL BOLTON: But then the course of conduct is done.

BOSN: I gue-- I-- and I'm not arguing with you. I'm just--

RACHEL BOLTON: No, that's OK.

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BOSN: --trying to think-- to me, if, if I had a tracker on my car in December of 2013 but I-- or, 2023 but I didn't find out about it till January of 2024, but now that I know and I'm thinking back to the times that I drove to some place in December that I wouldn't have wanted that person to know I went to, I'm having to relive all of those intimidation moments even after the fact. Now, maybe that's too far attenuated, but I, I, I share the frustration that that put you in when you knew that that was certainly stalking. Just--

RACHEL BOLTON: Absolutely. And I, I think that thinking that it is the same thing as stalking is very common. I think the-- primarily, the intent of the defendant and then the subjective intimidation, terrify, or threaten of the victim are the two separate parts that I struggle with on the tracking. The intent of the defendant-- intent is always very difficult to prove. There are, are many reasons someone could say that they intended to track somebody that don't involve terrifying, threatening, or intimidating. Placing a tracker on a vehicle, for instance, there, there are a million different excuses someone could give for that. So that intent part of it is, is very difficult when it comes to tracking.

BOSN: Fair enough. Thank you very much.

DeBOER: Other questions from the committee? Senator McKinney.

McKINNEY: Thank you, Senator DeBoer. I guess-- is it possible for somebody to install something and it-- and you never find it?

RACHEL BOLTON: I suppose.

McKINNEY: OK. So what about if somebody shared-- like, let's say you're married to somebody. Y'all follow each other on social media or some type of app somewhere. Y'all get a divorce. Y'all don't like each other and you get a protection order. But for whatever reason, your location is still shared on social media. Would that violate this?

RACHEL BOLTON: Yes, and it's actually addressed in the statute itself. There's language that indicates that if two peop-- if two people are spouses and the-- one files for the divorce, that constitutes revoking consent to be tracked.

McKINNEY: But if we follow each other on social media and you don't unfollow me or unfriend me-- how does that make sense? You ge-- you get where I'm getting at here?

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RACHEL BOLTON: I, I-- are you tracking someone through social media?

McKINNEY: No, but you're sharing your location.

RACHEL BOLTON: Oh. So if, if you post and choose to share your location?

McKINNEY: But-- we're-- yeah. But-- you got-- we got a divorce and you have a restraining order on your ex-husband. But for whatever reason, I don't-- we're still somehow connected on social media because there's a bunch of apps where locations are shared. And I don't even think people realize at times you're sharing your location. Would that person be in violation unintentionally?

RACHEL BOLTON: I don't, I don't know that I'm following your question. I'm so sorry.

McKINNEY: What I'm, what I'm asking is, is it possible for somebody to unintentionally violate this, this, this, this law by being married to somebody-- during a marriage, we follow each other on all these social media sites. Then we get a divorce. You get a-- the, the person gets a restraining order. We're still following each other. Am I-- would that husband or that wife still be in violation?

RACHEL BOLTON: And by following each other, you mean that you're sharing locations in some way?

McKINNEY: One of u-- one, one of the two is still, still sharing the location and we're still able to see each other's location. Is that a violation? Because I didn't unfriend you or, or that person didn't unfriend the other person.

RACHEL BOLTON: I don't think being friends on social media would be a violation. I'm not sure--

McKINNEY: But you're still--

RACHEL BOLTON: --about the tracking.

McKINNEY: But I'm still able to see that you're at Walmart for whatever reason.

RACHEL BOLTON: Because that's the profession I have posted? I'm so sorry, sir.

McKINNEY: Like, for example, on Snapchat.

RACHEL BOLTON: OK.

McKINNEY: You could directly see that I'm in this room, possibly, if I wanted to share my location.

RACHEL BOLTON: Sure. OK.

McKINNEY: Or that I'm in this building.

RACHEL BOLTON: So I think this-- if I recall correctly, I think the statute language requires that the person either places or installs in some way a tracking device or app on the person's information.

McKINNEY: But it, it's also-- the consenting person whom is given-- but it's, but it's another part where it says: For the purposes of this section, if a person-- but then it's like-- it gets kind of murky about the marriage portion of this. So-- I don't know. Like, the consenting person and the person whom consent was given are married and one of them files an action for divorce, annulment, or separate maintenance-- I don't know. Maybe I'm just reading this wrong, but I don't know if it's clear that if two people get a divorce but they were follow-- following each other on social media and one of them was sharing their lo-- a location, could you indirectly violate the law?

RACHEL BOLTON: I think if the choice to share the location is with the per-- person who's the victim, then, no, I don't think so.

McKINNEY: But it says the person revokes the consent if the marriage takes place.

RACHEL BOLTON: Correct. The consent--

McKINNEY: That-- but that's from-- that's-- I kind of-- that's my point. If you revoke the consent if marriage takes place and we never unfollow each other on social media, am I in violation?

RACHEL BOLTON: I would think not because the consent is given by the person who is sharing their location. So if I am married to somebody and I have shared my location with them and I had the ability to do that-- that was my choice. I did that. They didn't install something, they didn't place something on me. And then I continue to not-- to, to allow that consent. I think that that is--

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McKINNEY: But how could the law say once you file for divorce, you revoke the consent? But you also say that I'm still giving consent. I think it's, it's contradictive.

RACHEL BOLTON: I mean, it-- I have read through the statute. I don't think it is. But if you think it is, I think it's, it's possible that two people could, could disagree and maybe it does need to be looked at closer.

McKINNEY: Yeah. All right.

RACHEL BOLTON: But I, I don't find it as confusing, I guess.

McKINNEY: All right. Thank you.

DeBOER: Thank you, Senator McKinney. Other questions from the committee? So can I ask you that the deficiency in the stalking statute currently is that there isn't the-- that it doesn't meet the element of you have to feel threat-- the victim has to have knowledge because they have to have feelings about it? Is that the problem?

RACHEL BOLTON: That's one of the problems, and then the in-- intent behind it as well.

DeBOER: The intent being the, the, the stalker's intent to--

RACHEL BOLTON: So, so--

DeBOER: --and there's a current statute-- I just don't know--

RACHEL BOLTON: No, that's OK. So, so to meet the stalking statute, the stalker has to have an intent to threaten, terrify, or intimidate--

DeBOER: Got it.

RACHEL BOLTON: --which is very difficult to prove in a tracking case. And then the victim of the tracker has to actually feel threatened, terrified, or intimidated, which is also difficult.

DeBOER: Why is that difficult to prove in a-- if you put something on someone, they're going to have feelings about it. So I-- I'm, I'm just-- I'm not trying to--

RACHEL BOLTON: No, that's OK.

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DeBOER: I just think maybe there's a way to, to say, like, if there's a stalking statute as it is-- because I'm thinking about what Senator Blood was talking about with all these other sites, that you don't actually put something on someone, but you're, you're following them through something-- you know, these things.

RACHEL BOLTON: Sure.

DeBOER: And so-- first of all, I think that those sites-- I didn't know they existed. That terrifies me. So is there a reason why the stalking statute requires this knowledge on the part of the person who is stalked?

RACHEL BOLTON: I guess I would, I would think that the reason would be that in order to-- just the basis behind that being a crime would be the person feels unsafe or threatened or intimidated by some course of conduct that another person is, is doing to them or doing in their proximity that makes them feel that way.

DeBOER: Is, is it enough for somebody-- so it's not an-- so if I just follow Senator Blood around but-- you know, I'm not intimidating or whatever-- and she doesn't feel intimidated, is that stalking?

RACHEL BOLTON: No.

DeBOER: Oh, OK. She has to actually feel intimidated by me following her, which-- she would be annoyed.

BLOOD: Oh, I do.

DeBOER: She might be annoyed, but she might-- OK. OK. I think I understand. Thank you. Senator Blood has a question now.

BLOOD: Thank you, Vice Chair DeBoer. So to further complicate this, this issue-- so first of all, I like the bill. And, and I didn't want to say differently. But I, I do-- that is my number one concern, is that if, if we are truly trying to prevent this from happening, is there a way that we can include-- and I mean, I know there's always going to be something technologywise, but I, I literally during a campaign had a spouse of my opponent stalk. And that's how I found out that it was so easy. I mean, I could easily probably write down 20 different sites that, if I go to them and I know your cell phone number, I can find you in the blink of an eye. And I can come and harass you because I'm always there, right? And I would feel threatened or feeling like punching that person in the face, whichever-- whatever day it was, right? Which I would not, of course,

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do. I would just feel that way. So how-- I mean, this technology that we're talking about is old technology, right? I mean, it's old technology.

RACHEL BOLTON: Yes.

BLOOD: Decades old. How, how do we combine the two? Or is it just not something that's going to be beneficial to this bill if we do that?

RACHEL BOLTON: I think-- I, I've been thinking about it since you asked Senator Day your question. I think when someone tracks with the sites that you're talking about-- which is terrifying-- I don't know that this bill addresses that, and I-- I'm not saying that it, it's not possible to address it in a future bill or in this bill even itself--

BLOOD: I agree the bill doesn't address it. That's why I'm asking you [INAUDIBLE]--

RACHEL BOLTON: Right.

BLOOD: --able to do amendments in committee on things like that. That's why I'm asking.

RACHEL BOLTON: So I think that would be extraordinarily difficult to prove unless you as the victim of that particular form of tracking were aware of being tracked in that way. And for some reason or another, either someone keeps showing up at the same place where you are or something like that, you would have to become aware that you were being tracked that way in order to file a report and start having that investigated, whereas this bill specifically addresses instances where people go for long periods of time without knowing that they're being tracked in the first place. The situation that you're describing I think would neatly fit into the stalking and harassment statute, and I think that that part-- that, that's what I would charge that behavior under as a prosecutor as opposed to this addresses something specific that cannot fit neatly into that statute.

BLOOD: So you're talking-- this is more of a latent situation as opposed to a more obvious, immediate situation.

RACHEL BOLTON: Can you repeat that? I'm sorry.

BLOOD: This is more of a latent situation as opposed to a more immediate and obvious situation.

RACHEL BOLTON: Correct. Because I think the immediate and obvious is, is already covered by the stalking statute, whereas this is kind of plugging the hole in the stalking statute left by the fact that someone can be tracked without their knowledge. I don't think it's fair that someone could be tracked without their knowledge just with their phone number either, but without addressing the legality of that type of technology, I guess that, that would be, like I said, extraordinarily hard to prove unless you were also meeting the behavior that would fall under the stalking statute.

BLOOD: All right. Thank you.

DeBOER: Any other questions? That was extraordinarily helpful to my question, so thank you.

RACHEL BOLTON: Thank you so much for your time.

DeBOER: Next proponent. Welcome.

NATALIE ROBERTS-DAY: Welcome. Thank you. Good afternoon. My name is Natalie Roberts-Day, N-a-t-a-l-i-e R-o-b-e-r-t-s-D-a-y. And I'm the executive director at Voices of Hope here in Lincoln. Voices of Hope works with individ-- individuals and families who were impacted by domestic violence, sexual assault, human trafficking, and other forms of abuse, including stalking. And daily, we witness the impact of technology-facilitated stalking, often from an intimate partner. Last year, we worked with 2,766 individuals; and in so many cases, technology is being used to maintain power and control over the victim. Abusers exert control in many ways, yet the unique impact of being constantly monitored cannot be overstated. Abusers will track where and when a client is trying to access support, closing off and compromising support systems, including family and friends, health care providers, and advocates, isolating them and making it incredibly difficult to access help. When survivors do flee, it is the most dangerous time. 75% of domestic violence-related homicides occur upon separation, and there's a 75% increase of violence upon separation for at least two years following. And tracking makes it harder to get away and to stay away. Advocates at Voices are constantly needing to revise and become more creative with the questions that we ask about safety planning when we're trying to bring clients in to access services or to help them relocate because, as you guys have identified, the target is always moving. However, this would do a lot to help just make sure that there is some kind of system in place when we see this. And as I said, we see this on a daily basis. Our advocates are constantly trying to learn how to keep

up with all of these apps and constantly trying to figure out how to close these loopholes. But we also know that, frequently, it's not enough. It's very frequent that we hear survivors share, I fled to another community and he found me again and nobody will help me. They're saying there is nothing they can do. Proving intent is very difficult, as we have highlighted. And oftentimes, survivors will decide that it is safer to just let the abuser back into their lives to know what he knows rather to live with the uncertainty and fear. Noncontentual-- nonconsensual tracking is an intentional and deliberate control tactic. And when abusers face no consequences for such violations, it emboldens and encourages them to continue. This bill would help shift attitudes that nord-- normalize tactics to maintain control through fear, threats, and restrictions on freedom and would create opportunities to hold perpetrators accountable and increase safety for our survivors. Thank you.

DeBOER: Are there any questions from the committee? Senator Bosn.

BOSN: Thank you. Good to see you. Right now, when a victim comes in for services and assistance, if they present with issues of tracking on their phone, are there a lot of times that Voices of Hope and other victim advocacy groups are faced with either funding a different cell phone for that individual or subjecting the victim to ongoing harassment?

NATALIE ROBERTS-DAY: Yes. So that's something that is a huge part of our client resources, is trying to connect people with a safe cell phone device. But again, there's not any kind of recourse when we know that someone is tracking that way. It's just a Band-Aid for what's happening. And-- what was the second part of your question? I apologize.

BOSN: Well, I, I-- it's a cost for you as-- doing service. And you're happy to do it, I know that. But the reality is that's a significant expense when a victim comes in. And if you can't accomplish that or accommodate that, they're-- you're basically sending them out the door telling them, sorry, you have to just keep your cell phone and be tracked.

NATALIE ROBERTS-DAY: It is. And sometimes, you know, if someone is trying to flee that partner and that partner is so controlling, then sometimes having a, a changing of cell phone number or things like that can escalate that violence. And so it's very difficult to navigate these situations. But again, right now, our only tool when someone is saying, I'm being stalked, I'm being-- you know. My, my

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partner is constantly following and tracking me through my technology, or, my ex-partner in particular is constantly following me through that technology, our only recourse is to say, here is a stalking log. Let's try and create a record so that we can prove that intent. And that puts further burden on that survivor at a time when they're just trying to meet their basic needs and create safety.

BOSN: Thank you.

DeBOER: Thank you, Senator Bosn. Other questions? I don't see any. Thank you for being here. Take our next proponent. Welcome.

SAHRA NIAZI: Hi. Thank you. Dear committee members and Senator Jen Day, my name is Sahra Niazi, spelled S-a-h-r-a N-i-a-z-i. Thank you very much for allowing me to speak today about this important bill, LB1224. This bill draws much emotion from me, for my story-- although it may seem harmless to the layperson-- has left me deeply wounded, emotionally scarred, and most of all grappling with how to be a positive and unyielding role model as a physician in the community, and especially for my three young children. My stalker was someone I knew for 17 years. I was completely naive to think that this person would not go to the depths of dark behavior that he reached. I allowed this stalker access to my home and vehicle on multiple occasions despite separation, filing for divorce, and him moving out of the home. I am still troubled that I was naive enough to allow this, that I somehow was weak and unable to prevent it. Over the course of six months in 2021, I would receive unsettling and terrifying text messages, mainly from this person's cell phone, but sometimes from an anonymous landline as well. These texts would detail my whereabouts and threaten me depending on my location and presumed activities. I tried incredibly hard to figure out how my stalker was tracking me. I thought I could ask him politely to stop harassing me, for surely this person I knew for 17 years would not want to cause me harm. After an exhausting six months of disturbing text messages and filing two police reports, I took my vehicle to the Anderson Ford dealership in June of 2021 and begged them to help me find how the stalker was tracking me. Within ten minutes, the mechanics had found a mobile GPS tracking device underneath the passenger seat of my vehicle. I was incredibly relieved and called the police. However, I was told there was nothing they could do. I also filed two harassment restraints, but the judge overseeing my divorce dismissed them. I am a strong proponent of limiting conduct related to mobile tracking devices because stalking has had a very adverse effect on me and has on millions of others. An estimated 13.5 million Americans are stalked in a year. And as Senator Day has also

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mentioned, more than twice as many victims are stalked using technology versus not. The impact of stalking on victims is not a surprise. The fear of not knowing what will happen next, the fear that there is no end in sight, the fear that this person will harm you, possibly lethally, is terrifying. Perhaps the biggest fear I felt during this period and after is that there was no one to help me, for I knew, intimate partner stalkers are the most likely to approach, threaten, and harm their victims. I remember phone calls I had made to my lawyers at the time. I was physically sick to my stomach and sobbing, asking them to-- asking them how to not let this person kill me, telling them that stalking behavior's incredibly frightening and an indicator of further violence to come. But I was just laughed off and told to become more levelheaded. If there was a bill passed that made it easier to stop stalking behavior, surely victims would experience less trauma, less anxiety, and more trust in our system. I am strongly urging you and asking you from my heart to please help stop stalking practices, especially when it comes to mobile tracking devices. I believe as Nebraska-- as Nebraskans, we should be able to come together and stand tall, hand in hand to show victims of these unethical acts that they are not alone, and even more to say to the aggressors that their behavior is not OK and will not be tolerated. Thank you.

DeBOER: Thank you for your testimony. Are there questions from the committee? I don't see any. Thank you for being here.

SAHRA NIAZI: Thank you.

DeBOER: Next proponent. Welcome.

SHEILA KORTH: Thank you, acting Chair, members of the committee. I want to thank Senator Day for introducing this very important legislation. I can say that, as we speak, there are individuals in our state who own a phone, purchased a phone, pay the expensive bill every month, and this phone is being managed by somebody who they have a prior domestic violence protection order against. This is not the only thing that people like this have experienced. They've also experienced things where their email is being forwarded, where their work files are being deleted. The financial accounts are being taken over and they don't have access to their own financial accounts and they have limited access to money and have experienced many forms of abuse. So again, I thank you for bringing this legislation to the committee, and I ask that you advance it. It's really important for a lot of people because no one should have to be forced to live like

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this because many people are forced to just accept this right now.
Thank you.

DeBOER: Thank you. Are there any questions? Oh, I'm sorry. Ma'am, we didn't get your spelling. Sorry. Sorry. Could you spell your name for us?

SHEILA KORTH: I'm sorry. That was at the top. Sheila Korth,
S-h-e-i-l-a K-o-r-t-h.

DeBOER: Thank you so much. OK.

SHEILA KORTH: Thank you.

DeBOER: We'll take our next proponent. Welcome.

CHRISTON MacTAGGART: Good afternoon. Vice Chair DeBoer, members of the Judiciary Committee. My name's Christon MacTaggart, C-h-r-i-s-t-o-n M-a-c-T-a-g-g-a-r-t. I'm the executive director of the Nebraska Coalition to End Sexual and Domestic Violence. I-- we're testifying in support of LB24 [SIC] on behalf of our network of 20 domestic and sexual violence, trafficking, stalking programs that support survivors in all 93 counties. We believe this bill honors the multitude of ways that stalking shows up in our work, particularly in intimate partner violence and trafficking, but also in other types of sexual violence. We also know it's-- this particular issue is a current gap in our statutes, and we've heard from-- we've heard that from numerous survivors, some of whom you've obviously heard from today. And that those statutes just haven't necessarily kept up with technology. You know, some of the things that we have heard from survivors is that they're just trying to maintain safety and that they often just cannot stop this from happening. They're left with no recourse for holding the person harming them accountable even though it's actually one of the most common methods of the abuse that they're experiencing. About 66% of women report being stalked by an intimate partner, and 76% of women who were murdered by an intimate partner were stalked pretty extensively first. You know, what we see and what we hear from survivors is that it helps offenders understand their patterns to our daily schedules, when they're vulnerable, when they're available, and it ensures that they really cannot ever do anything outside of the knowledge of the person who's harming them. It prevents them from leaving sometimes. It prevents them from living with-- a life without fear, and it's particularly heightened if they do leave. So that means that sometimes survivors can't keep a new residence that they've moved into a secret because they're being

tracked. It means that their former partner shows up when they're out with friends, when they're dating again. And it's particularly present when they utilize children that they may have in common to continue the stalking as well. So we've seen everything from survivors being stalked through tracking mechanisms in children's belongings, like a stuffed animal, to a backpack, to their phone. And as you heard from Voices of Hope, our advocates and our programs typically safety plan around stalking through technology with every person they work with. I mean, gone are the days of stalkers hiding in bushes, right? They don't need to. Technology makes it easy. And so, again, we just acknowledge that this is a current gap in our statutes and that we're asking for this additional recourse for, for survivors who are experiencing this. I'm happy to answer any questions that you might have.

DeBOER: Are there any questions? Don't see any. Thank you for being here. Next proponent. Is there-- are there any opponents?

SPIKE EICKHOLT: Good afternoon, Vice Chair DeBoer and members of the committee. My name is Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t. Appearing on behalf of the ACLU of Nebraska and the Nebraska Criminal Defense Attorneys Association as their registered lobbyist in opposition to the bill. You've got a copy of my written testimony, but I might just respond a little bit to some of the things that were talked about earlier. Generally, both-- the clients I represent are opposed to broa-- to adding crimes to our already arguably overburdened criminal code. This is six new pages of criminal code, so it could be resolved by simply amending our stalking statute. When I-- when we first looked at this bill, we saw this as creating a new crime. If you look at page 3, lines 4 through 14-- or, 4 through 13, that's the commission-- that is the-- those are the elements of the crime. The crime is committed if a person knowingly installs a mobile tracking device on another person's property without their consent or without any of the other exceptions applying. That's when the crime's committed. The mobile tracking device does not have to work. The victim doesn't have to even know they're being tracked. A crime is committed then. I think Senator Bosn alluded to it before. I don't-- and I don't mean to second-guess the prosecutor's decision not to charge it. I don't know all the facts, but our stalking statute provides that if a person does something with intent to harass or intimidate somebody, that that's stalking. If a person finds out that they've been tracked for a while, that's intimidating. That's harassing to them. Now, if something needs to be modified on that statute to not require the intent to be on the person doing it to-- with intent to harass because, arguably, the defendant might not be

intending to harass; he's intending to follow-- then that's one thing. But this would add a whole nother crime that is problematic. We have a number of other crimes related to trespass, disturbing the peace, maybe even assault that could apply as well to some of these circumstances. And you kind of saw some of that-- or, heard some of that with some testimony earlier. Secondly, if the protection order statutes don't allow for a court to preemptively prohibit a respondent from installing a tracking device or following in some way, that's a different conversation because that's not necessarily adding a criminal, a criminal code-- or, something in the criminal code. Finally, Senator Bosn mentioned this earlier: on page 6, lines 5 through 11, that is problematic. And I reference it in the statute. This allows for enhancement beyond a misdemeanor for-- if certain things are shown afterwards. Under our case law, under the U.S. Supreme Court case law for a series of cases, a prior conviction could be used to enhance. But any fact-- any factual circumstance needs to be found by a jury and needs to be proved beyond a reasonable doubt. So this offender has a history of violence-- that's not necessarily a conviction. So that's problematic right there. And similarly, the factual circumstance of whether the offender had a protection order or was a subject of a protection order is not the same as a prior conviction because a person can have a protection order against them without having been convicted of a crime at all. So those areas are suspect. And I'll answer any questions if anyone has any.

DeBOER: Are there questions from the committee? Senator Bosn.

BOSN: Thank you. So are, are you going to tell people that if they're-- your clients, future clients, that if they're tracking someone on their cell phone they have to plead because that's the intent of the law?

SPIKE EICKHOLT: Well, I don't-- to be honest, I, I don't know why it wouldn't be stalking now. That's just my take. Because, like you said, if, if somebody's tracking me-- I'm getting tracked by apps and companies. We all are. We got license plate reader systems on the interstate. We're always being tracked. If somebody tracks me, I find out about it, and it's a person I know, it's somebody close to me, somebody that might-- and I, I'm a bad [INAUDIBLE] example here-- but, anyway. That is intimidating to me. That's harassing. That disturbs my peace. Those things I would never tell anyone that's fine to do. Because my take on it, you're, you're in that whole area of stalking anyway. That's just my take on it.

BOSN: So my second question: with regard to the language in-- on page 6 that you referred to-- the enhancement we'll call it-- is that different than the enhancement we have right now for a subsequent event's domestic assault?

SPIKE EICKHOLT: Yeah, it is. If you look at-- on page 6, lines 5 and 6, that's similar to the language we have now for domestic assault.

BOSN: Oh, I thought that's what you were referring--

SPIKE EICKHOLT: No, I was talking about lines-- or, yeah, lines 7 through 11.

BOSN: OK.

SPIKE EICKHOLT: That allows for enhancement if, if at the time the offender had a protection order against them-- not necessarily even from the victim, but just had a protection order against them. That's not a conviction.

BOSN: So is there nowhere else in criminal statute where being the subject of a protection order doesn't subject you to enhancements?

SPIKE EICKHOLT: No. There can be certain situations like that. But this is a sentencing enhancement, and those are the circumstances. That's an element of the crime.

BOSN: But that's an element of the crime here.

SPIKE EICKHOLT: Not necessarily. If you look on page 5, lines 29 through 30, it says: Except as provided-- a violation of Section 3. And Section 3 is the part that I talked about where you install the device-- a violation of Section 3 is a Class I misdemeanor unless-- and then they list these other things.

BOSN: Right, but in a criminal complaint, isn't that how your allegations and your, your elements would list, is, you did this, you did this, you did this. And you were the subject of a protection order. So the state would have to actually prove that there was a valid and active protection order that had your name as the subject as one of their elements in order to receive the IIIA felony--

SPIKE EICKHOLT: I suppose they could try to plead it that way, but it seems to be kind of confusing because I'm not sure it's laid out like that in the other enhancement statutes where you-- where-- it-- the language says the penal-- this-- if you look at Section 5 on lines 5

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and 6, this is the section that talks about what the penalty is, not necessarily what the elements of the crime are. So I think, I think it could be pled that way you say because I hadn't really thought about that. When I looked at it, I looked at the elements in Section 3. That's what would be reflected in the complaint or the information, depending on what it may be. But I suppose you could just merge both of those sections of the charging document. And as long as the jury were to make that finding-- or a person waives the jury-- the factual findings, then you could. There's-- you know, those prior convictions aren't submitted to the fact finder because the case law says you don't have to. And-- yeah, I don't want you to. And sometimes you don't want either because it's just-- it's unnecessary to do it that way.

BOSN: I'm willing to chance it. But I understand. Thank you.

DeBOER: Thank you, Senator Bosn. Other questions from the committee? Mr. Eickholt, you heard some of the, the testimony earlier about situations that folks are in and that-- the prosecutor as well. What's the remedy? Because obviously, we want a remedy for that situation. So what is the current remedy? And then, if not, then why isn't this the remedy?

SPIKE EICKHOLT: As I kind of said earlier, when we-- when my defense attorneys and I were talking about the bills that were introduced, one of the things that some of my members says, well, this is probably stalking already. This is adding another crime. And the concern that we have is that you've got-- and you saw it. Most recently on the UNO overcrowding charging report, you've got multiple overlapping crimes are regularly charged. And then when people are convicted of multiple charges, those sentences are stacked. And I can talk about that, but that's another conversation. That's the concern that we have. The remedy might be if there's something about the stalking statute that needs to be resolved regarding maybe the mens rea on the defendant's side or perhaps to modify the element to reflect the feelings of the victim, that might be the better approach.

DeBOER: How do-- so if, so if I'm being tracked for the last five years and I find out about it-- so somebody puts it in my car--

SPIKE EICKHOLT: Right.

DeBOER: --five years. That's the-- so that's the, that's the element where they've started the tracking.

SPIKE EICKHOLT: Right.

DeBOER: I suppose they don't even have to look at it, right? Like, I just know it exists-- or, I don't, I don't yet, but I will know that it exists. And they put that in there. When have-- is it upon my discovery that the crime has happened or is it when they place it?

SPIKE EICKHOLT: I think if you look at Section 3, the crime is committed when they place it. And the example that you gave-- if it's discovered five years, you couldn't charge it anyway because you're beyond the statute of limitations.

DeBOER: That's what I'm wondering, if there's a statute of limitations thing. But does that happen with our stalking statute as well?

SPIKE EICKHOLT: I don't think so because the stalking-- the crime of stalking is committed when sort of the victim is aware that they're being--

DeBOER: So wouldn't that be the five years later that they become aware? Because you're saying-- Senator Bosn is outlining that they feel, oh, no, they knew where I went all these-- this time and that's when they have the feelings, right? But if that's when they have the feelings, then do we have a statute of limitations problem? And is that why we can't do it as a stalking statute-- or, you know, as part of the stalking statute because that would be subject to the statute of limitations?

SPIKE EICKHOLT: I think if-- and I can't really-- it's not fair for me to speak for earlier-- for the earlier testifier. But if I remember the, the county attorney explaining that they, they had concerns about charging the stalking statute, not necessarily because of when it was discovered but because of the elements of what the defendant intended to do: intimidate, threaten, or harm. I think that, in your example, I-- and it's easy for me to say-- I don't know that you necessarily wouldn't be able to get a conviction for stalking because when she-- it's going to be a she, let's be blunt-- when she, the victim, discovers it, it doesn't matter when it was installed. It-- she's been tracked within the three years or whatever for a felony or a year and a half of the misdemeanor and could be charged.

DeBOER: OK. Are there other questions? Senator McKinney.

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McKINNEY: Thank you, Senator DeBoer. Spike, do you think it's possible to unintentionally violate this? I might have just read it wrong, but I was just curious.

SPIKE EICKHOLT: Well, if you look at page 3, line 5, the only mens rea-- and it's kind of written in the negative, which is even kind of more odd-- a person shall not knowingly install a device. So it doesn't even require-- the element's not intent, right? It says that you should not do it knowingly. So I don't really know what the state would have to prove. It's difficult for the state to prove a negative. That's kind of odd. Normally, most of your crimes-- most of our crimes have a mens rea-- a person shall not intentionally or knowingly cause bodily injury to domestic-- to the-- to, to a, to a victim. This is just kind of weird. So I-- maybe not intentional. I, I don't know if you can install an AirTag on-- I mean, you might install an AirTag on a device, and, during the breakup, somebody takes that device with them and then you start following them unintentionally. Or at least not-- I don't know if you can. It's just kind of unclear.

McKINNEY: All right. Thank you.

DeBOER: Thank you, Senator McKinney. Other questions? Thank you, Mr. Eickholt. Next opponent. Anyone here to testify in the neutral capacity? As Senator Day is coming up, I will note for the record that LB1224 had 3 letters, all in support.

DAY: I appreciate the committee's questions this afternoon and listening attentively to the testimony today. I think this hearing has helped us clarify a few things. I think we-- in terms of the language that, Senator Bosn, you had asked about in my opening, we would be happy to bring an amendment to remove any ambiguous language-- page 6, lines 7 through 11-- that would still allow for the escalation in the place of an-- of a previous conviction. And it would remove some of the language that is unclear in terms of needing a conviction or not to escalate what the crime would essentially be. Mr. Eickholt did let me know ahead of time that he was coming in opposed. And interestingly, we are often on the same side of these discussions in terms of enhancements to penalties or creating new crimes. However, we are on the opposite side today. I feel very strongly about issues like this as a survivor of sexual violence myself. I think that it's extremely important to understand how often these types of things happen and how these instances are being facilitated by technology. As Senator Blood mentioned, this is old technology. We are already behind the curve in terms of legislation

to make an attempt to control what's happening here. Additionally, we brought this bill because Douglas County essentially said that they can't prosecute for this right now. So is there a possibility that we could open up the stalking statutes and change that a little bit? We could do that. That's a much larger undertaking than what we're trying to do here today. And so with the county attorneys, we had someone from Sarpy County here as well. They're telling us that there's a gap here that needs to be fixed. And in hearing how often this type of thing happens-- even, even very passively in some of the mom groups that I'm in, like on Facebook and stuff, people will-- I've heard women mention, I was digging through my purse and I found an AirTag. I don't know where it came from. I don't know who put it in there. It's terrifying. It happens at bars. People will just toss an AirTag in someone's purse and they can figure out-- they can follow you home. They can do that anyways, but it makes it much easier to be hidden. You know, having access to these apps, that's not what we're covering here. This is about having an intent and knowingly taking either a physical AirTag or some kind of physical technology and putting on some-- putting it in a car or on someone's person to track them or with intention finding the person's phone and putting an app on the phone. I know there are apps currently like Snapchat-- I only know this because I have a teenager in my house-- that you can see someone's location, but you have to willingly share your location with those apps. Whenever you are downloading an app on your own phone, you have to opt in to location sharing, right? This is not covered in this here. We are talking about if I grab my husband's phone and install an app unknowingly to him on his phone and then I track his location without his consent. That's what we're talking about. Not tracking from an app that you have already utilized consent to share your location with. So again, I'm happy to bring any kind of amendment to clean up the language to be more specific. Whether, you know, in the future those things would be included in the scope of this type of legislation, that's left up to future Legislatures. But right now, I think that this is something that we definitely need to address because we are already behind the curve. It happens very frequently. Prosecutors cannot charge people when it comes to this specific issue, and we have to figure out how we can close that gap, so. I'm happy to answer any questions.

DeBOER: Are there any questions from the committee? The one thing I was thinking of as we were going through this-- because I think you're right-- maybe about the stalking statute is-- what-- if the crime happens when they place it, then you might have a statute of

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limitations issue and you'd probably have to figure out how to work around that. So just--

DAY: Yes.

DeBOER: --to put that [INAUDIBLE].

DAY: Exactly. Yes. I appreciate that.

DeBOER: OK. Thanks.

DAY: Thank you.

DeBOER: That ends our hearing on LB1224. And that will begin our hearing on LB1357. Welcome, Senator McDonnell. Senator McDonnell, is this your last hearing?

McDONNELL: This is it.

DeBOER: All right.

McDONNELL: Pretty excited. Sure you are too.

DeBOER: Welcome, Senator McDonnell.

McDONNELL: Thank you. Do you-- Senator, do you want me to start?

DeBOER: Mm-hmm.

McDONNELL: Thank you, Senator DeBoer. Thank you, members of the committee. My name's Mike McDonnell, M-i-k-e M-c-D-o-n-n-e-l-l. Represent Legislative District 5, south Omaha. LB1357 is a crucial piece of legislation that seeks to address a pressing concern in our communities: the issue of unregulated camping on, on properties owned by the political subdivisions. The inception of LB1357 is a result of extensive consultation and collaboration discussions with local government officials, law enforcement agencies, social service providers, and community stakeholders. These discussions have illuminated the complexities and challenges posed by unregulated encampments in our urban and suburban areas. Our cities are witnessing an increase in unregulated encampments that not only pose significant public safety and health risk but also impede the ability of the political subdivision to efficiently and effectively utilize and manage the public properties. These encampments often lack basic sanitary facilities, access to health care, and secure living conditions, thereby exacerbating the vulnerabilities faced by

individuals experiencing homelessness. LB1357 aims to prohibit camping on certain properties not designated for such use by political subdivisions, there-- thereby encouraging a more organized and humane approach to addressing homelessness. This legislation is not intended to criminalize or person-- personalize individuals' experiences-- individuals-- or, penalize individuals experiencing homelessness, and would require clearly marked signage and where camping is prohibited for any violation to occur. Instead, it seeks to ensure that public lands are used appropriately while also highlighting the need for a comprehensive strategy to provide support and services for our homeless population. The purpose of this bill is to establish regulation camping areas, remnant of emergency shelters deployed in crisis situations as a means to address the rising issue of homeless encampments through the-- through and thorough and principle, principle approach. These designated areas should be furnished with nec-- necessary facilities and services to ensure a secure, clean, and orderly environment for temporary stays. Addressing the challenges effectively requires a comprehensive situation of services, included's health care, mental health support, and sanitation, as well as facilitating access to traditional or permanent housing, all reflecting best practices in emergency shelter management. The success of the initiative hinges on active engagement from the community in both the planning and the execution of the phases to ensure that the solutions are adapted to the specific needs and realities of the local area. Moreover, this bill extends to the cities and regular-- regulatory tool-- extends to the city's regulatory tool currently available to counties, enhancing the uniformity of the approach towards managing public property camping issues. In conclusion, LB1357 represents a critical step towards creating a more structured, compassionate, and effective framework for managing the challenges associated with unregulated encampments. By adopting a balanced approach that emphasizes, emphasizes both the responsibil-- responsible use of public properties and the provision of essential support services, we can make significant strides addressing homelessness in our community. Also in your handout that, that you received starts with the state law that currently over state-- over-- the, the statue that, that talks about the state and the county properties, which this, this law was mirrored off of for our local municipalities. The idea of, of posting, communicating, and then enforcing that is the goal. The idea that also that-- if you, if you look at these encampments, there's no, there's no help in those tents. There is-- there's no assistance in those tents. So the, the, the individual that is looking for help, we want to make sure we reach out and get that person going the right direction and get the

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help that they need. At the same time, we want to enforce the idea of where-- and this isn't a mandate to the local communities. This is an option. So if a local city council says, well, OK. We'd like to enforce that. We're going to go and put a designated camping area. As I mentioned in my opening, the idea-- you've seen some of the FEMA ideas and what they set up for disasters or natural disasters. Something similar to that to make sure that people are getting the help they need. The services are there, but you cannot just have camping throughout the city. It's not going to be productive and it's not safe for our citizens.

DeBOER: Thank you, Senator McDonnell. Are there questions from the committee? Senator McKinney.

McKINNEY: Thank you, Senator DeBoer. Thank you, Senator McDonnell. What's the result of a Class III misdemeanor?

McDONNELL: So Class III misdemeanor could be nothing up to 90 days or a \$500 fine.

McKINNEY: What's--

McDONNELL: Class V misdemeanor, according to the state and-- the state law with Dou-- with county and state property is up to a \$100 fine.

McKINNEY: What do you mean by nothing? What's nothing?

McDONNELL: It, it could be-- they could-- they could give-- there's-- it's 0 to 90 days, it's \$0 to up to \$500.

McKINNEY: So I guess if a person is camping or essentially homeless and they get a Class III misdemeanor and they end up in the county jail for three months or even a \$500 fine-- let's say they spend three months in the county. They get out of county. Where are they going?

McDONNELL: So-- let, let's go through the process. So let's say Mike was camping illegally. And the idea that there is signage that this is an area where you can't camp and Mike was informed-- those are the first two steps. At that point, Mike is not moving. Mike is arrested. So let's say the judge does go the maximum and goes, OK. Mike's going to get 90 days. At that point in time, Mike does have an opportunity to hopefully get those help-- the help he needs, potentially while incarcerated. The idea of actually just turning our heads and not addressing it and continuing to let Mike stay in that, that area and

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continuing to camp-- we know Mike's not getting any help. The services aren't there. But that deal of Mike getting either 0 to 90 days or a \$0 to \$500 fine-- of course, that's up to the, the, the judge. But the idea is also we make sure that we-- make sure Mike has that opportunity and knows-- for example, go to 1702 Nicholas, the Francis House. There's, there's an opportunity there for shelter.

McKINNEY: What if, what if-- so if Mike is homeless and Mike gets the \$500 fine, who is going to help Mike pay the \$500 fine? What service is out there that's going to come to Mike and say, hey, Mike. I know you're homeless. I know you just got charged. And I know you got assessed a \$500 fine. We're going to help you pay this fine.

McDONNELL: And I don't want to turn this into a 211 discussion, but, actually, with the idea of the 211 services that are offered through the United Way, there is those assistance. For someone that's actually reaching out to say, hey, I've been fined for this reason. This is going on in my life. There is that, that ability to reach out to the community to actually get that assistance. Now, I also think judges are compassionate and they look at the individual. The goal isn't to try to put people that are homeless in jail. The goal is to try to get them in an area-- if, if the local government so chooses-- that's designated for camping and the idea that the services are there. But for that individual, for Mike that won't move, that says, no, I'm not getting help. I'm not leaving. I know you posted the sign. I know you communicated with me because that's part of the law that you have to move-- at that point, then Mike's going to go to jail. And the judge is going to have to decide on what's the best plan for Mike going forward.

McKINNEY: Let's say there's a thousand people that are homeless in homeless camps. They all go through this and they all get either charged \$500 or end up spending some time in the county. Is that more cost-effective than just fig-- getting them help on the front end?

McDONNELL: No, and I think that's why you have to communicate with them first. And that's part of the law. You know, similar to what they did at the state level and the county level, it's currently on the books for a Class V misdemeanor. The idea that we're doing is trying to say, OK. You, you put the signage up. They know this is not a camping area. You communicate with them: here's your options. Here's the place you can move. Because the local government [INAUDIBLE] isn't mandated. It's based on if the local government wants to put this in place. So the local government puts it in place and says, OK. There is a camping area making this up on, you know,

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10th and, and X, whatever the point is. At that point, there is services and you can go camp there. You cannot camp currently where you are because it's prohibited. And also if you don't move, yes, there's going to be action taken against you, but there is a place that you can go camp based on the local government saying this is a designated area for camping. Now, we know we have service-- and I'm using Omaha as an example-- the Francis House. That-- there is a homeless shelter. We know we have 211 throughout the state for people to call for assistance if it's food assistance, if it's shelter, it's-- paying. You're paying your utility bill. There's people out there that want to help with that. So the idea is to try to educate and make sure those individuals that-- Mike could be homeless because he lost his job, Mike could have a drug addiction. There could be a number of different things. There could be a mental health issue. The idea is to make sure that the local government has another tool in their toolbox to say, here, we're you're going to designate an area-- similar to a FEMA site in a natural disaster-- and we're going to make sure that you can camp there, but we're going to have services provided for you there, not just that you can sporadically pop up and camp throughout the city where there is no services. There's no help or, or services in those tents. There is people that want to help, but we have to do it in an organized, compassionate manner.

McKINNEY: So has the city of, let's say, the city of Omaha or has Douglas County-- I-- indicated that, with the possible passage of this bill, they're going to designate areas within their, their boundaries as homeless campsites or encampments within their boundaries?

McDONNELL: So if this bill passes, it's not a mandate. So the bill's on the books-- so the statute's on the books. The local government then says, OK. We're going to enact that and we're going to put the signage up. We're going to make sure we communicating with people to get them, them help. And then we are going to designate a certain area, Block A, B, and C--

McKINNEY: But--

McDONNELL: --as--

McKINNEY: But I think that's what's confusing because I don't-- anywhere-- I don't see anywhere here [INAUDIBLE] says they may enact this or anything like that. I see, Section 2: For the purposes of this section, camping means temporary lodging out of the doors, pre-- presupposes the occupancy of a shelter designed or used for such

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purposes such as sleeping bag or tent. (2) it shall be unlawful to knowingly camp on property owned or controlled by a political subdivision not designated as a campsite by political subdivisions when notice that the property has not been designated as a campsite. But you are saying it's not a mandate. But if this passes and there already-- there aren't any designated campsites, that means once this passes, all of these people are violating the law. And it's no way for them to not violate this law because, outside of going to Parks and Recs, they have nowhere to go.

McDONNELL: No-- well, it would have to be a designated camping area. So--

McKINNEY: No, no. That's--

McDONNELL: --the idea that--

McKINNEY: --that's what I'm saying. There's nowhere in Douglas County or the city of Omaha where they could go once this law passes.

McDONNELL: Well, we do know that. That's 1702 Nicholas. You can go there right now [INAUDIBLE] homeless shelter. The idea of what my bill tries to propose is you can look at an area and designate it. Now, you can put signage up saying, on Street One, there's no there's no camping. And you can put that signage up. You can say, on Street Nine, there is a camping area that you can bring in-- and as I give my example of a, a tornado, a natural disaster site, where FEMA sets up with the idea of restrooms, showers, the ability to feed people, and those wraparound services. That's what the goal is to say-- but also-- let's make sure we understand this. I, I totally oppose someone camping in front of Sherry's Bakery. And the idea that they're setting up in front of Sherry's Bakery-- if the signage has been posted and it's been communicated to that person, you can't camp here; this is not designated for a campsite. You can go down to X Street and camp there based on their service for you. That is the overall goal, is to say that there's-- again, someone sets-- Mike sets up a tent on 9th Street-- There's no services, there's no help-- I don't think that is actually dealing with the long-term problem of homelessness.

McKINNEY: I don't think this bill deals with the long-term problem of homelessness. I-- because I think it-- one, I think it's jumping the gun. Because unless Douglas County or the city of Omaha designates campsites, this passes and those people who are homeless and for, for whatever reason-- whether it's mental health, substance abuse, it's--

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it, it could be varying issues. You know, we got kids aging out of the foster care system that DHHS is throwing on the streets, and we're not holding them accountable. But some of those kids are going to be in violation of the law because this state refused to take care of them. So I feel like unless the city of Omaha or Douglas County is going to-- not April 15, 16, 17 or May whatever, unless they are willing to step up tomorrow and say, we're designated X portion of this county or city as a designated campsite, it's no way we could pass this bill because we're just going to incriminate a bunch of people who-- for no reason at all. I'm not saying they should be in front of anybody's business camping out or on the side of people's homes. Because I, I see it because it is-- so-- it's-- encampments in my district. I'm just saying the city and the county need-- it-- unless they are willing to step up and designate spaces, we couldn't pass this bill because we're going to directly incriminate people who, who shouldn't be incriminated.

McDONNELL: And this bill, again, doesn't mandate to the city what they have to do. This is an option. But we already know based on state and county property--

McKINNEY: No, that's--

McDONNELL: --this, this is, this is a law. This is current-- and I don't see anybody trying to repeal it. I don't see right now any discussion in my seven years of anybody trying to repeal the current state and county law based on the idea of designated camping areas. So right now, this is adding a political subdivision, if they so choose. And based on the three, the three things. First of all, you've got to post the signage. You've got to communicate to the individual. And then the idea of the enforcement. Now, at that point, the city does have the ability to say, OK. We are going to go ahead and designate Area A, B, C or whatever, Street 9, 10, 11 to, actually, a, a designated camping area. But you cannot camp on the areas that we're going to post the signage and communicate to you that this is not a legal area to camp. But also, I think one thing we're missing is, as you drive by those things, you think there's services right now in those camp-- in those tents? You think there's people there assisting them, helping them? If you put a designated area just like a FEMA site in a natural disaster and give those services and say, yes, there is help here. There's different areas-- if, if Mike's having a mental health issue, if Mike has, has addiction to drugs, if Mike's just lost his job-- there's ways to deal with that. But unless we actually start looking at the root

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cause of the problem, we just can't be letting people camp throughout the city and not getting any help.

McKINNEY: But if we're--

McDONNELL: It's not good for business. It's not good for public safety, and we know that.

McKINNEY: But if we're looking at the root cause of the problem, we would realize that criminalizing that situation isn't even close to the solution. Because even if we pass this bill, how many of them pay attention to what's going on right now? How many of them are, are aware of what laws change every day?

McDONNELL: And, and that's why I think-- if you, if you look at the bill on page 2 and look at, actually, line 14 and 15, you have to actually communicate with the person. You have to actually make sure that posting in a manner prescribed for the law reasonably to make sure that people know that they can't camp in these areas. And this isn't-- the-- what we're mirroring is the current law for the state property and for county property. We're just saying that the, the, the, the local subdivisions, the local governments have an opportunity to also make sure that this is done in a way where people aren't camping in areas that are, are, are posted that you cannot to make it safe for the, the, the, the citizens, for those business owners, but also at the same time trying to make sure that we give an opportunity for those people to get help that need the help in a designated camping area.

McKINNEY: I'm done.

DeBOER: OK. Thank you, Senator McKinney. Other questions from the committee? Senator McDonnell. I, I do have one for you, and I don't even know how to phrase it, right? So I'm going to be a little sloppy here. I keep hearing you say, you know, there's no help in, in those areas and you're going to set up a FEMA site-- something like a FEMA site, something like that. What if-- I mean, what if there are folks who don't want to live in something like a FEMA site, who don't, who don't want to get services, who don't want all of these things?

McDONNELL: So let's say it's Mike and he's camping in--

DeBOER: He just does-- he's a free spirit.

McDONNELL: I saw-- I see the sign. I see the sign and I see, OK-- and I'm camping in front of your business on the sidewalk. And I see the

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sign. I come up. It's communicated to me. Hey, you can't camp here. You can go to the designated camping and there's help there for you. Or, again, just as today-- Francis House. And Mike says, no. I'm not moving. Mike is going to be arrested.

DeBOER: So--

McDONNELL: Just like right now if Mike was doing that on state property or county property. Mike is going to be arrested. And right now, you're-- Mike's charged with a Class V misdemeanor, as, as the state law right now dictates based on state and county property. What I'm saying is that, based on that local government saying, hey, we're not-- we're going to put that there's-- it's prohibited in these certain areas, I think they should also look at a holistic look at trying to have a campsite to where Mike could go and give Mike that option. But there's got to be services there. It just can't be somewhere we're just letting people camp without those services. If that, if that's the case, I don't think we're helping people.

DeBOER: But what if-- what-- I guess what I'm suggesting is what if there are folks-- there's some-- there's a huge group of people who might be in these kind of camping situations. And what if there's a, there's a small subset of those folks who just-- for whatever reason, they're a free spirit. They have a different sense of things. They just don't-- they don't want services. They're not a drug addict. They're not a whatever. And they, they just want to live differently. They just want to kind of-- whatever.

McDONNELL: Then they can do that in a designated camping area. They just can't do it in front of your bakery on the sidewalk.

DeBOER: And then what's the, what's the state law now? The state--

McDONNELL: State law is a Class V misdemeanor.

DeBOER: For desig-- for camping in a nondesignated spot?

McDONNELL: Yeah. I handed it out. You guys all have it in your packet. So right now, it's a-- yeah, Class V. A person who camps on any state or county public highways, roadside areas, parks, other property acquired for state highway purposes which has been properly designated as a campsite or, or any person who violates any lawfully promulgated rules or regulations prop-- properly posted to regulate camping in designated campsites shall be guilty of a Class V misdemeanor. But you guys all have a copy of this.

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DeBOER: OK. Thank you. I found it. Any other questions? Senator McKinney.

McDONNELL: I will be here to clo--

McKINNEY: One more question. The-- Douglas County voted to oppose this bill. So if the county doesn't support the bill and then if the bill passes-- well-- yeah, if the bill passes, what faith do we have that they're going to set up campsites?

McDONNELL: The county's already covered by the current state statute. So this would be for the, the local subdivision, the city of Omaha, for example, Scottsbluff. A city because you-- because, remember, the county property and state property's already covered--

McKINNEY: OK.

McDONNELL: --by the current law.

McKINNEY: So how does the city of Omaha feel about this?

McDONNELL: Now, remember, this isn't, this isn't mandating. This is giving them the option to put something in place. If this law goes into place, it doesn't mandate they have to do this. It gives them another tool in the toolbox to use.

McKINNEY: It doesn't, it doesn't mandate it, but it still makes it a crime.

McDONNELL: Just like right now the state does. The state on-- state property and county property makes it a crime. This would also make it a crime. The goal isn't to try to make it a crime. The goal is to try to get areas which, if a city council-- again, Scottsbluff, Omaha-- says, hey, we would like to designate these areas that are, are-- that you cannot camp, but we are going to designate an area with services that you can camp, that would be up to them. This doesn't mandate the-- them to do anything. This gives them the opportunity to do it if they so-- see fit. So Grand Island might say, oh, we're not going to do that. City of Omaha might say, we're going to do this. City of Lincoln might say, we're not going to do that. But right now, it mirrors off the state law of the state and the county property with a Class V misdemeanor even though this is a Class III misdemeanor.

McKINNEY: So why not do a Cla-- I'm not even saying I support that, but why not do a Class V? Or why not just do a bill to say a

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political subdivision can set up campsites and set aside \$20 million to help these people?

McDONNELL: Yeah. I don't want anybody to misunderstand: this is to deter camping in unauthorized areas. But at the same time, if you then-- you have a certain area where you can camp to make sure that there is those services there to help people. But this isn't any way to say that I'm trying to say that it's OK to camp on the streets, on the sidewalks, throughout the city. But then again, there's reasons why people are doing that. There's mental health. There's addictions to drugs and alcohol. There's, you know, a number of different reasons. The same trying-- time trying to address that. But making sure that it's always number one is public safety. Always number one is public safety. So is the public safe? OK. Is-- are those businesses thriving? Are these people then getting an opportunity to get the help they need? I think we can do that in a way that hasn't been looked at. And again, I use FEMA as an example for a natural disaster area. But when you see that set up and the services that can be provided to get people a chance to actually go a different direction and get help-- of course, if Mike's got a drug addiction, then get the help that he needs-- that's the goal. But remember, it's: first, signage; second, communication; third is enforcement.

McKINNEY: But if public safety is the overall end goal, why not allocate or try to appropriate money to help these people?

McDONNELL: Oh, well, we have appropriated money to help these people. Think about this. The idea that all of sudden this-- all of sudden taking a campsite and saying that you cannot camp and there's ten of us camping, that we have to move to another location or there's-- there's the Francis House or other services-- there is money that's been appropriated by, appropriated by the state to help people. We're just-- I'm just in Executive Session right now with the-- in Appropriations, and we're talking about a number of the different bills that actually give people a chance. Now, Mike might be that person that doesn't want the help. Mike might be that person that says, I'm not moving. At that point, we're going to enforce the law and Mike is going to be moved. The goal isn't to try to get Mike to, to resist. The goal is to try to get Mike-- to communicate with Mike. He knows that he can't camp here. And also let Mike know that there's-- there is services out there that can help him. But just to let people live in tents and set up sporadically throughout our communities and not get it that help and just look the other way isn't going to be good for public safety. It's not going to be good

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for business. And it's not going to be good for that individual living in that tent.

McKINNEY: All right.

DeBOER: Thank you, Senator McKinney. Senator Blood.

BLOOD: Thank you, Vice Chair DeBoer. So I just want to follow up on the public safety. Did you give us data that shows that--

McDONNELL: Oh, it's coming. Yeah, the da--

BLOOD: [INAUDIBLE] we have data that shows that there's an increase--

McDONNELL: It's coming. The-- you're going to have testimony about the idea of the, the crime that's being committed. And not-- again, there's a certain percent--

BLOOD: You didn't know what question I was going to ask, but it sounds like you're going to answer it anyway. So go ahead and answer it and I'll see if you're actually-- I didn't finish my question.

McDONNELL: Go ahead. Finish.

BLOOD: So you started to answer it, I think. So you have recent data in Nebraska that shows that there is an increase in crime that pertains to our homeless communities?

McDONNELL: There's going to be law enforcement testifying.

BLOOD: That has data?

McDONNELL: That has data.

BLOOD: All right. Thank you.

McDONNELL: And that was the question I was guessing you were asking.

BLOOD: You should let me finish, though.

DeBOER: Thank you, Senator Blood. Any other questions? I think that might be it, Senator McDonnell.

McDONNELL: I will be here to close.

DeBOER: OK. Let's have our first proponent. First proponent.

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KIRTI TRIVEDI: Good afternoon. Thank you for the opportunity, Senators. My name is Kirt Trivedi. Legal name is spelled K-i-r-t-i; last name, T-r-i-v-e-d-i. I live in Omaha, Nebraska. I own businesses throughout Nebraska and Kansas. I am based in downtown Omaha. I have been doing business in Nebraska for over 20 years. This discussion I have been having for 20 years. The crime that I experience-- and I will go into very-- much detail-- directly equals to the amount of encampments that I have in our busiest neighborhoods. When the encampments are removed, the crime rate that I experience on a daily basis goes down. When the encampments increase, the crimes that I experience, my employees experience, my customers experience increases astronomically. Examples of these crimes-- and these are daily-- masturbation in public, exposing genitalia to kids and women, defecating and urinating in my lobbies, attacking and pushing my employees against their cars when they're walking home, out of-- when they're going to their vehicles after work. Recent situation was two pregnant females that worked for me. Customer cars being broken in every day. Recently, I had a bicycle thrown at me. We have videos of this. We have documentation because we do use now off-duty police and ex-military to provide security. I'm losing my livelihood. I'm not saying that it's the people in these encampments that are creating it, but there is a direct connection. This is not an antihomeless agenda by me. I just want the laws to be followed. And yes, there's a separate path. The homeless situation is all of our problem. All. Every citizen of Nebraska, every politician, every law enforcement officer. It's our problem. But do not compromise law and order while we're addressing homelessness with an emphatic solution. You lost right there. We have been doing this for years and it's never been done right. You cannot compromise following laws that-- and, and making sure people's actions don't hurt other people's. You said your-- Senator McKinney, you had mentioned that you don't want encampments in front of businesses. They're in front of my business. I'm going to lose my business, sir. I've been here for 20 years. It's going to go. Omaha World-Herald article just yesterday where a faith-based organization allowed encampments within their own property, and then dismissed them all because-- saying it got out of control. Two separate issues. We need the law to be followed. But at the same time, we need-- and the private sector will step up. Emphatic solutions to homelessness--

DeBOER: Sir, I'm sorry. I'm sorry.

KIRTI TRIVEDI: But I'm done. I'm sorry.

DeBOER: See your red light.

KIRTI TRIVEDI: I'm pretty passionate about this.

DeBOER: But I think-- no, no, no. That's great. I think you'll probably have some questions.

KIRTI TRIVEDI: Absolutely.

DeBOER: Senator McKinney.

McKINNEY: Thank you, Senator DeBoer. Thank you for your testimony. I would first say that society got lost when we prioritized locking people up who had mental health problems, who had economic issues and those type of things and we just sent them to jail and we overpenalized them and enhanced penalties. I would say we also got lost when we, instead of diverting resources to communities that were impoverished, instead of putting resources within those communities, we decided to inflate police budgets. That's where society got lost. And when you say that the private sector will step up, what have you done to step up to help these people?

KIRTI TRIVEDI: I offer them jobs daily. I offer them food. We donate supplies daily. Sir, but what you said earlier, may I comment on that?

McKINNEY: What exactly?

KIRTI TRIVEDI: The first part, where you're saying police budgets inflated and so forth. I understand that, and that may be so, Senator, but that-- addressing those issues at the expense of my livelihood, at the expense of my customers and my personal and my employees' safety, that's not right. They're two separate paths, sir. There is law and order because law and order protects people from the bad behaviors of other people. And the emphatic solution to homelessness is a completely separate path. So, yes, the private sector will step up, and I am an example right here in front of you, sir.

McKINNEY: Did any of my statements say that I wanted your employees to be assault-- assaulted? Did any of my statements say that I wanted people to be camping out in front of your business? Did I say any of that?

KIRTI TRIVEDI: No, but you dismissed my comments and you went to those other topics. And that doesn't solve it.

McKINNEY: No, because your comments--

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KIRTI TRIVEDI: Right now, the situation today is my livelihood, my people's safety, public safety. The laws that are on the books, let's enforce them. Let's keep people safe. But also, a separate topic, a separate lane: emphatic solutions for the homeless. Absolutely--

McKINNEY: You know why--

KIRTI TRIVEDI: --but not at the expense of us.

McKINNEY: You, you want to know why I dismissed your comments? Because you're advocating for a bill and you're ignoring the unintended consequences of the passage of this law. That's the problem.

KIRTI TRIVEDI: What about me then?

McKINNEY: What about you?

KIRTI TRIVEDI: I'm being ignored right now.

McKINNEY: Those people will be ignored and locked up.

KIRTI TRIVEDI: I'm being ignored right now, sir. What about me?

McKINNEY: So I guess everybody will be ignored.

KIRTI TRIVEDI: If that's how you would like, then-- you-- you're, you're in a position of power.

McKINNEY: That's what you would like when advocating for this bill.

KIRTI TRIVEDI: Sir, you're, you're twisting my words and--

McKINNEY: No, I'm not.

KIRTI TRIVEDI: I-- yes, you are, sir.

McKINNEY: No, I'm not.

KIRTI TRIVEDI: You are ignoring-- I'm talking about what's happening right now. These are actual things that are happening. Read the paper. I can provide you documents if you'd like. I've been keeping track of this for a very long time. This is not an antihomeless agenda. Absolutely not.

McKINNEY: I guess I don't know how to read.

KIRTI TRIVEDI: OK. Let me know when I can speak, sir.

McKINNEY: Speak.

KIRTI TRIVEDI: This is not an antihomeless agenda. This is keeping people safe. This is keeping downtown Omaha, west Omaha, eastern, western Nebraska, your home, my home, trying to make sure that we do our best job to keep people safe. Now, on the other side of the ledger, there is a homeless issue. There is mental health issues. It is serious. It is not your problem. It's not my-- it's all of our problem. But if we're going to sit there and compromise laws and the safety of other people to address this-- it hasn't worked, sir. It hasn't. We-- the country's been trying it for a very long time. It has not worked. So try something different.

McKINNEY: Enhancing laws haven't worked. We just fill up jails and prisons. We're building a \$350 million prison because this country has decided to just overincarcerate people and incarcerate people because of poverty. That's the problem.

KIRTI TRIVEDI: Senator, I'm not here to talk about prisons. I'm here--

McKINNEY: That's the problem. You're-- that's the problem.

KIRTI TRIVEDI: Allow me to finish.

McKINNEY: You're advocating for increased penalties--

KIRTI TRIVEDI: We can't talk over each other. I want to dialogue with you, Senator, because I really appreciate what you're saying--

McKINNEY: These intersect, though.

KIRTI TRIVEDI: --but let's not talk over each other. So what I'm talking about today-- we're here about a bill to prevent encampments in certain areas. Right now, we can have encampments in some places, but we can't on other people, depending on who owns the land. That's not right, either. If the state-- I mean, can we have one right here in front of the Capitol?

McKINNEY: Sure.

KIRTI TRIVEDI: Are you going on the record saying that?

McKINNEY: I wouldn't mind it.

KIRTI TRIVEDI: No, but can you? Is it leg-- is it lawful?

McKINNEY: I wouldn't mind it.

KIRTI TRIVEDI: Is it lawful, Senator McKinney?

McKINNEY: I wouldn't mind it.

KIRTI TRIVEDI: OK. I rest my case.

McKINNEY: Rest it. Thank you.

DeBOER: Thank you, Senator McKinney. Other questions from the committee? Thank you, sir, for being here. Next proponent. Welcome.

AARON HANSON: Welcome. Thank you, honorable members of the committee. My name is Aaron Hanson, A-a-r-o-n H-a-n-s-o-n. I am the sheriff of Douglas County. This is an emotional topic for sure, but it's a, it's a conversation we must have. We must have it. And despite the conversations and the tough conversations and the tough questions that I hope I get and that I hope you also give to the opponents, there are no bad guys. For the most part, most people agree we have a big problem. It's how we solve the problem that we disagree. I can tell you as a 28-year law enforcement officer who, over the last few years, has spent a lot of time in these tent encampments, if anybody tells you that these tent encampments are the equivalent of a campout where people are sitting around a campfire roasting marshmallows and hot dogs, they are not telling you the truth. These are deplorable situations that these folks are living in. And it's not homelessness. I spoke with a individual yesterday who was temporarily homeless. She did not end up in a tent. She's familiar with people who live in tents and the conditions, and she agrees it's deplorable. She would have went to a shelter, lived with family before she did that. I have encountered individuals in these tents that are living in some of the most unhealthy conditions you've ever seen. Wounds that are unhealed, health conditions that are terrifying, mental health conditions that are unaddressed, addiction issues that are unaddressed. And that's the deplorable situation these folks in these tents are living through. Then you have to look at the folks who live out-- live and work and traverse outside of these tents. People are having their mail stolen. People are having their, their possessions stolen. People are being threatened with weapons, assaulted. Campsites that are catching on fire. Catching homes on fire. Catching businesses on fire. Burning people in the tents. People being raped. I've literally talked to women who are so addled with addiction and mental health

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issues that they would rather live in a tent where, by their own admission, they have been almost raped and assaulted and thrown-- have lighter fluid thrown on them and almost caught on fire as opposed to living in a shelter. Why? Because in a shelter, you have to follow rules and be sober. So please ask me tough questions, but especially with the avoc-- advocacy crowd behind me. Dig in deep. Ask if there's anything good and positive about living in these tent communities. There's not. The free spirit does not exist that I have ever found. And if they do, they're not living in a metro area in front of a storefront or in an alley. Think about the people in the tents and their real needs: it's mental health and addiction challenges. And think about the people that live outside of those tents and how that impacts them. I'll take any questions you have.

DeBOER: Are there questions from the committee? Senator McKinney.

AARON HANSON: Yes, Senator.

McKINNEY: Thank you, Senator DeBoer. Thank you, Senator Hanson. So the solution to people living in deplorable conditions is to increase penalties on them?

AARON HANSON: No. I think that we need a safety net. Ultimately, we need a three-legged stool, just like we do with most of these public safety approaches: intervention, prevention, and suppression. And right now, we do have, I'll admit, not enough. We do need a behavioral regional center in Douglas County, in my opinion. But we do have resources towards intervention and prevention. The reason why we need the suppression leg of the stool is because there are acute cases. There are severely impacted people who, through their own addiction and mental health challenges, will not take advantage of the other two legs of that stool. There needs to be a safety net. Now, should the story end there, Senator, to your point? No. We need to invest in robust diversion programs. We need to invest in robust probation programs to give people the structure and supervision they need to get out of the lifestyle that put them in that tent in the first place. So that's not the end of the story. The criminal justice part, the incarceration part hopefully will not be the end of the story. But just because it's not perfect now doesn't mean we cast this potential tool out of the toolbox.

McKINNEY: So how do we get here if you agree there's a lack of investment there?

AARON HANSON: Because these things are not mutually exclusive to each other. We're not going to find the out-of-the-box solution with all the pieces of the puzzle in place. It's not possible. We need to take this incrementally. I-- again, I have been a strong advocate for the need for a regional center in Douglas County. Of course we need enhanced behavioral health care infrastructure, especially for the most acute cases. But just because we're not-- we do not have perfection on all those areas yet does not mean we cast aside the tools that we also need, the enforcement tools to keep people safe.

McKINNEY: But when, when, when you say keep people safe-- but if somebody is dealing with a mental health condition, a condition like schizophrenia or something like that, putting them in a cell isn't safe for them.

AARON HANSON: Well, I, I will tell you this, Senator-- and actually, in Douglas County, they are investing in specialized behavioral health Corrections infrastructure. Now, hopefully that will result in, once people exit that infrastructure, getting inbound into services that are community based. But I can tell you that I think we are evolving-- I hope we are evolving--

McKINNEY: But--

AARON HANSON: --to not just throw people in a cell, but to use that Correctional phase in a way to help get people's feet under them, with the hope that, once they leave that, that they can be received by community-based services that can help them even further.

McKINNEY: But that's my issue. We're hoping that these things will being-- be in place--

AARON HANSON: That's happening, though, Senator. That's happening.

McKINNEY: So currently, if somebody with schizophrenia gets arrested right now, they go to Douglas County Corrections, they will be placed in a mental health unit?

AARON HANSON: It's not built yet.

McKINNEY: That's my--

AARON HANSON: They, they've approved it. They're building it.

McKINNEY: But, but that's my problem. If this bill passes, although it's being sold as, like, an option, I-- either I'm reading this

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language wrong-- but if this bill was to pass, those people are, are automatically in violation of the law.

AARON HANSON: I, I see it differently. There's two things here, Senator. Number one: if a, if a municipality or natural resources district or some local government said, hey, we want to make sure we're clear. Our public policy is there is no designated camping area. You're allowed to camp on any public space that you, that you want to. There's nothing in this bill that would prohibit any local government from saying that. If the loc-- if the policy the local government was, it's OK to camp wherever you want on public property that we're in control of, that could be a public policy. Or they could drill down deeper and say, in these designated areas. Or they could say, nowhere. But again, Senator, that individual with schizophrenic. I agree. I wish there was resources for that individual now that was better than a jail cell. But I can tell you this: a lot of the people I've spoken to-- people who have been assaulted, people who have been chased with weapons, people who have been victims of crime-- they would have preferred to have that individual in a jail cell if that's the last option in order to help get them onto a better track. That's where we need the balance.

McKINNEY: But if those people were chased with a weapon, that's a violation of the law.

AARON HANSON: If you can prove it was them. You have to prove it was them. You have to find them. A lot of these people are very transient. You have to prove that it was them. It doesn't-- it's not that easy. To Mr. Trivedi's point, it is the, the collection of the population that causes the problems peripherally. It is, it is easier said than done to say that just because someone was chased on the Keystone Trail with a knife that I and, and our law enforcement are going to be able to go and identify that person, arrest them, and charge them.

McKINNEY: But when you say it's the collection of the population that causes the problem, there's also another argument that says the, the-- it's the collection of the willingness to continue to try to use enhancements of crimes as the, as deterrence instead of doing all we can as a society to give every resource we have to these people. We are literally dumping \$600 million into a canal that's going to be stuck in a litigation for ten-plus years and may never happen. I'm, I'm just saying. As a society, we waste a bunch of money on things that we probably shouldn't waste money on instead of giving people proper resources. We, we say we're the greatest country in the world,

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and we have people living in, living in tents. Something is wrong. That-- it, it, it-- and that's all I'm saying.

AARON HANSON: I don't disagree with you, but at some point you need safety nets for all of these options. And we can throw money indefinitely at the problem. Do I think we should throw-- invest more? Absolutely. I've been an advocate of that since the day I walked into this job. But we also need safety nets.

McKINNEY: But I'm not-- but what I'm saying is all-- you're saying we need a safety nets, but if a person with schizophrenia goes to jail now, they're not going to a-- in Douglas County. You're saying we're hoping that eventually they're going to open up some type of mental health facility or unit. That's currently not available. So right now, if this was to pass, I would-- I would have schizophrenia, get arrested for this, and just be stuck in a cell and further diminishing my health and my mental health especially.

AARON HANSON: Well, and I would-- here's-- be my response to that, Senator: I think that by not taking that affirmative-- by not having that affirmative safety net, we are actually increasing the chances of those individuals committing a more serious crime and finding themselves now committing a felony and being ba-- being in the prison system that many of you are concerned is overcrowded.

McKINNEY: But what my point is, by not having services and things in place to help people with schizophrenia currently, if that person goes to jail, if this was to pass, and their health-- mental health further diminishes, we release them after three months, isn't that more of a public safety issue?

AARON HANSON: That is definitely where we need to do better, and I think that Douglas County is proof that we are trying better. Do we need more support from the state in terms of enhancing those efforts? Absolutely. We need a regional center in Douglas County, in my opinion. We need to improve our emergency protective custody laws. We need to improve our board of mental health laws. We need to give more support to our board of mental health so they have better structure and supervision. You're correct in that we need to do more. This is one piece of a larger puzzle, and we should not cast it aside simply because we don't have all the other puzzle plec-- pieces in place.

McKINNEY: I just think that's unfair to those people just like you argue it's unfair to those other people. I think fairness goes both ways. That's all I'm saying.

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AARON HANSON: I, I understand.

WAYNE: Thank you. Any other questions? Senator DeBoer.

DeBOER: Thank you. So I take your free spirit piece-- apparently, that's not a thing that happens there?

AARON HANSON: I have never found that. I have never come in contact with that with these homeless encampments.

DeBOER: OK. Are-- so I think you were talking about this with Senator McKinney, but are there enough services for everyone if we do this? I mean, can we, can we find services for all the people that are going to sort of catch them-- get, get caught up in this situation?

AARON HANSON: You know, that's-- and that's kind of the point: how big is this going to get? And eventually, where did the services that we do have-- and I can tell you whether it's Siena Francis House or New Horizon or Open Door Mission, the services exist. Unfortunately, a lot of people that are struggling with behavioral health challenges or addiction, those challenges don't want them-- it, it's a struggle for them to enter through the traditional entry points to move up through the process. But I can tell you, I've walked through the Miracles Addiction Recovery program on the Siena Francis House campus. It's amazing. It's clean. They do good work. Every time I've been there, I've been advised they have bed space available. They have good people. They get good results. And you're not rushed out. There's people that can be in that program for a year or more. They help you get employment. The-- if you look at many of the services in Douglas County, we have exceptional services available. Could we support them more? Absolutely. Should we? Yes. But we're not maximizing what we have.

DeBOER: So you think maybe there would be enough services for everyone who would get caught up in this?

AARON HANSON: It is my understanding that when it comes to shelter space-- I have heard that we have ample shelter space now. Could we use more? Could we use shelter space that allow people to have a pet? Yes. Could we have shelter space that's more for parents with kids? Yes, but we have those. I think-- I believe to my core the services we have are available and ready to assist if people want or have the ability or capability to engage in them.

DeBOER: OK. So one other question is, do you think it would be appropriate to require a subdivision or whoever is going to sort of

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post the no camping signs to have a designated camping sign? Like, if you're going to put the no camping signs, then you've got to have a, a place for people to go. Would that make sense?

AARON HANSON: I don't know the answer to that. I think that that is a question which is most appropriately left to local control. I think that-- I think that that's a question that should be left to the local government municipalities because there's-- we're not just talking about cities. We're also talking about resource districts. Could be community colleges. I don't know that everyone should be shoehorned into having to have a designated homeless encampment area. But I do believe that there's enough community partners out there that you could have a discussion, talk about the resources that could be available if you did designate those areas. And, and if you have to have people living in tents, at least give them a real option at recovery and connection with services.

DeBOER: OK.

WAYNE: Any other questions? Senator Blood.

BLOOD: Thank you, Chair Wayne. Thank you for coming in today. I just have a real quick question. So I heard a couple times that this isn't a mandate and you-- [INAUDIBLE] something that I like to hear, which is that it's-- it should be local control and up to the local government. So would you be OK if we change the word "shall" to "may" in the bill?

AARON HANSON: I'd have to read where the "shall" would be replaced with the "may," but.

BLOOD: Because "shall" says it's a mandate and "may" gives-- would indeed do exactly what you just said it would do, which is give the political subdivisions local power, local control.

AARON HANSON: Sure. You know, I think that-- I, I believe I might be open to that because here's why. My office gets flooded with people all across the county concerned about this, upset about it. They're empathetic to the plight of the people living in the tents, but they're, they're concerned about the existence of the tents and the crime around the tents. So I believe that, through a natural process, that local government would probably end up enacting the "may" because their constituents would want them to. So I think that'd be-- that'd definitely be something-- a discussion that I'd be open to.

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BLOOD: So here's the harder question then. And this was not mean to be a trick question. This just came up in my head while you were talking. So then they could actually do that without the statute?

AARON HANSON: No, because I think that what, what you're seeing right now is there is this gap when it comes to statutory or local municipal rules that confuse someone's ability to be on public property, unlike the bright line that we have with county and state property. It gets too confused in terms of someone's ability to just stay on a, on a sidewalk as opposed to putting a tent on the sidewalk. I think, I think we do need to give the bright lines to make clear that these unauthorized tent encampments that is, is against good public policy.

BLOOD: Thank you.

WAYNE: Are you done?

BLOOD: Mm-hmm.

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

IBACH: Thank you, Chair Wayne. I just-- I would like for you to help me. And I apologize. I missed the opening comments. So if I'm redundant, I apologize. But help me understand the scope and the urgency. Maybe give me a perspective. I mean, we all watch the news and we see coastal cities that are just almost devastated by it. Tell me where we've been in the last five years and where-- what the trajectory is--

AARON HANSON: Sure.

IBACH: --for homelessness in five years.

AARON HANSON: We've seen a triple-digit increase in, in homelessness. And I can tell you, as someone that started my career in District 47, 48 in north Omaha in 1997, we didn't see these tent encampments. And I-- and this-- that was the Francis House district. We did not see these tent encampments. It was a rarity to find an encampment, and usually it was going to be a, a ramshackled building of, of pallets put together by some industrious individual. I mean, and they actually-- those were pretty interesting structures. There was usually a wood burning stove in it. We have seen an explosion, an exponential insplo-- explosion of these tent encampments. And if you look at the West Coast-- and I think if you look at our neighbor, Denver-- Denver is at the tipping point. It has grown so big that I

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don't even know if they have the services to support even providing all the folks that are in those tents with services. They are actually in the process of shutting down basic city services to accommodate the needs of these large, growing tent encampments. So what I'm proposing is that we are five years-- four to five years behind them. We have an opportunity to interrupt that trend right now. Harm reduction alone, although it's good, will not do it. We have to have the three-legged stool. We have to have the enforcement option as well.

IBACH: OK. Great. Thank you very much. Thank you, Chair.

WAYNE: Any other questions from the committee? Seeing none. Thank you for being here as always. Next proponent. Proponent. Welcome.

DEVON KURTZ: Thank you, Chairman Wayne and members of the Judiciary Committee, for giving me an opportunity to support LB1357. My name is Devon Kurtz, D-e-v-o-n K-u-r-t-z. I'm the director of public safety policy at Cicero Action, a nonprofit research institution based in Austin, Texas. I have worked on this issue in nearly 20 states. I'd like to offer some statistical context for this discussion. Only a small subset of the homeless population engages in what is known as street camping, which is the topic of discussion here. Approximately 87% of homeless Nebraskans sleep in the more than 2,800 available beds in homeless shelters or transitional housing units. But the remaining 13%, approximately 312 individuals, sleep outside despite there being enough shelter beds in the state to house them temporarily. Unsheltered homelessness-- the term used for those who engage in street camping-- is quite different demographically than homelessness in general. To start, families represent about 30% of the sheltered homeless population in Nebraska, whereas the unsheltered population includes only two family households in the state. Approximately 2/3 of Nebraska's unsheltered population is male, and most are older than 35 but younger than 64. The unsheltered population suffers from high rates of severe mental illness and chronic substance abuse, both of which have become far more prevalent in that population over the last ten years nationwide and in the state of Nebraska. Since 2013, the number of unsheltered homeless with severe mental illness has grown by more than 300% or quadrupling. Those with chronic substance abuse have more than doubled. As a result, unsheltered homelessness has 2.5 times mortality rate of those in homeless shelters. These factors are important contexts when considering this bill. Unsheltered homelessness in Nebraska is not simply an issue of economic distress or inadequate response mechanisms in communities. Unsheltered

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homelessness in Nebraska is driven by high-need individuals who cannot or will not accept shelter and services because of their limited mental faculties, addiction, or individual decision to refuse help. These are not acceptable reasons to allow someone to sleep on the street and endure the harsh elements of the outdoors. Indeed, to permit them to choose to suffer outdoors is cruel. LB1357 addresses this issue by empowering law enforcement to move unsheltered homeless people off of the street as a last resort if those individuals do not accept shelter or services from homeless outreach teams, churches, or other members of the community who engage with these individuals every day. Cities like Austin, Texas have seen success using this policy, accomplishing a 19% decrease in unsheltered homelessness and 20% increase of those in shelters within only one year and only one arrest. This bill is a first step for Nebraska to respond more comprehensively to a growing unsheltered homeless crisis. I have additional data at my disposal. And be happy to answer any other questions. Thank you.

WAYNE: Any questions from the committee? Seeing-- do you have one? I figured you did. That's why I was pausing. Go ahead, Senator. Senator McKinney.

McKINNEY: Reading your thing, I see your point-- what is this? Point one on your-- one of your final paragraphs on your first page, it says-- you say that there is enough homeless shelter space available for people currently homeless on the streets of Nebraska. What makes you think that's true? Because there's a lot of people in this room who work at homeless shelters who are behind you shaking their head. So--

DEVON KURTZ: Sure, sure.

McKINNEY: --please--

DEVON KURTZ: I, I would be happy to, to offer--

McKINNEY: Educate me on why you-- from-- you're from Texas?

DEVON KURTZ: Correct.

McKINNEY: And people from Nebraska who work in homeless shelters are behind you saying that is a incorrect statement. So how are you who-- from Texas, what fact do you have about the state of Nebraska and our homeless shelter population and our homeless bed availability that the people who work in homeless shelters have that you--

DEVON KURTZ: Sure.

McKINNEY: What do you have that they don't?

DEVON KURTZ: The Department of Housing and Urban Development tracks all of this data that they contribute to, thus I have their numbers. So I can give you those numbers right now. In 2013, there were 33,728 short-term shelters available in the state. There were 3,100 homeless people at that time. Under what's called Housing First, a policy dictated by the U.S. Department of Housing and Urban Development, through what are called the continuums of care--

McKINNEY: What's the numbers in 2024?

DEVON KURTZ: I'm getting there. Don't worry. The U.S. Department of Housing and Urban Development gives Nebraska approximately \$12 million a year in homelessness funding. Most of that funding is used for what's called Housing First, which is the prioritization of what's called permanent supportive housing over a short-term shelter, like emergency shelter and transitional housing. So the number-- 3,700, short-term shelter, 3,100 homeless-- in 2013 has changed. In 2023, the most recent count: 2,800 short-term shelter, a decrease of almost 1,000. At the same time, the homeless population has decreased to about 2,400 in the state. However, unsheltered homelessness over that period has more than doubled since 2018. And since 2013, it's about an 80% rise. In addition, the proportion of homeless in the state that's unsheltered has doubled. So more people that are homeless today in Nebraska are, are unsheltered and homeless than they were ten years ago in large part because of these policies enacted by the folks behind me.

McKINNEY: What policies?

DEVON KURTZ: Housing First, which is deprioritizing short-term shelter. It's literally taking transitional housing, converting it into a different type of housing that hinders a community's ability to respond to homelessness and get people into the services that we're talking about.

McKINNEY: So your argument is that the homeless shelters that are available have policies that restrict those who would traditionally qualify to be able to use the-- utilize those shelters from being able to go inside those shelters?

DEVON KURTZ: Not correct. No, Senator.

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McKINNEY: What are you saying?

DEVON KURTZ: I'm saying that the, what are called continuums of care-- which oversee a state's-- and, and there's multiple in the state-- but they oversee all of the dispersion of federal funding and grant applications for a state around homelessness. Those organizations have decreased the amount of transitional housing in your state by 60% since 2013.

McKINNEY: So how are you arguing that we have enough beds then?

DEVON KURTZ: We do. We still do. There's 2,800 short-term shelter beds and 2,400 homeless in the state. Those are enough beds.

McKINNEY: So you're saying there's only 20-- 2,400 homeless people in the state of Nebraska?

DEVON KURTZ: According to the U.S. Department of Housing and Urban Development, yes. Which is the best data we have. I would love to have more data. I would love to do the annual time-- point in time count every month. However, there's resistance within HUD to do that and the continuums of care. We could get more data and transparency, but the same folks who are saying there's not enough money, not enough resources resist that in every state I go to. We're aligned on, on a lot of this. I, I hear you, and I, I've heard questions from the committee. And, and I, I do hear you. We want to have a more comprehensive solution. We want to have more resources. But right now, the resources that exist are being misallocated. That's the problem. The problem's getting worse because it's a misallocation of resources, not because of a scarcity of resources.

McKINNEY: OK. Thank you.

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

DEVON KURTZ: Thank you.

WAYNE: Next proponent. Next proponent. Proponent. Seeing none. Moving to opponents. First opponent. Welcome.

ERIN FEICHTINGER: So pleased to be here with you all on the last day of hearings.

WAYNE: There's no per--

ERIN FEICHTINGER: Chair--

WAYNE: --person I'd rather share the last hearing with than you.

ERIN FEICHTINGER: You know, that's so nice. Let's get into it. Chair Wayne, members of the Judiciary Committee. My name is Erin Feichtinger, E-r-i-n F-e-i-c-h-t-i-n-g-e-r. And I'm the policy director for the Women's Fund of Omaha. We believe that housing justice is gender justice. You've heard from me before in this committee. Women are consistently overrepresented in eviction court. They are disproportionately impacted by housing instability and homelessness. In Douglas County, over 60% of tenants in courtroom 20-- that's eviction court-- are women. The number of women evicted is 16% higher than their male counterparts, and that number grows for black women who are evicted at a rate 36% higher than black men. 57% of all homeless women report that don-- domestic violence was the immediate cause of their homelessness, whether through needing to leave or through an eviction. The most recent 2023 point in time count of the 1,475 people experiencing homelessness in the Omaha metro area, 109 of them identified domestic violence as the reason they were homeless. The response to these numbers is not further punishment. It is not creating penalties for being in need. The response is addressing the root causes of homelessness, which is admittedly much more difficult than simply putting people in jail or fining them. I've already shared with this committee in previous bills the data on evictions, on housing instability, the repercussions of that instability not only leading to homelessness but impacting long-term stability for individuals and families here in Nebraska. You know that housing instability is growing, that eviction filings have grown from 6,286 in 2019 to 10,989 in 2023. We know that children are most at risk for eviction before age of five. We know that having children in a rental household puts you more at risk for eviction, and evictions lead to homelessness. And while it is true that we are not currently equipped to deal with the level of the problem we are facing, it is not for lack of effort and it is not for lack of hope. This bill represents the exact wrong response to our problem. Homelessness is not a personal choice. It is a policy choice. It is our collective failure to provide adequate resources and support. I have heard this bill is just another tool in the toolbox, but what folks have been asking you for is a life raft. And we are throwing you an anvil with this bill. We have not done enough to solve the underlying problems to justify this response. And the people behind me can't say this, but I can: it is incredibly insulting to every single person in this community who spends their time trying to help folks who take on the collective trauma of all of

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our communities that no one else wants to deal with, to then turn around and undo that work by saying, let's just put them in jail instead. I want to be clear that there are a lot of sincere, thoughtful, and compassionate solutions to homelessness and that we can take serious steps towards those solutions together: providing more affordable housing, increasing housing stability and safety of housing, economic security, mental health services-- all of that work and those solutions are undermined by the reactive and punitive response represented by this bill. This is not a solution for homelessness. It is a penalty for it. It is a punishment targeted at those most in need, though it is our collective failure to help people.

WAYNE: I'll ask you to wrap up.

ERIN FEICHTINGER: And I was just about to. And I am happy to answer any questions to the best of my abilities.

WAYNE: Thank you. Any questions? Senator McKinney.

McKINNEY: Thank you, Chair Wayne. Thank you, Ms. Feichtinger. First question, do you think there's only 2,400 homeless people in the state of Nebraska?

ERIN FEICHTINGER: I'm going to tell you that there are people behind me who spend a lot of time analyzing that data who are from Nebraska, who work in Nebraska, who work on the ground. And I'm going to let them answer that question. I do know that, you know, the point in time count is just that-- a point in time. And the people behind me who do that work every day are going to have a lot more, you know, personal knowledge, are going to have a lot better numbers for you than I will.

McKINNEY: OK. Last question. If this bill passed, would this just create a option for a political subdivision to enforce this or would it also automatically criminalize homeless-- like, criminalize these individuals that are living in tents or encampments?

ERIN FEICHTINGER: I think that your questions earlier were spot on to that. The way that I understand this bill to work is that it would create a penalty for what has, I think, been in a folksy way called camping but which we know is really targeting street homelessness. And I think you are exactly correct that we haven't figured out those other pieces. And if this bill passes, what we've done is create a punitive system that people are not going to be able to avoid.

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They're not going to be able to get, like, away from it. And-- yeah. And I'll just leave it there for you.

McKINNEY: All right. Thank you.

WAYNE: Any other questions? Seeing none. Thank you for being here. Next opponent.

JASMINE HARRIS: Good afternoon, Chair Wayne and members of the Judiciary Committee. My name is Jasmine Harris, J-a-s-m-i-n-e H-a-r-r-i-s. I am the director of public policy and advocacy at RISE, and we're here in opposition to LB1357. The criminalization of unhoused individuals has become the go-to response across the United States to try and control the growing number of unsheltered people living and conducting daily living activities in public spaces. The definition of criminalization of homelessness is punishing unhoused individuals for doing things in public that every person has to do-- for example, sleeping or sheltering against the elements. LB1357 would do just that-- criminalize people in the state of Nebraska. In 2014, the National Law Center on Homelessness and Poverty conducted surveys of 187 American cities and found that 34% of those banned camping, quote unquote, in public spaces, which increased by 60% since 2011. These types of laws have not decreased since then but have rapidly spread across the country. I want to give you some data points. According to the Nebraska Criminal Justice Data Snapshot provided by the Council of State Governments, in January 2022, Nebraska had the 3rd highest state homelessness rate in the Midwestern region and the 24th highest in the country. People incarcerated more than once are 13 times more likely to experience homelessness than the general public, and unsheltered individuals have had 10 times the number of law enforcement contact than those in shelters and are 9 times more likely to have spent at least one night in jail in the past six months. And as we all know, the Nebraska Department of Corrections is overcrowded, and so are the county jails. This homelessness-to-jail cycle contributes to these numbers. LB1357 will contribute even further. Criminalization of homelessness not only puts a strain on the criminal legal system, it worsens the issue of homelessness. This bill wants to make camping on public properties a Class III misdemeanor, which the penalties are up to three months in jail and/or a \$500 fine. This does not include the court costs and fees. As part of the justice study, RISE has case managers that work with individuals who are on pretrial. Our fir-- focus is on trying to ensure we are meeting people where they are and identify the needs that they want to address to increase their chances of success. When we go through our needs assessment, the top

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five concerns are low and/or no income, food insecurity, unfit housing, no employment, and none and/or lacking adequate transportation. So when we are working with folks who are experiencing being unhoused and navigating the criminal legal system, majority of them have no means to pay for these fines, court costs, and fees, and barely the ability to get to the courthouse to appear on their court date, which causes more issues due to warrants for failure to appear. So what can we do to lessen the amount of people cycling through the criminal legal system and experiencing homelessness? Not pass laws like LB1357, invest in affordable and supportive housing and wraparound services, and reduce housing discrimination due to someone having a conviction on their background. For these reasons, RISE opposes LB1357 and asks the committee to not vote this out.

WAYNE: Thank you. Any questions from the committee? Senator Bosn.

BOSN: Thank you. Thank you for being here. I appreciate your perspective. I guess one of the question-- you heard the gentleman who testified as a proponent who's a business owner. Were you in here for that?

JASMINE HARRIS: What do I think of it?

BOSN: Did-- were you in here for the testimony--

JASMINE HARRIS: Yes.

BOSN: --of the individual who's a business owner in Omaha community? Is it your position that there are, in fact, individuals who would prefer not to go to a shelter?

JASMINE HARRIS: It all depends. So when you're talking about people who are having mental health conditions or issues with their mental health, are they in that mind state to be able to make that decision? So it just all depends on where they are in, in that. We, we heard about free spirits. It's, it's people's choice to be a free spirit if they want to be a free spirit. But if they're having a mental health condition, are they in that, you know, right state of mind to make that decision?

BOSN: But even still, there could be some individuals who say, I don't want to go there. I just would prefer to not reside under those conditions.

JASMINE HARRIS: There could be.

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BOSN: Right. So what is the solution for that gentleman's business? I mean, he presented some significant issues. I think we both agree that those are serious issues that are taking place there. And so my question is, if there are individuals who prefer not to live in the shelters, we aren't going to change their mind by-- and your position is, we aren't going to change their mind by criminalizing their behavior. What do we do with that? Because they don't want the housing that-- we could offer-- I mean, your solution is to invest-- I assume that's what you're--

JASMINE HARRIS: Invest in affordable and supportive housing.

BOSN: If they don't want that, what is the tool that we should be using? And I didn't mean to play gotchas, so maybe--

JASMINE HARRIS: No, there's no, there's no gotcha when it comes to me. The thing is we hear about FEMA. We hear about putting people in these shelters. All that is temporary. When you go to a shelter, you're there for the night and then you're back out on the streets. So that's not even a solution. So we all have to come together and create things that are going to address poverty in [INAUDIBLE].

WAYNE: OK. Any other questions from the-- Senator Blood.

BLOOD: Thank you, Chair Wayne. Thanks for coming in today. I have a question because I haven't heard this yet, but it was always my understanding working with homeless people that one of the reasons they don't go to shelters-- and I, I am asking this in the form of the question-- is because what personal belongings they have are their personal belongings-- and often, you'll see them, like, with a shopping cart or with, like, a rolling suitcase or some other way to transport it. And they're not always allowed to bring those possessions into the shelter. And so they have to decide between possessions or the bed. Would you say that that's accurate still or is that just from-- because I haven't done-- volunteered there in, like, two years, so maybe things have changed.

JASMINE HARRIS: I'm, I'm not sure what the policies are right now. We also hear anecdotally from people that we help with that sometimes they don't feel safe in the shelters that-- you know.

BLOOD: Right.

JASMINE HARRIS: So it's just all--

BLOOD: --especially people with children.

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JASMINE HARRIS: --what people have and what they're going through at that point in time.

BLOOD: OK. Thank you. Maybe someone else will come up behind and let me know that. Thanks.

JASMINE HARRIS: Yes.

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

JASMINE HARRIS: Thank you.

WAYNE: Next opponent. Opponent. And I just want to remind people: if you hear something that was already said or don't need to-- and just want your position recorded, there is a gold sheet that records your position for the record. Thank you. Go ahead.

TINA ROCKENBACH: Thank you. Good afternoon, Senator Wayne and members of the Judiciary Committee. My name is Tina Rockenbach, T-i-n-a R-o-c-k-e-n-b-a-c-h. I'm the executive director for Community Action of Nebraska. We're the state association representing all nine Community Action agencies addressing poverty in all 93 counties in Nebraska. You've got some written, prepared testimony there. And I'll let you read that at your leisure. I, I've got some, notes here just from the conversation today that I think deserve being uplifted. And first of all, while we are in opposition here today to LB1357, I do appreciate that it's opening this conversation. This is something that we work with on a daily basis and often see frustration in trying to get things accomplished. And we also want to recognize that we do feel that public safety and individual safety is utmost. And that's also what we look at when we're trying to connect people with our services. As the bill is written, we do have the concerns that have already been uplifted here today. And I'm not going to repeat those, but I do want to talk a little bit about a couple of things. First of all, this year marks the 60 years that Community Action has been working to address and prevent homelessness, address homelessness, poverty, and, and uplift some of the things that took place in the '60s out of the war on poverty and the war on racial and social justice. And we're still having this conversation, right? And-- as was mentioned earlier. And my concern is we sit here and you-- you all see me up here, right? I advocate for these things a lot. We advocate for more funding. We advocate for this on the, on the federal level. We're doing it right now. So as we have this conversation today, a few things I have heard more than once are,

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where are the services? The services are not showing up. Some of the other things I've heard are misallocation of funds, et cetera. And I want to give a little bit of perspective to that. First and foremost, you've all heard me say how taxed our services are and our systems are. And that's just from my network. That's not including some of our peers in the back here. We can't get to everybody. And our funding is continually being changed, cut, further restricted. There is no misallocation of funds. We don't have enough. And furthermore, we are happy to get out there and outreach and connect. We are swamped at our doors with the people we're trying to prevent eviction and prevent homelessness before they're in those encampments and before they're out. And again, that's not discounting some of the things that happened with, with the safety. What we also learned in our 60 years is when people can't meet their basic needs, they get pissed off because, why me? Why me? And if anybody's ever been in that, even from paycheck to paycheck, you feel that. And so it's no surprise that we're in this mess. We did it to ourselves. And I want to echo Jasmine in saying that we need to come together. This is a start of the conversation, and we need to figure out how to solve it. But there's no one layer. We've got to walk this back. There's public safety way to solve this. There's also, how do we get the local entities to connect with people like us? But we don't have the capacity to get everywhere. With that, I'm happy to answer any questions that you have.

WAYNE: Thank you. Any questions from the committee? Seeing none. Thank you for being here. Next opponent. Welcome.

MATTHEW TRACY: Thank you. All right. My name is Matthew Tracy, M-a-t-t-h-e-w T-r-a-c-y. I am a Housing First case manager, one of the programs that funds have been this allocated, apparently. As a human service professional, I have an ethical obligation to advocate for change in regulations and statutes when such legislation conflicts with ethical guidelines and/or client rights. LB1357 is discriminatory legislation attempting to criminalize homelessness. LB1357 is not a viable solution for several reasons. It's ineffective. Criminalizing homelessness does not address the root causes of homelessness-- homelessness, such as lack of affordable housing, mental health issues, substance abuse, or unemployment. Instead of solving the problem, it merely pushes individuals experience-- experiencing homelessness into the criminal justice system without providing meaningful support or resources. It is also a violation of human rights. Homelessness is often a result of systemic issues and personal circumstances and punish-- punishes the individuals for their lack of housing, is a violation of their basic

human rights. Everyone deserves access to safe and secure housing, and criminalizing homelessness further marginalize already vulnerable populations. LB1357 continues the cycle of poverty. Criminalizing homelessness can perpetuate a cycle of poverty by imposing fines or penalties on individuals who are already struggling financially. This can lead to further debt, legal issues, and barriers to accessing housing, employment, or social services, making-- making it even more challenging for individuals to transition out of homelessness. LB1357 also lacks alternatives-- homelessness-- does not offer viable alternatives for individuals living on the streets. Instead of punitive measures, investing in affordable housing, mental health services, substance abuse treatment, and social support programs can address the underlying issues contributing to homelessness and helping individuals rebuild their lives. It will have a profound community impact. It will strain resources within the criminal justice system, law enforcement, and emergency services, diverting attention, funding away from more effective solutions to address homelessness. And it can also create tensions between law enforcement and those individuals and it-- leading to further stigmati-- stigmatization and distrust. Many people experiencing homelessness will choose jail in lieu of fines, increasing the population of an already overcrowded jail system. It also reinforces stigmat-- stigmatization and discrimination. Criminalizing homelessness reinforces negative stereotypes and stigmatizes individuals who are homeless, further isolating them from society and hindering their ability to seek help or support. It perpetuates discrimination and marginalization, making it harder for individuals to reintegrate into their communities. Thank you for your time. And happy to ask questions-- answer questions.

WAYNE: Thank you. Any questions from the committee? Seeing none. Thank you for being here today. Next opponent. Next opponent. How many more opponents do we have testifying today? Thank you.

JASON FELDHAUS: Good afternoon, Chairman Wayne and members of the Judiciary Committee. My name is Jason Feldhaus. That's J-a-s-o-n F-e-l-d-h-a-u-s. And I am the executive director of the Metro Area Continuum of Care of Homeless, or MACCH, for both Douglas and Sarpy County. I've provided some written testimony, and I, I think with the testimony we've had here today, I will kind of work through a couple pieces of mine but generalize some of the questions-- or, some of the information back to you guys from some of the questions I've heard. One of our concerns with LB1357 is that we proceed-- HUD provided us \$5.8 million this last year in our [INAUDIBLE] process, which was \$453,000 above the year before. If we go to criminalizing or the

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state would start to put in criminalizing bills, we are at risk of losing a portion of those dollars, and especially some of those new dollars that we received. HUD looks at, as it was mentioned earlier, as Housing First is one of the best practices that we must adhere to as a COC. In addition, MACCH and the local COC are actively building street-- strategies. MACCH is currently hiring a street outreach coordinator to manage and increase efficiency at the street level. We're working to increase off-hour response teams, share training, practices, and work with local law enforcement. In 2023, MACCH opened up the position to the Council Bluffs Police Department so that on my board there is a police officer that's advising our work. We've added a summer PIT count to increase our data component and being able to understand the seasonal changes in the population size that we'll be working with in the Omaha community. And in October, we will host a new event, Project Connect, to target unsheltered individuals prior to winter. I think it's important to know that the COC isn't just sitting around or, as what was said, allowing people just to encamp or live in tents. Our service providers on a daily basis are going out and meeting these individuals. I also think it's a miscalculation to say-- or, categorization to say that no services are provided. Services are provided through street outreach teams-- and you'll probably hear from many of them-- on a daily basis to individuals with the encouragement to participate in those services. There was a statement about individuals that choose to not enter shelters or enter shelters. And I think one thing we have to understand with our population that we're serving is the building of that trust in order to take advantage of those services. They've been in and out of services almost their whole life, whether it's the Department of Health and Human Services, our medical services, Corrections, probation, et cetera. Our homeless services are, in many cases, the last stop on the train. They've already gone through most of our other social services. And so the, the individuals that apply every day, their effort to support people should be recognized and that services are provided on a regular basis, but trust has to be developed. I will stop there and take any questions that anybody has.

WAYNE: Any questions? Senator McKinney.

McKINNEY: Thank you, Chair Wayne. Quick question, do you-- is it your opinion that individuals who may not want to go into shelters don't want to go into shelters because they want to break the law?

JASON FELDHAUS: Oh. Absolutely not. Like-- I guess how I would, I would come at that question in this way, is that, first off, they

have every right, as we do, to self-determination of what's on their best path, right? And if we legalize it in that it's a mandate, then you've taken away their self-determination on what is in their best interest. I think is one part of it. Two is, you know, between 2019 and 2023, we saw in 2019 about 7,577 people individualized in our, our homeless services in-- around the metro area of Omaha. In 2023, we saw 7,111. So we actually saw a slight decrease there. But what I've seen is an increase in unsheltered. So 2019, there was 46 people accounted for in the PIT count. In 2023, there was 210. And our chronic numbers have gone from about 32% of the population to 40% of the population. And so what I think we're, we're starting to look at is we have to adapt some of our strategies we currently have to address the new population needs that we're seeing. And shelter as a standard service is still a valuable strategy, but we're going to have to figure out how we identify the actual strategy to the individual individual on the street to encourage that uptake, whether-- shelter alone isn't the uptake or the strategy. So we're really going to have to try to develop those. Sorry.

McKINNEY: Oh, no problem. What would be your response to the statement earlier that there are, there are enough beds; there's either a misuse of funds or a lack of something occur within the services that are supposed to be available?

JASON FELDHAUS: So, so there's some validity in that statement in that I'm running at about 85% utilization in my shelter system. So I have about room for about 15%. But what we're realizing is that the populations that are increasing that we're seeing in, in homelessness are 55 and older, and we're also seeing a lot more with dependent children or families. Our shelter system wasn't developed originally as a strategy to address those populations. And so I think there's an adaptation we have to go through at making-- if shelter is a temporary solution, that's more accommodating to those populations. I just think right now we're in a stuck strategy, right? Like, what we work-- what used or worked before 2019 obviously is not working now. And we're seeing trends that are shifting. Affordable housing is part of this conversation, mental health, all those pieces, but also adapting our service delivery system at the street and in our community as necessary. And we're just starting to see those trends coming out of the pandemic, if that's helpful.

McKINNEY: All right. Thank you.

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

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JASON FELDHAUS: Thank you.

WAYNE: Next opponent.

DeBOER: I can't hear what you're saying.

ARIELLE NICHOLS: [INAUDIBLE] collaborate our efforts together because we have a similar speech together.

WAYNE: No, you could only have one-- because there are transcribers. You could only have one person talk.

JEREMY FOLLEN: So my name is Jeremy Follen, J-e-r-e-m-y F-o-l-l-e-n. I kind of wanted to touch on a subject that hasn't been brought up yet.

DeBOER: Sir, can you talk just a little louder?

JEREMY FOLLEN: Sorry. Yeah. I wanted to talk about something that hasn't been brought up yet. Two days ago, a friend of ours passed away because he wasn't allowed inside the shelter. Because, one, he was a gay man and, two, because he had-- he was diagnosed with AIDS. And they don't-- they don't have the support system that we need. Some of us aren't out there by choice. It's because we have no choice. And we could-- when they say there's no free spirits, everybody that lives in the encampment that I do. We are a family. We all have the help from the church that helps us. We have-- anybody we need-- somebody got resources somewhere. And as hard as it is to admit, yeah, I've made my mistakes. We all have. But I don't feel like passing this bill and penalizing and criminalizing our efforts to try to do better is going to do us any good in trying to change who we are. It's just going to make things worse. About all I have to say about that.

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

BOSN: Sir, I noted that an individual wanted to come up with you. I don't know if you were in here when he said-- but she can sign a, a gold sheet and say that she echoes your comments if she would like to be heard on the matter.

JEREMY FOLLEN: Yeah, she's got some other things to say as well.

BOSN: Oh, OK. Well, that's different then.

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

ARIELLE NICHOLS: Hello, y'all. How you guys doing?

DeBOER: Can you just pull that microphone a little closer and, and speak up just a little bit? Yeah. It doesn't go far. That's the best we can do.

ARIELLE NICHOLS: Can you hear me now?

DeBOER: Thank you.

ARIELLE NICHOLS: All right. My name is Arielle, A-r-i-e-l-l-e; Nichols, N-i-c-h-o-l-s. I am 32 years of age. I currently live at, at the encampment off 17th and Izard. We have several people here who we've lost over the last year due to elements. The elements will kill you faster than anything else will. But these people all died on the Francis House lawns. Five people, five individuals we lost in our community. All of them are family members. If you make this law here, we're forced to hide. It will further [INAUDIBLE] our resources, which all we have is right there. We get tremendous support from the community, from individuals who drop off food, firewood. We have one guy who dropped off pop and, and everything we needed at that one corner, which is all we have left. Every time we go some place, there's no designated place for us to camp. So they shove us off and make us move. So we do so. We don't want heat from the police. We don't want [INAUDIBLE]. Nobody's [INAUDIBLE]. We just want to live in peace. As, as members of this community, we are treated less and less like people. There was a woman that I was very close to. She became like a surrogate mother to me. As someone who grew up without parents and in the state's care, I learned to survive on my own. This woman took me under her wing. Her name was Donna [INAUDIBLE]. She was a victim of an assault. She was raped. [INAUDIBLE] called hotshot. That's where they give you a mixture of usually meth and fentanyl. And it goes into your vein. It kills and stops your heart. For her, this was done improperly. Getting the cops to listen to her or getting them to do anything about this was an impossible task. We deal with so much on a daily basis from our community. People are supposed to help us. Nobody even knows this. Getting somebody to listen to you, like the police, or the medics even when you're at risk like that is the hardest things. They don't listen to you. They think because you're homeless you're drug seeking. Not all of us are addicts. Not all of us have ever done any drugs. A lot of them are. All of us are. But not all of us. So you cannot classify us as one

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whole person or one group. We are all individuals. We all have a story. The reason people don't stay in shelters is because it's dangerous. At the-- Siena Francis, I stayed there for two years. I saw on average three or four stabbings in a week on campus. I witnessed one of my best friends there get beat to death. And he didn't do nothing wrong. And getting them to do justice for him was possible. We all have to become medics of our own because getting basic things like medical care a lot of times is really difficult. They don't hear you. I went in-- I had some-- I had, I had a really bad infection in my legs from poison ivy. They took four round trips to the ER before I finally laid on the church lawn and was dying of sepsis before anybody did anything. And it's only because somebody else fought for me. That person's no longer here. Thank you.

DeBOER: Thank you. Take our next opponent.

ANETTA RODARTE: I'm Anetta Rodarte. And it's spelled A-n-e-t-t-a R-o-d-a-r-t-e. I am 60 years old. I currently live at the Siena Francis House, but I get so stressed out in there because people talking to themselves and hollering. So I've to asked them to move me and they refuse to. I had to go out-- to maintain my sanity, I had to go out and live in the streets. And I went-- stayed out one night with a friend of mine. He got to go back into the shelter and get his same bed. I had to sleep on the streets on the curb for four days in the cold. And I'm 60 years old. And I don't understand this. I can pay-- I had my own apartment. It was [INAUDIBLE]. And Together, Incorporated helped me get it. But someone shot a gun off in my apartment, so I got evicted. And now they have this housing thing where they randomly pick people to go into it. And I've been sitting there for three years and I still can't get a home. And I can pay for my home, but I can't pay for the rent as well as the utilities. And I just-- I wanted that known.

DeBOER: All right. Thank you. Let's see if there are questions from the committee. I don't see any. Thank you so much for being here--

ANETTA RODARTE: Thank you.

DeBOER: --today. Let's have our next opponent testifier.

KRISSY GALLAGHER-McMILLAN: My name is Krissy Gallagher-McMillan and this is Chewbacca. Good boy. I live in one of the tents by Holy Family [INAUDIBLE] in Council-- in Omaha. I've been on the housing list for three years. I have been working with the outreach case managers, including the church. I am actually on the housing list for

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one of the tiny homes that, that they just built. I'm just waiting for one to come available. I have been fighting with-- the shelter won't let me or him in because we were in there at one point and a lady decided to keep pulling him on his ears and he snapped her. But they're real quick to blame him. I have epilepsy, stress-induced seizures. I have a lot of other medical issues. So being without him kind of literally makes it worse. So we choose to stay outside. Not all of us are as dangerous as people think we are. We're really not. I'm just trying to get into housing, and it's just being a waiting game. Excuse me. We are discriminated against in the shelters as well-- they're saying we-- oh, you can check in. But when we go to check in, we can't check in. We are mandatory bottom bunk. And if there's no bottom bunks, we're outside regardless. Hey, buddy. Thank you.

DeBOER: Thank you. Let's see if there are questions from the committee. I don't see any. Thank you so much for being here.

KRISSY GALLAGHER-McMILLAN: Come on, [INAUDIBLE].

DeBOER: All right. Let's have our next opponent. Welcome.

PEGGY GERLING: My name is Peggy Gerling. That's P-e-g-g-y G-e-r-l-i-n-g. I'm 65 years old. I came to Omaha in May 2023. I ain't been home [INAUDIBLE] entire time I've been here. I started off at Siena Fra-- at Siena Francis. My life was threatened and I was poisoned. And I've resorted to staying with my granddaughter in a tent until I could get into my own tent. And we have been ridiculed. We have been basically ostracized. I've tried to get a bottom bunk to try, try to go back because it was getting too cold. And I'm not allowed back in there because certain staff members don't like me. I'm, I'm a troublemaker. I open my mouth when something goes wrong. I, I can't stand people being used and abused. And there's other people in there that, that get a chance to take your things and never get reprimanded. It, it makes no difference. If the, if the staff likes you, you're in. If they don't, you're out. It's that simple. I didn't choose to be homeless. My fiance died because of COVID, and that left me with more bills than I could ever pay. I lost everything. And my children brought me here to this state-- because I'm not even from here. I'm from Missouri. I don't belong here. But because of everything that you had to go through to get on your feet after everything's been taken-- I can't go through all the proper channels. I don't have the facilities. I don't have any of the resources that I need. And it's taken me a year to get this far. And I, I'm holding on by the, by the skin of my teeth. That's it. I just

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hope that they don't criminalize this because that's not helping anybody. It's not criminal to be homeless. It just makes it worse if they do this. It, it'll give everybody a criminal record, and that's going to make it impossible to get a job or a home. Thank you.

DeBOER: Thank you. Are there questions from the committee? I don't see any. Thank you so much for being here.

JILL LYNCH-SOSA: Hi.

DeBOER: Welcome.

JILL LYNCH-SOSA: Thank you. I am Jill Lynch-Sosa. It's J-i-l-l L-y-n-c-h-S-o-s-a. And I'm the executive director for the Society of St. Vincent de Paul. All of this-- the six people that just testified were in the tents on-- half on our property, half on the sidewalk. That's caused a little bit of a debe-- debacle here lately. And-- I'm not going to get into statistics and all this. I am not a political person. I feel like I kind of got pulled into this a little bit and I have to-- I really feel like I need to stand up for those that were camping on our property, half on, half off. First off, I want to say-- you know what? Senator McDonnell, I have so much respect for you and all of the senators. You have hard jobs. I get that. I know you do a lot of great things for the city and you believe in this. And I, I get that. And I applaud you for trying to come up with a solution. My own personal opinion is, this is so wrong because I know the people it affects. I'm not representing the people that it affects. I know these people. I spend every day with these people. I go outside and-- yes, they've been camping since November on this strip alongside our, our building. And it was a Core 12. And we had an agreement and the-- and they stuck to the agreement. We know it's not a long-term solution, but it's a dignified way to help them when they don't want to go somewhere else for many reasons that you've already heard. When, when we say they don't get any help in the tents, that's not true. They get so much help in the tents. That's why I wanted them close because it was a bitter winter. We all know that. I wanted to make sure they had a place they could get inside and that they had help. All of our service providers, they know where to find them. If we push them further back, it's more dangerous. It's harder to get to them. People won't know how to help them. And 211-- when we talk about 211-- you know, most of our requests come from 211. They come to us to say, hey, can you help these people stay in their houses so they don't go into homelessness? We got over 4,000 calls in January. And we are, we are funded by the grace of God of, of everyday people. Not the church. We're not the church. We are not

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governed or funded by the church. We are independent. We're a charity just like anybody else. And there's only so much we can do. But we do want to be there. And for Mr. Trivedi, I totally feel for him. I get it. That's-- but when he says that, that SSVF is dismissing them all now that it's gotten out of control, that's not true either. I don't think any of these people that I brought up here feel like I dismissed them. I'm trying to help them move forward under the circumstances that we have right now. So I'll take any questions if you have any. Thank you.

DeBOER: Let's see if there are questions then from the committee. I don't see any-- oh. Ibach.

IBACH: Thank you. Thank you, Madam Vice Chair. Do you feel like you will ever have too many or how-- to-- do you ever feel like the population will grow to a place where you can't accommodate them?

JILL LYNCH-SOSA: Oh, absolutely. Absolutely. The problem is-- they, they aren't the problem. It's the resources. It's, it's housing. That-- I mean-- right-- our core mission is to keep people from falling into homelessness, but we also have this group of people that are around us, and we are obligated to help them. That's, that's our mission. Yeah. I'm, I'm, I'm scared to death about that. I-- but criminalizing the situation only makes it even harder. We, we had a situation where 12 of them got pulled out of their tents in the middle of the night and arrested. Now, normally, what would happen is someone'd come bulldoze all their stuff, throw it in a-- throw it away. They'd wait a few days. Who knows before they got out? We were able to work with the city and the police department and the city prosecor-- prosecutors to get them out of jail, but we also had to have people watching their stuff. Three dogs got put into the Humane Society. We paid to get those dogs out. They couldn't have done that. One person got their car towed. We never got that out for them. It just-- it created not only stress and, and difficulties there but financ-- more financial crisis than they're already in. The trauma that-- people are so-- and I'm not-- and, and I'm jumping now, but people are so mean to them. I mean, I've been out there when they've [INAUDIBLE] you know, shot BB guns at them or thrown firecrackers at them just because they're homeless. They're just trying to get by. It's-- but, yeah. Is it going to grow? Is it, is it, you know, somewhat out of control? It is, but it's not their fault. It's-- we have to have housing options. We have to have better resources in the community. We have to be able to help them find some jobs and give them some coaching so that they can be successful. But criminalizing them is, is not the way forward, in my opinion.

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IBACH: OK. Thank you. Thank you, Madam Vice Chair.

DeBOER: Other questions? So I have one for you. And I missed part of the hearing, and I'm very sorry about that. I had to go to another-- they mentioned-- some folks mentioned the housing list.

JILL LYNCH-SOSA: Mm-hmm.

DeBOER: Is that your housing list that they were talking about?

JILL LYNCH-SOSA: No. We don't-- they've been on the housing list for tiny homes, the housing left-- lists-- I don't-- I-- honestly, I don't know what all of them are. They work with Together. They work with different agencies.

DeBOER: And there's, there's apparently not enough of those housing options.

JILL LYNCH-SOSA: Some of their challenges is they have to have their IDs, for example. Like Krissy, Krissy who's waiting to get into the tiny homes. She needed to have IDs, but she had her IDs stolen at one point. To get IDs, you got to have an ID. You have to get out to the Social Security office. You have to have money to pay for this stuff and all these different things. And it, it was just barrier after barrier after barrier. And we helped her so that she could get these things done. And so now she's got her IDs. And I, and I-- when I say we helped her-- we helped her, yes. But everybody behind us, everybody helps. There's more than enough for all of us to do because there is so much need out there. But in this-- yeah, it, it just-- one thing after another for them.

DeBOER: OK. Thank you. Any other questions? Thank you for being here.

JILL LYNCH-SOSA: All right. Thank you guys.

DeBOER: Take our next opponent.

LEANNE PELSER: Good afternoon. My name is Leanne Pelsler, L-e-a-n-n-e P-e-l-s-e-r. I am the director of housing and outreach programs for Matt Talbot Kitchen and Outreach. We're located here in Lincoln. We're dedicated to relieving hunger, feeding homelessness, addressing addiction, and providing outreach. I prepared this testimony that's in front of you, but I'm not actually going to speak on it. I'm going to answer some of the questions that you've been asking. The question about the housing list. So for programs such as ours that gets funding from the COC, we are mandated that we have to take from

coordinated entry. Coordinated entry is a centralized way of-- folks who are experiencing homelessness, they will do a common assessment that everybody does. They get put onto this coordinated entry list, and then they're taken off of the list based on vulnerability. If you have really high vulnerability-- meaning you have a lot of risks in your life going on-- you might have health problems, mental health issues, addiction, et cetera, have been-- having a lot of interactions with the police, or going to the hospital-- you're going to have higher vulnerability, needing more case management services for those permanent supportive housing spots. With those permanent supportive housing spots, there's only a few because they're permanent. So somebody has to graduate from the program or something else has to happen for a place to open up for them, which then delays those folks who are vulnerable and being able to get into those units. Then you have the people that don't score that high, who maybe it's their first time in homelessness or maybe their second but they don't have all of the risk factors. There's not enough programming out there that is allowing them to be able to get into rapid rehousing or having that first month's rent deposit a few months. There was-- during COVID, there was a lot of money, but there isn't anymore. And with that, that means their trauma goes further the longer that they're homeless, and that adds to the people that are needing those higher spots. The more-- instead of making being homeless a criminal action, there needs to be more resources for those who are just entering into homelessness and for prevention. We speak to our guests about what this bill meant, and I just want to share. They said, I'm not sure where I'm supposed to go. I can never get into shelter. I already feel like I'm invisible. We need more shelter space. It's not our fault that there's never room for us. We have to be somewhere, and it's safer for me to be downtown than out in the middle of nowhere. It's less likely that I'm going to be attacked. We need more shelters. You can't put someone in jail for being homeless if they have no other option of where to go. Thank you.

DeBOER: Thank you for your testimony. Let's see if there's questions. Senator Bosn.

BOSN: You said something at the beginning, and I didn't catch the word--

LEANNE PELSER: Sure.

BOSN: You said in order to qualify for a subsidy, essentially, you have to utilize the what?

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LEANNE PELSER: Coordinated entry. So us housing providers have to take individuals off of the coner-- the coordinated entry list.

BOSN: And that's where the risk level factors come in that, essentially, if you're not high risk, high needs, you're never going to bump up?

LEANNE PELSER: Right.

BOSN: Is that what you're saying?

LEANNE PELSER: Yeah. So it's based on, like-- so what happens is, is if a housing program has funding-- such as ours-- we have to take the first person on the list that's for our subsidy. So the first person for a permanent supportive housing spot would come off the list and come to us. If we had rapid rehousing dollars-- which we don't right now, but when we did, it was the first person on that rapid rehousing scoring. So it, it all depends. We don't get to choose who we take. We just take the next person. So what happens is, is it's not a time. So you could do the assessment today and I could do the assessment today. And she could have done it two years ago, but we could be needing more help than she does, so we bump over her. So people can be on the list for a really long time.

BOSN: Thank you.

DeBOER: Are there other questions from the committee? So am I understanding you correctly that one of the big sort of systemwide problems is that it's this initial entry into homelessness that if not sort of provided a solution with-- that things sort of escalate in terms of difficulty to get home-- rehomed?

LEANNE PELSER: Mm-hmm. Yes. So what, what's happening-- and there's a lot of, like, research that's being done, and, and, and Lincoln is working on doing diversion kind of in a different way and prevention of trying to prevent people from becoming homeless in the first place or to shorten their time of becoming homeless. And there's not enough dollars at that level because all of the focus-- which, rightfully so-- is focused on the people that are the most vulnerable, which is great. There's just not enough because those spots move very slowly. And there's not enough affordable housing out there that I could take Jimmy, who doesn't need a lot of support but only gets \$941 a month from SSI. I can't get Jimmy into a studio because there's not enough dollars to help him with that. It's-- there's, there's just not enough for folks who only get disability, who only are working a

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minimum wage job, who ha-- and for families who maybe have four or five kids and only one parent is able to work because of that es-- the cost of daycare. It's-- it just doesn't-- the, the cost of rent compared to the cost of living is just not feasible.

DeBOER: So-- thank you. That's very helpful to understanding some of the other work we do in this committee as well. And then I heard you say we need more shelters. I heard I think several people because I-- but then I know the proponents were saying there's plenty of shelter.

LEANNE PELSER: So--

DeBOER: Is it just that we don't have the right shelters? Is there not a match-up of shelters? What-- can you elucidate that?

LEANNE PELSER: Sure. So here in Lincoln, we have one shelter for-- that-- we have, you know, a shelter that's for domestic violence, but that's different. We have one shelter that's specifically for folks who are homeless or families. There's only one. But there's 492 people from last year's point in time count that were homeless. That's, that's not an-- they don't have 492 beds. And if you don't have an ID when it's not freezing cold out, you can't get into the shelter. And if you don't-- if you come here from Beatrice-- like, something's happened and you've come here from Beatrice-- and you're here and you're stuck here and you can't-- you can't go into that shelter because you are not from Lincoln and you don't have a Lincoln address on your ID. So then you have that person that got here-- for whatever reason, they came here-- from Beatrice, let's say-- and they can't get into shelter. And then they're having to do what? They have to sleep somewhere. And they have no other option but to sleep outside. And that-- the quotes that I was saying were from our guests that walk through our doors every day, who come in and have meals and have access to showers, but they still have to sleep outside because they can't get into shelter because there's just not enough beds.

DeBOER: That is the experience I had once when there was a woman who walked into a class I was teaching at a church who was homeless. And we were trying to find a place for her to go to. And it was later in the evening, so-- I mean, you know, 8:00 something. And-- so we didn't know how to find her a place, and everybody was apparently full.

LEANNE PELSER: Yeah.

DeBOER: Is that a common experience?

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LEANNE PELSER: It is very common. And, you know, the shelter here in Lincoln is great. When it's cold, they-- and by cold, we mean, like, 14 or low-- like, really cold-- they will make accommodations. But-- and you can call and say, can you take somebody? And they'll say, yeah, but there's 150 guys sleeping on the floor on a mat. So just let them know. If, if I've experienced trauma, if-- I, I'm not going to want to go sleep on a floor with 150 people. I'll be afraid. That's-- it's not-- or if I have schizophrenia or any other thing going on and you're going to put me on the floor with 150 people, that's scary. I mean, strangers-- it's just-- there's not enough-- there's just not enough of anything. And I, I heard the proponents talking about how there is, but the reality of it is maybe there is-- they're talking about the whole state. And maybe there's beds available in other places, but then you're talking about sending somebody from Lincoln to western Nebraska without transportation, without community, without anything. So how is that helpful to the, to the individual?

DeBOER: OK. Are there any other questions? Thank you so much for being here.

LEANNE PELSER: Thank you.

DeBOER: Next opponent. I'm sorry, ma'am. There's no props. Welcome.

LILY REYES: Good afternoon. Thank you for this opportunity. This is-- we need to do thi-- to do this. We, we need-- we are really grateful to have this opportunity to hear the people that already spoke. My name is Lily Reyes, spelled L-i-l-y R-e-y-e-s. I have been working in-- as a conference support in St. Vincent de Paul Society. And I have this beautiful opportunity to meet these people that-- they [INAUDIBLE] some of them-- but to meet people like Krissy to understand what is the difficult situation that they have to handle every single day. It's not about options-- and we hear a lot about this, but when you meet the people and you hear their history, you realize that they are handled with a lot of difficult situation, with a lot of mental illness because some of them, they went through impacting situation like they lose important person in their life, they lose their houses. And you have to understand that it's really difficult and stand-- stand by with this kind of problem. I met some of them when they was in the street. And we start to, to build this relationship with them, to help them with little things that they need to go over with their life. I have one coworker now who was in the street. We start to talk with them about a-- build they-- their own confidence again, to trust on somebody. It's difficult because no

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ones wants to trust on people who was in the street with, with some record, with some problems. But he's working now with us. And he, he couldn't be here because he have another issues now with, with [INAUDIBLE]. We don't have enough with the system that we already have. We don't have enough money to, to address the, the whole difficult situation that they are suffering now. And to convert their life as a homeless-- as a-- to, to a criminal is not-- no help at all. It's not going to help at all, at all. It's just contributing at this kind of circles. When they are going to go off [INAUDIBLE] jail, they don't have any other options, so.

DeBOER: Thank you for your testimony. Let's see if there are any questions. I don't see any for you. Thank you for being here. Next opponent. Welcome.

CASEY LOPEZ: Hello. Good afternoon. My name is Casey Lopez. I am a constituent of District 11 in Omaha, Nebraska. I'll begin by expressing gratitude to each and every member of the committee for welcoming public comment on this important issue. I believe everyone in this room today, regardless of the position they speak from, is here because they want to see a positive change. I stand before you as a Nebraskan who, up until seven years ago, slept many nights out in the cold with the hard concrete against my back. My dysfunctional on-and-off relationship with homelessness began over 20 years ago, starting with a domestic violence situation. I spent most of my life struggling with addiction and mental health. Today, I'm very proud to say that I have six years in recovery. I'm the supervisor of a crisis diversion peer support program. Currently, I sit on several advisory boards and want to implement change within our housing system. Before I found recovery-- when I could be described as street homeless-- I felt absolutely worthless, invisible, like my entire existence was inadequate. Most days, I walked the same 13-mile loop through the city until my feet and my spirit gave away to exhaustion. In those years, I was a person who would have been greatly affected by LB1357. During that time, I experienced constant waves of shame about how I looked and smelled. I tried to hide from the world. I was so afraid of people. While emergency shelters offered me assistance on numerous occasions, living in the shelter wasn't always possible for me. Sadly, due to the state of my mental health, my addiction, and trauma, shelters were not always an environment that I could put myself in. At times, shelters were more triggering to me than sleeping outside. After many years of many attempts, I found recovery and stability. Agencies like the one I work for today helped me to disrupt and eventually break the cycle that I was stuck in for so many years. Today, I have a passion to serve others and want to help

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people in the same situations that I was in. Every day, I wake up having the privilege of supporting people through homelessness, addiction, and mental health disorders into a life where they can thrive. It is my strong belief that our homeless friends and neighbors should be supported. Housing is a human right. I have no question that this bill has the potential to further damage criminal records and drive people deeper into poverty. For those who live outside, homeless is traumatic enough. Individuals are just trying to survive. Unhoused people already are worried about danger, hunger, extreme weather, and violence. To add LB1357 to their worries is unjust. I am very concerned about the hopelessness this bill will create and that it will drive folks away from integrating into our social fabric, that it will endorse the belief of being left behind or forgotten. In order to house people, we have to show that we're invested in them and that we care. We have to build trust and show that they matter. In closing, as a person who has overcome homelessness, who currently works with the unhoused population, I stand before you as living proof that with lots of support and resources, even when you're outside, change is possible. Today, I am asking you to make a positive difference in someone's life by voting no to LB1357. Thank you.

DeBOER: Thank you. Let's see if there are any questions. I don't see any, but thank you so much for your testimony.

CASEY LOPEZ: Thank you.

DeBOER: Our next opponent.

PETE MILLER: Hi. My name is Pete Miller, P-e-t-e M-i-l-l-e-r. Thank you for giving me this opportunity. I've been a proud member of Omaha's street outreach team for 13 years. And during that time, I've also worked as a housing case manager, helping folks get off the streets into their own places. As anyone who works in homeless services can tell you, two of the biggest barriers to getting housing are criminal history and lack of money. So the idea that you can reduce homelessness by making it a crime with a monetary fine, it defies logic. Unhoused people are not the problem. Homelessness is the problem. A lack of affordable housing is the problem. A lack of treatment beds for people struggling with addiction is the problem. We don't have enough psychiatrists or therapists. We don't have enough shelters for women or children or couples or people with dogs. We don't have enough nursing homes or permanent supportive housing. This legislation doesn't even pretend to address any of those issues. What we do have is a committed team of outreach workers who are on

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the streets every day, working hard to build the relationships that can help us address the tragedy of people living and dying outdoors. Those relationships take time. Unhoused folks need connection, not criminal charges. They need support, not traumatizing police raids. They need permanent affordable housing, not jail cells. This law, if passed, will only make it harder for our neighbors on the streets to trust the systems in place that can actually help them. And having criminal charges on their record will only mean they're on the street longer. Although I do believe the proponents of these law-- of this law, they have good intentions and think tough love can solve this issue. I also think it's those proponents that need tough love, need to hear the difficult truth that they can't arrest people out of homelessness and can't just send the police to hide the problem from public view. Solving this issue requires funding low-income housing, laws preventing landlords from discriminating against people with housing vouchers, well-funded legal assistance for people facing evictions, spending real money on mental health services and treatment beds. It requires speaking up for the dignity of our neighbors, your constituents, who have the least, even if they're not popular. Tough love means making hard decisions towards real solutions, not the cruelty of LB1357. Thank you.

DeBOER: Thank you for your testimony. Are there questions from the committee? Don't see any. Thank you so much for being here today. Next opponent.

SARAH HUGHES: Hello. I'm Sarah Hughes, S-a-r-a-h H-u-g-h-e-s. I will start by just noting that it was really disheartening not to hear anybody really talk about housing being a solution to this problem on the, the people that were bringing this forth. So I just want to make sure people know that housing is what is needed. Also just to let you know that there are services brought to people's tents. As a street outreach worker for the last 14-plus years, I've had the pleasure of meeting a lot of our unhoused neighbors in Omaha and across the state of Nebraska by going to their tent doors, going to their homes, and asking them what they need. Sometimes they're not ready to engage in services, but that's where we continue to come back and offer them services. The services we offer are everything from housing, housing to health to getting them documents and getting them housing ready. I'm part of Omaha's point in time count every year. And someone did mentioned that we had 312 homeless individuals in Nebraska last year on our point in time count. That night, it was in the upper 20s. So people have to live in that weather. And as you know, about three-- two months ago, a month ago, it was negative 44. And about three or four people behind me-- and I went out and tried to engage with those

people that were still sleeping outside when everybody else was at home in that nice heat and everybody else was out in negative 44 windchills. We also need to think that we can all agree that we want to end homelessness and we want Nebraskans to live in safe and affordable housing, but arresting, convicting, and fining someone for being homeless is not going to help that problem. It's going to make it worse. Most of-- all of anybody have ever met that was unhoused wants a home, but there's barriers to get it. Criminalizing homelessness will not-- will make that housing further. Landlords will not take somebody with a criminal background. There's not enough housing stock. So a landlord could pick somebody that doesn't have a criminal background compared to somebody that does. And criminalizing homelessness will not end it. It will prolong it and add to the list of barriers. These kind of laws traumatize unhoused individuals. They're dehumanizing. And they have a negative effect on someone's health, physical and mental. And telling people to go to a shelter doesn't work either. On most nights, the shelters are full and are not able to accommodate persons with needs, with wheelchairs or with pets or LGBTQ. Us on street outreach would rather educate our community on the appropriate response to someone that is unhoused and sleeping outside. I make that a mission to educate our community about how to treat the unhoused population, and not by calling 911 unless it's a major emergency. Area police should be using their resources to engage in true crime and, and engage with homeless services and street outreach to get them to engage with those sleeping on the streets. And also, when camps are raided and such, people's IDs that could take months and months to get are also lost. That will keep them from not getting housing as well. I did a couple of supporting documents in here. One of them is the current street outreach flier that we help people with resources. Just wanted to let you guys know if anybody here wants one, they can reach out to that number and we can email you the PDFs. You have it in your community for the Omaha metro area that is Sarpy and Douglas County and [INAUDIBLE] County. Thank you. Any questions?

DeBOER: Thank you for your testimony. Are there questions? Senator Ibach.

IBACH: Thank you, Madam Vice Chair. I just have one question.

SARAH HUGHES: Yeah.

IBACH: Help me understand what a solution to the business person that testified first. What would be--

SARAH HUGHES: Yeah.

IBACH: --a solution?

SARAH HUGHES: I would love for street outreach. I helped start the street outreach with the gentleman that just spoke with me. To have the opportunity to go meet with him and sit down and talk with him, to have-- to see what his issue is. I love working with the Downtown Improvement District. I'm good friends with one of the people on the board, so I'm going to reach out to her in regards to that as well. So we can get in front of this gentleman and talk to him about what we could do and how we can talk with our folks that are out there. This is the first time I've ever heard of this issue happening with that-- down there in that area. We are down there almost every day engaging folks. Not everybody wants to be engageable, but I would definitely want to have that conversation with him with street outreach to see what solutions we can make, and then have us be that lifeline for him and have-- give him some of those tools. Because it's not good-- I mean, that's not good for a business to-- people to get harassed and stuff like that.

IBACH: OK. Thank you.

SARAH HUGHES: Yeah.

IBACH: Thank you.

DeBOER: Thank you, Senator Ibach. Other questions? Thank you for being here.

SARAH HUGHES: Yeah. Thank you.

DeBOER: Next opponent. Welcome.

MELISSA NEUENFELDT: Thank you. My name is Melissa Neuenfeldt. It's M-e-l-i-s-s-a N-e-u-e-n-f-e-l-d-t. I'm a registered nurse. I live in Omaha, Nebraska. My zip code is 68114. Thank you, Senator DeBoer and the committee, for letting me testify. I'm not going to read my testimony because it's repetitive of, of much of the other testimony. I do want to tell you that-- I forgot my reading glasses as well, so that's helpful. Then I'm just going to go off-script. One thing I want to say-- well, I'll tell you why I'm here. I work in direct patient care in an inpatient psychiatric hospital in Omaha. I have also practiced nursing in emergency departments and in hospice in my 27-year career. And I had an experience with a emergency department patient that led me eight years ago to become a volunteer on the

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street outreach team, and that's indicated in my testimony. But the, the voices of actual people who are living the experience I think spoke to what I wanted to communicate: and that is that if you've met one person who's experiencing homelessness, you've met one person. And I think that's a really important key that I don't know that has been actually stated. In addition to working on the street outreach team, I was also invited to serve on the continuum of care board. That's MACCH. I've been a MACCH board member for six years, and I chair the program's committee. I also am the medical lead for Project Homeless Connect. This is all volunteer work, by the way. I don't get paid for any of it. And I, I do a few other things in homeless service too. Inspired by this 29-year-old woman who died despite everything that we tried to do to help her in the emergency department. Because what we can do in health care is give medicine, but Amy's condition was never going to get better until she got it stabilized in housing. And we couldn't give her keys to an apartment in the emergency department. I do-- I did just apply for a grant. I'm designing a new program to help serve people like Amy who are not able to engage in the community resources that are available because of their mental illness, active substance use, and chronic medical problems. So I'm designing a program that's the first in the country. Nobody else is doing this. And I've just submitted my first application for a grant. So there is reason to hope, and I do want to convey that as well. I think we've had-- heard a lot of heavy stuff today, and I want to let you know that there's reason to hope.

DeBOER: Thank you. That's a nice thing to have at the end of a, a long day of hearings. Are there questions from the committee? Thank you for being here.

MELISSA NEUENFELDT: Thank you.

DeBOER: Next opponent.

SCOTT JACKSON: My name's Scott Jackson, S-c-o-t-t J-a-c-k-s-o-n. I work for Heartland Family Service in Omaha, Nebraska. I am a permanent supportive housing case manager. I am not going to read off my sheet here because it's been a little bit repetitive. What I do want to talk about today, Senators, is we need affordable housing in Nebraska-- and not just in the cities but across the state. I also want to talk about how criminalizing homelessness is going to be a detriment to the co-- the community and to the state, as it will in-- add undue costs to the criminal justice system that's already plagued with overcrowding and other issues. Criminalizing homelessness in the state is going to be a big problem for everyone involved. Now, the

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service providers like myself work diligently to try and find housing for our, our clients. My clients face so many odds, so many-- a lot of discrimination from landlords, whether they offer-- they need three times their monthly income to make the rent or they just blatantly say, oh, we're not going to take you be-- after they run a background check. There's source of income discrimination. There's the fact that they were, were a housing choice provider, and that makes it difficult for landlords who have had difficulties in the past. Now, I, I do feel for landlords who have had problems with housing service providers. And I know Senator Vargas last year wanted to pass a solution to help mitigation because mitigation's a very important part of helping landlords stay working with us. Now, criminalizing homelessness I think ultimately will really be a detriment, and that-- it'll make it a lot harder for us to see our clients if they're locked up in jail for 90 days. Or if they've got previous criminal history-- we might not-- we can't go into the jails and see, and see them if they go off into prison. The criminal justice system's going to get overplagued with some of the issues that we're already seeing. Affordable housing in Nebraska is much needed. Our clients don't have that direct choice and, and opportunity at times. And like I said, they get discriminated against very, very of-- most, most oftenly. So I really hope that this doesn't get passed. This is going to be a detriment. And I hate to see our, our clients get into a position where they can't continue to work with us housing service providers because they're afraid if they're going to get turned into, turned into the police or have to go to jail. That's a detriment to their mental health, the trauma that they've already overcome throughout the-- their livelihood, so. I'll be glad to take any questions that you may have.

DeBOER: All right. Thank you. Questions from the committee? Don't see thank you so much for being here, sir.

SCOTT JACKSON: Thank you.

DeBOER: Next opponent.

KEITH WINTON: Thank you. Father Keith Winton, K-e-i-t-h W-i-n-t-o-n. Others have spoken before me today and articulated the economic and social services aspects of opposition to this ill-conceived bill, but I'm here to articulate the ethical aspects of opposition. To tell you something you already know because you live it out every day here: our duty as leaders in our communities is to work to ensure fair opportunity and access to all the vast riches we have been given, to represent and support all community members, and to be good stewards

for future generations. Creating a just society entails fostering social cohesion, promoting human dignity, ensuring that all individuals have the opportunity to thrive and fulfill their potential. Doing this is not a simplistic task, and it involves balancing competing goals and desires. But with that basis for action to choose a simplistic solution to a complex problem, especially a solution that criminalizes those who are already marginalized and without basic resources, is to abandon both our duty and our foundational ethical principles. Our dedicated and self-sacrificing police force should not be used for this purpose when those with better and specific training are more appropriate and effective. When a homeless person is jailed or cannot pay a fine and has a warrant issued, the subsequent record becomes yet another obstacle to finding secure employment and housing. In the end, this bill may be more expensive than doing the difficult work of finding real solutions. There was talk earlier about a three-legged stool. There is currently no three-legged stool. This bill does not create a three-legged stool. It creates a pogo stick to push down people who are already at the bottom. Homelessness is a complex problem, and it clearly seems that we need to do more to address it effectively. But as Human Rights Watch says, criminalizing homelessness does not solve the problem. It makes suffering more brutal and drives people living on the streets further into the shadows. John Stuart Mill in Utilitarianism says: Poverty in any sense implying suffering could be completely extinguished by the wisdom of society combined with the good sense and generosity of individuals. And I pray that we will seek to use our wisdom, our good sense, and our generosity to address this problem. Please do not support this bill. Nebraska is better than this. Thank you.

DeBOER: Thank you for your testimony. Are there questions? Thank you so much for being here. Next opponent. Welcome.

BENJAMIN MARQUART: Thank you. My name is Benjamin Marquart, B-e-n-j-a-m-i-n M-a-r-q-u-a-r-t. I am here from both-- I have a personal experience of being homeless and I worked at the homeless services. I was coordinator at Stevens Center for a little over a year. And I currently serve on the board for a new nonprofit. It's called Reimagine Omaha, and I am a contracted trainer through that doing hope science. Most of what I had prepared has already been said numerous times. There is one thing that all people that are unhoused have in common besides the lack of housing, and that is trauma. And I think-- I-- well, I know that sending somebody to jail when they're already dealing with numerous amounts of trauma will just compound that trauma and add more trauma. The only thing that

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can truthfully help people is hope and compassion and empathy. And putting people in a cage and taking away any type of freedom-- freedom of their own meal, freedom of where they sleep, freedom of everything-- will only compound any issue that they already have and will not help the healing that is required to actually progress past whatever they're dealing with. It is not-- and obviously, it's going to be a taxpayer problem. And it's just going to compound everything and make it worse and add more trauma to people that are already traumatized. And that's about it.

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

BENJAMIN MARQUART: Yeah.

DeBOER: Next opponent. Welcome.

KASEY OGLE: Thank you, Senator DeBoer and members of the Judiciary Committee. My name is Kasey Ogle, K-a-s-e-y O-g-l-e. And I'm a senior staff attorney at Nebraska Appleseed for Collective Impact Lincoln. Nebraska Appleseed is a nonprofit, nonpartisan, legal advocacy organization that fights for justice and opportunity for all Nebraskans. Collective Impact Lincoln is a partnership between Nebraska Appleseed and Civic Nebraska that works with residents of six Lincoln neighborhoods to build community, develop neighborhood leaders, and take action on policy that is responsive to their needs. I'm here today on behalf of Collective Impact Lincoln in opposition of LB1357. Collective Impact Lincoln advocates for better housing quality, more affordable housing, and fair rental practices for low-paid Lincolniters. And we oppose LB1357 because of its unmistakable cruelty. LB1357 would criminalize sleeping on public lands unless the property has been designated as a campsite by the relevant political subdivision. This would undoubtedly primarily affect houseless individuals who have no other place to go. And the solution is not to criminalize their attempts to simply survive, but to support the production and preservation of affordable housing. Further, LB1357 could violate the U.S. Constitution's Eighth Amendment prohibition against cruel and unusual punishment. The U.S. Supreme Court has found that statutes that criminalize a person's status violate the Eighth Amendment. Applying that reasoning, the Ninth Circuit Court of Appeals has twice found that laws criminalizing sleeping outside on public lands and using materials like a blanket, pillow, or a cardboard box as protection against the elements violates the Eighth Amendment. In *Martin v. City of Boise*, the Ninth Circuit Court of Appeals examined a city ordinance that

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made it a crime to use public places as a camping site, virtually the same as this bill, LB1357. Finding that the ordinance to be unconstitutional, the court explained that just as the state may not criminalize the state of being homeless in public places, the state may not criminalize conduct that is an unavoidable consequence of being homeless, namely sitting, lying, or sleeping on the streets. LB1357 would do just that: criminalize the very means of existence for houseless individuals. Such a law is clearly cruel and unusual, and as such violates the Constitution. For these reasons, we urge this committee to refuse to advance over LB15-- LB1357. Thank you.

DeBOER: Thank you. Are there questions? I have a question for you.

KASEY OGLE: Sure.

DeBOER: The state law, 39-312, are you familiar with that?

KASEY OGLE: I was not, no.

DeBOER: OK.

KASEY OGLE: Can you repeat it for me?

DeBOER: Yeah. It should be unlawful to camp on any state or county public highway, roadside area, park, or other property acquired for highway or roadside park purposes, except at such places as are designated campsites by the Department of Transportation or the county or other legal entity of government owning or controlling such places. This provision shall not apply to lands originally acquired for highway purposes which have been transferred or leased to the Game and Parks Commission or a natural resources district or to other lands owned or controlled by the Game and Parks Commission where camping shall be controlled by the provisions of Section 35--37-305 or by a natural resources district, district or camping shall be controlled-- OK. So is it-- would it be your argument that this would also, if tried to be enforced, would be unconstitutional? Or is it the fact that it's limiting it to the county public highway, roadside, or other property acquired for highway or roadside park purposes?

KASEY OGLE: I would imagine that if it's, if it's not all highway-- if it's not all lands owned, I, I would think there might be a distinction there between, like, all lands owned by the state or county versus land specifically designated for highway purposes.

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DeBOER: Would the court look at the sort of-- I don't know what the, the-- whether it's a rational basis test or what it would be, but it would seem there might be a public purpose in preventing people from camping near roadways that, that they might use to weigh that. Do you know what the-- do you know what the standard would--

KASEY OGLE: I do not.

DeBOER: You don't. OK. Yeah. All right. Thank you.

KASEY OGLE: Yes. Thank you.

DeBOER: Any other questions? Thank you for being here.

KASEY OGLE: Thank you.

DeBOER: Next opponent. Welcome.

ALICIA CHRISTENSEN: Hi. Thank you for sitting through all of our variety of points. My name is Alicia Christensen, A-l-i-c-i-a C-h-r-i-s-t-e-n-s-e-n. And I'm director of policy and advocacy at Together. We're an Omaha organization help-- dedicated to helping our neighbors experiencing housing and food insecurity. I just-- some of the points on the handout that I provided will, you know, kind of cover some ground that's been covered before. So I just kind of wanted to hit on a few points. I think-- specifically in the characterization from the Cicero Institute individual from Texas who was, I felt, casting aspersions on the Housing First person-centered model of helping people exit homelessness. This is an evidence-based solution that has a wealth of research supporting its successful outcomes. The VA, which is an early adopter of the program, has been using that model successfully to decrease homelessness by 52% nationwide, ending homelessness in three states and over 80 individual sort of jurisdictions. So there's documented success for this model. This is what we-- are-- the approach that we use in our continuums of care, which are sort of geographic gather-- groupings of homeless service providers. There's three in Nebraska. So there's the Metro Area Continuum of Care for the Homeless, which is Omaha metro area. There's the Lincoln/Lancaster, and then there's Balance of State. Each year, we per-- we apply for our funding for all of our existing programs. So every year, we submit an application for existing programs and what we would like to do-- so what kind of things we want to expand into. So this is a really competitive process for really limited funds for all the COCs across the nation. And it's performance-based. So this year, just in the beginning of

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February, our-- the Balance of State, Lincoln/Lancaster, and MACCH, we had a record-breaking year. We earned-- got awarded \$16 million of funding. So as Jason Feldhaus from MACCH talked about, that's almost \$500,000 more than we got last year. And that's because our perfor-- because it's performance-based, that is exemplary of our success in having good outcomes, having high numbers of individuals that exit to permanent housing solutions. And so presenting the she-- shelter-- those are emergency shelters-- those are not solutions. Those are part of a holistic response but definitely not a solution. So just wanted to clarify that a bit. It's a complex problem. And I'm happy to answer any more questions about it. There's a lot of evidence. So I hope that kind of clears that part up a little bit if there were any remaining questions.

DeBOER: All right. Are there any questions for this testifier? Don't see any. Thank you--

ALICIA CHRISTENSEN: Thank you.

DeBOER: --so much for being here. OK. Next opponent.

GRANT FRIEDMAN: Hello, members of the Judiciary Committee. My name is Grant Friedman, G-r-a-n-t F-r-i-e-d-m-a-n. And I am testifying on behalf of the ACLU of Nebraska in opposition to LB1357. I'm going to try to make this brief. So just grate-- straight to the law point. Laws that criminalize homeless are ineffective, waste limited public resources, and violate basic human and constitutional rights and strip homeless Nebraskans of their dignity. A federal court of appeals held in *Jones v. City of Los Angeles*, a nearly anagaleg-- analogous law that prohibited unhoused individuals from sleeping, sitting, or lying on public streets or sidewalks to be unconstitutional. The court held that the Eighth Amendment's prohibition on cruel and unusual punishment was violated by the law punishing homeless individuals based on the fact that they are homeless alone. Laws like these are not only unconstitutional, but they also increase the cost on taxpayers by officers having to enforce these, jails having to house and feed individuals, and courts having to resolve these man-- matters. For these reasons, we ask that LB1357 be indefinitely postponed. And I'm happy to answer any questions.

DeBOER: Are there any questions from the committee? I don't see any. Thank you for being here. Next opponent. We seem to have reached the end of the opponents. Neutral testimony. Anyone here in the neutral capacity? This one didn't garner neutral testimony. So I will note

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for the record that there were 63 letters, 5 of which were in support and 58 of which were in opposition. Senator McDonnell had to go-- get back to Omaha, so he waives closing. That will end the hearing on LB1357 and open the hearing on LB974 and our own Senator Holdcroft.

HOLDCROFT: Saving the best for last.

DeBOER: Last two hearings of the year, Senator--

HOLDCROFT: Yes.

DeBOER: --Holdcroft. All right.

HOLDCROFT: Here we go.

DeBOER: Bring us home.

HOLDCROFT: Good afternoon-- or, good evening, Vice Chair DeBoer and members of the Judiciary Committee. For the record, my name is Senator Rick Holdcroft, spelled R-i-c-k H-o-l-d-c-r-o-f-t. And I represent Legislative District 36, which includes west and south Sarpy County. I am here today to discuss LB974. LB974 is intended to harmonize the penalty for motor vehicle homicide of an unborn child while driving under the influence under 28-394, with the penalty for motor vehicle homicide of any other person while driving under the influence under 28-306. Under existing law, the penalty for motor vehicle homicide of an un-- unborn child while driving under the influence is a Class IIIA felony, which carries up to a maximum sentence of only three years in prison. The current penalty for motor vehicle homicide of any other person while driving under the influence is up to 20 years in prison as a Class IIA felony. Additionally, both laws currently provide for an enhanced penalty if the defendant has previously been convicted of a DUI. As it sits now, there is a great discrepancy in potential penalties across two similar laws that both apply to fatal crimes committed while operating a motor vehicle while intoxicated. LB974 would address this inconsistency. The penalties for other fatal crimes having mat-- matching penalties regardless of whether the victim was an unborn baby or any other person. These crimes include first degree murder of an unborn child under 28-391, second-degree murder of an unborn child under 28-392, manslaughter of an unborn child under 28-393, and motor vehicle homicide not while driving under the influence. In all these instances, Nebraska law recognizes the dignity of the life of the preborn baby by conferring the same penalty classification as that for cases for any other victim. Unfortunately, motor vehicle homicide

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of an unborn child while driving under the influence is a crime that has occurred with some frequency in Nebraska; and given the loss of life in the course of that crime, the current penalty limiting incarceration to, to no more than three years is simply inadequate. It is unfair to the victim and the victim's family. This, this bill would offer greater latitude for judges in determining the most appropriate sentence: 0 to 20 years without imposing such restrictive-- restrictive sentencing limitations. Vice Chair DeBoer and members of the Judiciary Committee, thank you for giving your attention to LB974. I would appreciate it if the committee would give this bill time and consideration and advance it to the full Legislature for debate. There will be a county attorney coming after me who can answer any questions you might have, but I'm happy to answer any questions you might have of me. Thank you.

DeBOER: All right. Thank you, Senator Holdcroft. Are there questions for Senator Holdcroft? Senator Ibach has one.

IBACH: I just have one. Thank you, Vice Chair. Do you know how many incidences there are per year?

HOLDCROFT: I do not have that number.

IBACH: I'm not minimalizing it, I just-- I'm curious.

HOLDCROFT: I do not have that number, but somebody after me might.

IBACH: Thank you. Thank you.

DeBOER: Thank you, Senator Ibach. Other questions? I don't see any.

HOLDCROFT: OK.

DeBOER: You're going to stick around to close--

HOLDCROFT: Oh, yeah. I'll be here.

DeBOER: All right. We'll have our first proponent testifier. Welcome.

RYAN LINDBERG: Good evening, members of the Judiciary Committee. My name is Ryan Lindberg, R-y-a-n L-i-n-d-b-e-r-g. I am a deputy Douglas County attorney, and I'm also here on behalf of the Nebraska County Attorneys Association in support of LB974. Part of my job duties in Douglas County are to work with a team of attorneys that prosecutes all of the felony motor vehicle homicides, and I've done that in some capacity on a pretty regular basis since about 2011. Under the

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current law, as you heard, the, the penalty for motor vehicle homicide DUI of an unborn child is only up to three years, which is the only one of those penalties when you go from essentially first-degree murder all the way through motor vehicle homicide that's lower. And I think it's in-- there's just an incongruence in the law. The purpose here would be to harmonize those penalties. You know, one of the hardest parts of the, the job as a, a county attorney is you unfortunately have the occasion to meet with families who've suffered a, a great loss. And one of the things that everybody wants to know when they ask you is, what are the penalties? If we're able to get a conviction here, what is this person looking at? And, you know, most of the time in, in cases, you're able to explain, hey, there's a pretty significant penalty here. And, and this is one that's pretty hard to explain. And-- when they hear that it's only up to three years for the-- if a drunk driver has, has killed an unborn child. And then, really, you only have to do half of that under our sentencing scheme. So someone will only be looking at, at 18 months. And it's not a, a really common crime. You know, we don't have a, a large number of these. I'd say we get one in Douglas County every couple of years. The, the impetus for this bill was a particularly tragic case that I had back in 2022 that happened in Douglas County with a mother and a, a child as well as another mother were killed by a drunk driver. And that sort of brought it back to the forefront for me and was, was something that I wanted to address. And, and that's why this bill is before the Judiciary Committee here today. So, you know, I, I think it's a, a worthwhile thing to consider and look at. And, you know, one thing that's worth pointing out too is this is really only a scenario where the evidence would show that a person's intoxication or drunk driving is the proximate cause of the collision and the death. And so that does limit it to, you know, pretty su-- specific factual scenario. And then ultimately, the judge would still have the discretion if you increase this to a IIA penalty to consider somebody from anywhere from probation up through a sentence of 20 years. With that, I'd be happy to answer any questions.

DeBOER: Thank you. Are there any questions from the committee? I don't see any. Thank you so much for being here.

RYAN LINDBERG: Thank you.

DeBOER: We'll have our next proponent testifier. It's all right. Take your time. It's fine. Welcome.

DARLA BENGTON: Thank you, Senators, committee members. Good afternoon. My name is Darla Bengton, D-a-r-l-a B-e-n-g-t-s-o-n. I'm

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here today in support of LB974. I lost my unborn grandson, Brooks, March 31, 2022-- this is what Ryan was talking about-- to a drunk driver. Brooks' due date was just three weeks from that day. Sorry. He would have been turning two in about 45 days. Brooks was going to be tall. He broke the record at Omaha's Mid-City OB/GYN for having the longest femur. His mommy was tall and so was his dad. I will never know for sure because the judge was only allowed to give a sentence of 0 to 3 years for an unborn child. But at sentencing, he mentioned that his decision weighed heavy because of the horrific details of the crash. Brooks' skull was fractured from the impact. When the drunk driver ran a red light and hit my daughter's SUV at over 102 miles an hour, the car burst into flames on impact. And Brook-- Brooks; my beautiful daughter, Sara; and her lifelong friend, Amanda, were burned. I reached out to my past-- pastor asking for prayers today. He told me that if there is no punishment, people have no incentive to change and things like this will continue to happen. I would love this bill to be known as Brooks, Brooks Bill in hopes that something positive would come from this tragedy. Brooks was a little person just, just almost ready to be born. Please consider voting to pass LB974 to allow judges the option to sentence from 0 to 20 years for the tragedy and the, the intensity of each individual crime. They do need the, the option to weight that. Our family has a life sentence now of loss and grief. Thank you for your time.

DeBOER: Thank you so much for being here. Are there-- I don't see any questions. Thank you so much. Next proponent.

MIKE GUINAN: Good evening, Vice Chair DeBoer, members of the Judiciary Committee. My name is Mike Guinan, M-i-k-e G-u-i-n-a-n. And I'm the criminal bureau chief for the Nebraska Attorney General's Office. I appear before you today on behalf of Attorney General Mike Hilgers and the Attorney General's Office in support of LB974. The Attorney General generally supports the harmonization of penalties in the Nebraska criminal code to promote consistency between statutes and the fair application of the law. LB974 is a good example, as it harmonizes statutes pertaining to motor vehicle crimes in different sections of Chapter 28 of the Nebraska Revised Statutes. We ask that the committee advance the bill to General File. If the bill is not advanced this year, the review of these statutes could also be included in a more comprehensive review of statutes being done by the Sentencing Task Force. The Attorney General is currently working along with three members of this committee on that task force. And one specific area of focus is harmonization of the criminal code, criminal code for presentation to the next legislator-- legislative session, 109th legislation. With that, I'll take any questions.

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DeBOER: Thank you for your testimony. Are there questions? I don't see any. Thank you.

MIKE GUINAN: Thank you.

DeBOER: Next proponent. Welcome.

SCOTT THOMAS: Good evening, Senators. Thank you for staying till 6:00 to hear the bill. My name is Scott Thomas, S-c-o-t-t T-h-o-m-a-s. And I, I was just sitting in this chair last week about the same, the same type of issue in Article 3. I gave the same testimony in Article 3, right to life. We heard claims on the last bill being brought that housing is a human right. And I know all 30 of your enumerated human rights by international treaty, so. I don't know if that falls under the scope. I'd like to look into it. But our laws are struggling and our society is struggling right now to define what a human is. And the different delineations being made at different developmental stages are the thing making my work the most difficult. So I'm the regional director for the U.S. Institute of Diplomacy and Human Rights for the state of Nebraska. I'm the founder and the principal director of Village in Progress. We do 1948 UDHR casework. And I'm also the father to a 12-year-old girl and a 10-year-old boy. And I make those two distinctly different roles because they're different. And this is a prerequisite for me to do all four of my jobs. The work begins there, when you can find a consensus in the recognition of the humanity of a child. And that lack of definition makes each one of those jobs harder. So in keeping with Article 3 of the 1948 Universal Declaration of Human Rights, we support this bill as an effort to send a clear message that Nebraska places an inherent dignity and value on all human life. And the senators not present right now I was hoping would be present because the last time that we had an exchange it was regarding the same issue. And she asked me, said, so you're, you're not for privacy protections in law, because I'm pro-life. And I said, no, I'm-- I, I thought that that was a mischaracterization because I would say, my dog doesn't have privacy when he goes outside to use the bathroom, you know, because he's not a human being. And so part of it is connected to our inherent dignity as human beings. And we're human beings and we need to get back to acting like that. That's all I have to say about that. So if anybody has any questions, I'll be open to comments.

DeBOER: Are there questions from the committee? I don't see any tonight. But--

SCOTT THOMAS: Thank you so much.

DeBOER: --thank you so much for being here.

SCOTT THOMAS: Y'all have a good day. Appreciate it.

DeBOER: Let's have our next proponent testifier. Is there anyone here to test in oppo-- testify in opposition to the bill?

SPIKE EICKHOLT: Good evening, Vice Chair DeBoer and members of the committee. My name is Spike Eickholt, S-p-i-k-e; last name is E-i-c-k-h-o-l-t. I'm appearing on behalf of the ACLU of Nebraska and the Nebraska Criminal Defense Attorneys Association in opposition to the bill. I didn't catch the woman's name who testified before who talked about her horrible tragedy that happened to her and her family. My testimony should not be interpreted as being disrespectful to her or against what she experienced. I know that's an empty assurance to her, but I just wanted to say that. Our association has opposed consistently, I think, throughout the year increases in penalties. And even though this is addressing an anomaly, if you will, in our statutory code, it does increase a penalty. I don't know why there's a difference in the penalty, to be honest, because as Senator Holdcroft explained when he testified in introduc-- introduc-- introducing the bill, there's a consistency in all the other homicides but with the person's unborn child. I don't know why there's a difference here. I can't explain it. I'm just guessing it was not intentional. Perhaps somebody like me didn't sit up in the chair and urge caution in increasing the penalty or, or creating a new crime. I don't know. As Mr. Guinan explained, there is the LB50 task force. Those of you who are on the Transportation Committee, this is a similar bill, in some respects, that you heard earlier this week or last week-- I can't remember when-- dealing with this type of crime and the different level of punishment and what is appropriate for different levels of punishment. This has the misdemeanor level for motor vehicle homicide for an unborn child that we have in the adult. This does have the felony level, but it doesn't have the same 0 to 20 the IIA felony level as exists for the other crime that we were talking about in Transportation the other day. So I know that's kind of rambling, but. To be consistent, we do oppose the increase in penalty. If there's a desire to have consistency, obviously the other alternative is to lower the penalty from a IIA to IIIA for motor vehicle homicide involving the death of another person. Or alternatively-- and maybe the task force is talking about this-- if you look at our felony level crimes, this is kind of a dilemma that you're sort of forced into because the penalty levels for felonies are 0 to 2 for a Class IV. Then it goes 0 to 3 years, 0 to 4 years, jumps 0 to 20, and then you're 1 to 50, 3 to 50, 5 to 50, 20 to life.

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There's really not a lot of moderation there, and you're sort of forced many times as policymakers into sort of figuring out which of these admittedly arbitrary levels you can fit in there. So I know that's not necessarily opposing the bill. I understand why Senator Holdcroft is doing the bill. There might be some arguments for it, but we would urge the committee to be conscientious and perhaps cautious about just increasing a penalty. And I'll answer any questions that anyone has.

DeBOER: Are there questions from the committee? Senator DeKay.

DeKAY: So if I heard you-- you were speaking quietly, so--

SPIKE EICKHOLT: Yes, sorry. I--

DeKAY: --apologize for not hearing everything, but are you advocating for consistency across the board from different vehicular homicide stuff, especially when it comes to intoxicated drivers? What would be the problem with-- life-- to me, life is life. So what would be the problem with escalating to the next level rather than trying to climb down the offense from-- to be consistent across the board, why don't we make sure that we can try to keep intoxicated drivers off the road?

SPIKE EICKHOLT: I mean, there's an argument to be made on that. That's right. And I, I try to acknowledge that there is some merit to this bill in that sense, to have it be consistent because it is consistent as a matter of policy for all the other homicides. Manslaughter, second-degree murder, first-degree murder-- there is consistency. There's no difference in-- regarding the loss of life. One-- I did reference one point that, that you probably didn't appreciate because it was a bill that was heard in Transportation and that dealt with the level-- oh, yeah, you-- of course you did. Sorry-- that sort of dealt with that issue. And then you said life is life, but we treat it differently if it's, if it's not a driving under the influence motor vehicle homicide. Although, to the family and to the people who suffered that loss, it really doesn't make any difference.

DeKAY: Absolutely.

SPIKE EICKHOLT: And I'm not trying to trivialize that, but there's-- it's a difficult sort of balancing task. Similarly to what I mentioned before on the Transportation case, there's still the crime of manslaughter of an unborn child, which is 0 to 20. And now, that's

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a little different elements of the crime than regular manslaughter, but it could apply in some circumstances. So I just mention that.

DeBOER: Other questions from the committee? So let me-- point of clarity.

SPIKE EICKHOLT: Sure.

DeBOER: You're saying that in the other statutes for motor vehicle homicide that don't involve DUIs but involve some other reckless driving or, or something--

SPIKE EICKHOLT: Right.

DeBOER: --that there isn't a distinction between unborn child and adult person?

SPIKE EICKHOLT: No, there's a difference in the manslaughter-- and I can even look at it. It's actually-- I think Senator Holdcroft mentioned the statute in his introduction-- 28-393, manslaughter of an unborn child. A person commits manslaughter of an unborn child if they kill an unborn child either with sudden quarrel or during the commission of-- and then there are specifically limited crimes that you have to sort of be committing that result in a death. For the regular manslaughter, it's any sort of unlawful act.

DeBOER: And are they-- are both of those the same level of felony?

SPIKE EICKHOLT: Yes. They are both level. That's right.

DeBOER: OK. Thank you. I don't see any other questions. Thank you for being here. Next opponent. Is there anyone here to testify in the neutral capacity? As Senator Holdcroft comes up, I will note for the record that there were 48 letters of support and 1 in neutral. Thank you, Senator Holdcroft.

HOLDCROFT: Thank you, Vice Chair DeBoer. Let me just kind of line it out for you the way that the law currently is. I think your question's right on the money. I mean, if it's, if it's truly an accident-- I mean, a terrible thing, but it is a misdemeanor for, for the loss of an unborn child. But if there's reckless driving involved, speeding, whatever they determine, but it's-- no alcohol involvement, then it is a Class IIIA misdemeanor, and that's three years maximum. If it's a DUI today, it's the same as reckless driving. It's a three-year maximum. My bill would increase that punishment to a IIA for, for DUI and then to a, a Class II felony if

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there was another instance of DUI in the future. So that's kind of where we are. And again, we, we already have this match-up in manslaughter and first, first-degree murder and second-degree murder where it's the same punishments whether it is a live-- a, a person after birth or an unborn child. So we're really just trying to harmonize, make everything match up, and, and correct the current statutes. So it's-- I'm happy to answer any further questions.

DeBOER: Are there questions? Senator Holdcroft, I'm apparently dense tonight. So is what you're saying is that the statute for reckless driving for an unborn child's homicide would be IIIA-- a IIIA--

HOLDCROFT: Yes.

DeBOER: --and then the statute for reckless driving for, let's say an adult, would be something different than a IIIA?

HOLDCROFT: I think they're both IIIA.

DeBOER: They're both IIIAs. And so you're saying that what you'd like to do with this bill is say that, because all the other ones, it doesn't matter if the child is unborn or born, those stat-- those things match up--

HOLDCROFT: Correct. So the next logical step is if there is an accident and you have a six-month-old that's sitting next to a, a mother with an unborn child and there's a DUI and he kills the six-month-old, then he's, he's guilty of a Class IIA. But if he kills the unborn child, then he's only guilty of a Class IIIA.

DeBOER: And if it wasn't reckless-- or, it wasn't drunk driving but it was reckless driving, it wouldn't matter between the two--

HOLDCROFT: Correct. It'd be a IIIA.

DeBOER: Thank you. That's much clearer. Thank you very much. Any other questions? That will end our hearing on LB974 and open our hearing on LB1156.

HOLDCROFT: OK. Here we go. Last one. We do have some handouts. One of our testifiers could not stick around, so he had-- we do have a copy of his, which I'm going to pass out with, with my opening. So good afternoon again-- or, good evening, Vice Chair DeBoer and members of the Judiciary Committee. For the record, my name is Senator Rick Holdcroft, spelled R-i-c-k H-o-l-d-c-r-o-f-t. I represent Legislative District 36, which includes west and south Sarpy County. I am here

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today to discuss LB1156. This bill makes retroactive the requirement to register as a sex offender if you are convicted of sex trafficking in Nebraska. It also requires that those who are convicted of soliciting sex in Nebraska or profiting from sex trafficking in the state also be required to register as sex offenders. LB1086 from 2006 says that: No person shall knowingly subject or attempt to subject another person to forced labor or services. Sex trafficking was included in this law. Senator Julie Slama introduced LB204 in 2022. This bill was amended into LB1246, which was passed and then signed into law by Governor Ricketts in April of that year. It went into effect on January 1, 2023. The law states that the Sex Offender Registration Act applies to any person who, on or after January 1, 2023, is found guilty of human trafficking. LB1156 simply make Senator Slama's bill retroactive to the effective date of LB1086, which was July 14, 2006. Additionally, beginning January 1, 2025, any person convicted of soliciting sex or anyone convicted of benefiting from or participating in a venture involving sex trafficking will also be required to register as a sex offender. LB1156 will be administered by the Nebraska State Parole-- Patrol, as the current sex offender registry is. This bill appropriates \$25,000 to fund efforts to locate and notify convicted sex traffickers who will be affected by this bill. AM2666 addresses concerns presented to us by an organization that works with sex trafficking victims and survivors and with victims and survivors of sexual and domestic assault. It assures that victims of trafficking are not required to register as sex offenders under this bill. Vice Chair DeBoer and members of the Judiciary Committee, thank you for giving your attention to LB1156. This is a solid bill vetted by the judiciary, law enforcement, and community stakeholders. Several months have been spent harmonizing and cleaning up exec-- existing statute and defining, and defining the offenses we are pursuing with this bill. Since this bill was proposed to me, I have had independent assurance that it will help to deter those who criminally pursue or who profit from illegal sexual activity in the state. So let me just break here from the text. We're going after the Johns here. This is what this bill is about. And we heard that all day yesterday. We were talking about demand about the College World Series, about Berkshire Hathaway stuff that we're not doing enough to deter. Well, this would deter. This would require the Johns to, if convicted, to register in the sex registry. I would appreciate it if the committee would give this bill careful consideration and then advance it to the full Legislature for debate. I would be happy to answer any questions you might have. Thank you.

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DeBOER: Are there questions from the committee? I don't see-- oh, there-- Senator McKinney has one.

McKINNEY: I guess-- not to-- I guess my only question-- just about retroactivity: if we're going back and saying, like, people who are, who are-- were convicted have to register in the registry-- I guess-- and it goes back to, like, the issue of, of retroactivity. Did you, did you ask the question of the constitutionality of that? That's just my only question, honestly.

HOLDCROFT: We did. We did-- we, we sent this over to the courts and had an opinion done, and it is constitutional to do that because this is not a, a criminal-- being in the sex regis-- registry is not a criminal offense. It's actually a civil offense. And so it's civil punishment. And so that, that is why we could go retroactive, unlike we-- and I think what you're-- what you're really referring to is what we ran into with, with LB50, you know. We couldn't make it retroactive in that, but that was-- those had to do with criminal offenses. And, and this is a civil offense.

McKINNEY: Is it? Because if you're on the registry, wouldn't you be convicted of a crime?

HOLDCROFT: You probably would be, but the penalty of being in the sex registry is not a criminal penalty. It's a civil penalty.

McKINNEY: Oh, OK. All right. Thank you.

HOLDCROFT: I'm sure Spike will be happy to expand on it, expand on it.

DeBOER: That's a compliment.

McKINNEY: All right. Thanks.

DeBOER: Thank you, Senator McKinney. Are there other questions from the committee? Thank you, Senator Holdcroft. First proponent.

MICHELE BANG: I have never been here this late.

DeBOER: Oh. Well, welcome.

MICHELE BANG: Thank you for staying. Chairman Wayne and members of the committee, thank you for giving me the opportunity to speak with you today. My name is Michele Bang, and I'm currently the deputy director of Project Harmony Child Advocacy Center in Omaha. And I am

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here on behalf of the Nebraska Alliance of Child Advocacy Centers. First, I want to thank Senator Holdcroft for working on the amendment. Work that focuses on human trafficking that also impacts demand is a goal child advocacy centers support. We work closely with law enforcement, and they tell us that trafficking cases are labor intensive, not just from an investigative point of view but because of the trauma youth experience. These victims require a significant amount of time building rapport-- more time than detectives can give. Supporting victims is a key component of accountability, and victims need support not only at the beginning of the investigation but throughout the court process. This is where child advocacy centers can help. Since the inception in 2021, our Anti-Trafficking Youth Services program has served 108 kids, 38 of whom are confirmed or suspected victims of trafficking. A confirmed victim simply means that a trafficker has been arrested and charged. A suspected victim has either disclosed or there is strong evidence of sex trafficking. The rest of the kids we serve are at very high risk of being trafficked. The average age is 16, but we have a few who are as young as 10. Prior to my role at Project Harmony, I was a 29-year veteran of the Omaha Police Department, where I retired as a deputy chief. What I can tell you and what the research supports is if people are not deterred from buying an illicit product-- be it drugs or sex-- there will be people willing to sell it. You can arrest the drug dealer or the trafficker and a new dealer or trafficker will simply step in to fill the gap. It is estimated that the commercial sex trade in the United States is valued at over \$5.7 billion. I would like to say how much of that is the trafficking of youth. I cannot. But I can tell you that youth advertise online in our city or advertises young adults or it's not addressed at all. In 2017, there was an online survey of 8,201 men from all demographics that asked them about their sex-purchasing behavior. 20% reported purchasing sex once in their lifetime. 6.2% purchased sex within the past year, and 1/4 of those men purchase at least monthly. High frequency buyers tend to be higher earners, pay over \$100 per transaction, and account for 75% of the total market. They have normalized their belief that purchasing sex is victimless. Only 6% reported ever being arrested. They asked high-frequency buyers what might deter them from purchasing sex. 1/4 of those men reported: if the risk of arrest and accountability was high enough, they might be willing to stop. We used this report to make a very conservative estimate of the Omaha metropolitan market, and the estimate is between \$10 and \$15 million. If you want to reduce the number of Nebraska kids who are being trafficked, we must deter buyers. Recently, an Omaha prosecutor reported to me that the average fine for soliciting prostitution is

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around \$100. That's less than the average price they're willing to buy for sex. Senator Holdcroft's bill is a strong point to hold the correct people accountable for hurting our kids. And I'm available for any questions. And I have a handout.

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

MICHELE BANG: Thank you.

WAYNE: Next proponent. Next proponent. Seeing none. First opponent. First opponent. Welcome.

JEANIE MEZGER: Thanks. My name is Jeanie Mezger, J-e-a-n-i-e M-e-z-g-e-r. And I'm an advocate for people listed on the registry. For nearly ten years, I have moderated peer-to-peer support groups that include both registrants and their family members. In that time, I have seen wives left to care for their sick and elderly husbands after nursing homes and rehab facilities refused to admit the husbands because of their registry status. Families stuck in poverty because of registry status, leaving a parent chronically underemployed. A woman who lost her job because her spouse is on the registry. The arrest and jailing of a man for failure to register while he was recovering from a workplace accident that left him a paraplegic. I guess they just couldn't fathom that he wasn't able to get to the office. Families rejected by churches because of family members on the registry. A little girl whose best friend was forbidden to play with her because her dad's on the registry. A woman registrant, also a victim of a sexual assault, and her address, phone, or her-- photo, address, and name are out on the registry, so her assailant always knows where she lives. Lifetime registrants living at the Siena Francis House because they can't afford housing and they can't live with family without the family losing Section 8 assistance. There are also about 278 people on the registry who are listed as transient. Only twice in all that time did I see somebody return to prison because they committed another crime of a sexual nature. This is what putting people on the registry will look like: More people living in poverty, more families isolated from their community, more harassment and vandalism, more broken families, more elderly people denied the hou-- the health care that they need. The families pay the price of laws like this. I understand why you think it's fine to add more people to the registry because you can't imagine somebody in your own family being on it. I hope you're right. But at the rate crimes are being added, chances for your grandkids aren't looking too good. Over the last 26 years, the Legislature has

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added crimes in 1998, 2001, 2004, 2005, '06, '09, '10, '11, 2014, '15, '16, '18, '19, '20, '21. Making things harder on the registry makes things harder for their families every time. So I ask you to oppose LB1156 and any legislation that would add people to the registry. Thank you.

WAYNE: Thank you. Any questions from the committee? Seeing none. Thank you for being here. Oh, did you have-- are you-- Senator DeKay.

JEANIE MEZGER: Yes.

DeKAY: Real quick. So to not be on the registry because of a act that they committed that might and probably will affect the future of that child or whoever, a \$100 fine is acceptable rather than being on the registry that's going to try to protect people from being part of that system again?

JEANIE MEZGER: There's two different things. There's a, a sentence which the court creates. And the Legislature created the rules about-- that define the duration of somebody's registration time. So in Nebraska, you can be on the registry for 15 years, 25 years, or lifetime.

DeKAY: All right. Thank you.

JEANIE MEZGER: Yeah.

WAYNE: Any other questions? Seeing none. Thank you for being here. Next proponent. Spike, did you submit a letter?

SPIKE EICKHOLT: No. Sorry.

WAYNE: You, you can-- you can. I'll leave it open-- I'll leave it open till 8:00 tonight. Go ahead.

SPIKE EICKHOLT: Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t. Appearing on behalf of the ACLU of Nebraska and the Nebraska Criminal Defense Attorneys Association as a registered lobbyist in opposition to LB1156. The bill does two things. It adds the crime of solicitation to a required offense to have to register. And it does make a change-- I don't know if I heard the year right-- that was passed retroactive to, I think, 2006. A couple of things-- somebody asked. Our courts have interpreted-- in State v. Worm, the, the-- our state adopted this-- the sex offender registry in 1997. And there was a series of sex offenses that people were found guilty of. They had to register once they completed their criminal sentence. So if you went

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to jail, went to prison, got probation, whatever, when you got done, you had to register. Back then, impact of people who were prospectively convicted and anyone who was either on jail, probation-- in jail, on probation, or in prison. There were a series of cases where the defense argued that said, hey, you are-- I wasn't-- when I committed my crime, I didn't have to register. That wasn't a thing. You can't make this on me now. You're imposing punishment after the fact that-- ex post facto. And the courts have said, no, no, no. The purpose of the registry has nothing to do with punishing you. It has nothing to do with deterring conduct. It's basically to let the community know who's a bad guy when you get out of prison, when you get out of jail so that we know and people with kids know if you're a risk to them. Back then, we had three levels. We had a low level that the State Patrol would sort of screen and the probation officer would screen people for how much of a risk they were by certain evaluations and so on. The first level, cops knew. The second level, cops and, like, daycare providers, the schools knew. And the third level, everyone knew. In 2008, we did away with all the levels in the evaluation process. Now everyone's on level three. We also added a whole series of different crimes for deterrent purposes, for other purposes, to include some nonsexual crimes. So now we have everyone on this list that's public anywhere from 15 years, 25 years, to life. We even extended that period of time. So some guys were on there earlier on from the late '90s for ten years, and they got a letter from the state parole saying, you're now on for life. Sorry. Or you're on for 25 years. The courts have rejected all of those because it's not considered punishment. What Senator Holdcroft had and the proponents of this bill have done is punctured that myth, and that is this: we need to make people who solicit sex have to register because it's deterrence. It's punishment. It's more than a \$100 fine. You're going to pay for what you did. And in some respects-- no disrespect to Senator Holdcroft-- he's sort of jeopardizing that settled case law. If the utility or purpose of this is to deter disfavored behavior and punish someone [INAUDIBLE] to register, then you're getting away from that myth of, it's a civil sanction. And I think that you do have some ex post facto problems. I-- you-- there-- I, I don't know how many people are on the sex offender registry. I-- obviously, Jeanie would know. Maybe she told you and I was just not listening, but. I would submit it doesn't have any real utility to the community because you look up somebody, they're on the list, and then what? You don't know what level they are. You might know what kind of crime they did, but we get everyone from statutory rape cases, revenge porn, [INAUDIBLE] solicitation. I don't think that's the same as someone who's been found guilty of

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sexually assaulting a child. It's not the same. And I don't think that's serving its purpose to the people of Nebraska. It may have a deterrent effect for those people that committed the crimes, but I don't think that's the intent and purpose. I'll answer any questions if anyone has any.

WAYNE: Any questions from the committee? Senator DeKay.

DeKAY: Thank you. Did, did I hear you right that some people are on the sex registry that didn't even commit a sex crime?

SPIKE EICKHOLT: Yes.

DeKAY: Explain that to me.

SPIKE EICKHOLT: So if you look at 29-- I think it's 4003-- there's a handful of about maybe 15 to 20 different crimes: assault, murder, a homicide, kidnapping, burglary, a series of mostly felonies but some misdemeanor crimes. A judge can make a finding-- and actually, this bill amends some of those statutes-- the judge can make a finding based on either evidence supporting the conviction or evidence that's in the presentence investigation report or materials in the presentence investigation report that justifies making them have to register. And that was a series of arguments that, that a number of defendants made too, says, hey, that violates what-- Senator Bosn and I were talking about a bill earlier. You are-- the judge is making findings after the jury made that's exposing me to punishment. The courts have said, no, that's not punishment. That's just a collateral consequence of your conviction. And the judge can make that finding. And so, yeah, there are some that are on there.

DeKAY: Thank you.

WAYNE: Any other-- Senator McKinney.

McKINNEY: Thank you, Chair Wayne. I don't know. Maybe I just should reeducate myself on this topic a little better. But if somebody is con-- convicted of sex trafficking or soliciting sex or whatever and-- I guess-- are we not changing the outcome of the sentence? That's what I'm confused about because if they're convicted of it last year or two years ago or three years ago and they're convicted of it and we're saying with this bill now you have to register-- so in practice, like, if somebody is convicted of child-- like, molesting a kid and they're required to register, is that a part of the sentence?

SPIKE EICKHOLT: Not necessarily. It seems like it should be, but it's not. So if-- the judge at the time of sentencing will advise the defendant. Says, hey, because you've been found guilty of this, when you complete your sentence, you're going to have to register for 25 years. And they have a standard form that the State Patrol produces-- or maybe the State Court Administrators Office produces that-- the defendant is sort of told to acknowledge whether or not he's-- sometimes I've had guys that refused to sign it. Doesn't matter. The judge has told you. You've gotten a notice. But it basically tells the person, you're going to have to register, and generally some of the conditions and some of the consequences. And failing to register and comply with the Registration Act has criminal consequences. You don't-- if you're transient, you've got to go to it every 30 days. You have to do it at least twice a year if you're not transient. You have to notify the local sheriff when you get a new job, new phone number, new address, all those different things. And if you don't do any of those things, you'll be charged with failing to register. And it's an enhanceable crime too. So if you get-- I've had guys over the years that are homeless that just can't live. They're getting multiple Sex Offender Registration Act violation cases. They stack them up. It's not part of the sentence, and guys have argued that and lost. Basically, what you're arguing is that-- and what the appellate courts have said, it's, like, well, it's not a sentence. It's just something that happens to you. It's a consequence of the crime that you're found guilty of. It's like you can't get certain jobs at HHS because you can't get that license. It's just-- it's not a punishment. It's just a consequence. Now, what Senator Holdcroft and the earlier proponent testified to, I think, make the argument for what I'm trying to make. It is a punishment. It's meant to be a punishment. \$100 fine for solicitation of prostitution is not enough. We want you to have to register for 25 years. So I think they are sort of embracing the myth and maybe making the record kind of muddled in a way that they don't want it.

McKINNEY: I guess that's confusing. It's not a part of a sentence, but if you are convicted of the crime, you, you have to register.

SPIKE EICKHOLT: I think, personally, it's a punishment. I've, I've pled guys to felonies that are not registerable just because at least with a felony you can get done with your time at some point. You have to register possibly forever as a sex offender because the guys that are doing 25 years now, the state could always decide to extend it forever for them.

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McKINNEY: That's, that's weird. I don't-- I'm-- maybe-- I don't know. I just probably have to study it better, but it seems like that indirectly is a part of the sentence in, in a lot of ways, but probably not. But it seems like it is.

SPIKE EICKHOLT: Yeah. It is, and it's really unfortunate. And it's really unfor-- in the juvenile setting because one of the requirements that we have to register is if you move into Nebraska and you have to register in another state. Other states still have those nonpublic tiers. So there was a case from Minnesota where a kid was in the juvenile court system. He was sexually abused and then he perpetrated it on another kid in the foster home. And he was just a really young kid. He had to register in Minnesota, but it was a nonpublic list. But when he moved here, he got caught up and had to be a public registrant. And I think this is going to also sort of exacerbate that because it does reference out-of-state required registries being-- have to register retroactive here too.

McKINNEY: All right. Thank you.

WAYNE: Any other questions? I will tell you that case right there you just mentioned that went to the Supreme Court, that was the case that stuck with a good late friend of mine who was a state senator, Scott Lautenbaugh, who pushed for the law to be changed, along with Lathrop and many others during that time. And nobody saw that consequence of the unpublished lists in other states. And that was the one bill he, he would always tell me if he can go back and change. But the political will since then to deal with those individuals has never been there. In fact, four years ago, we had a interim study hearing on it and-- pretty divisive. At that hearing, it was packed. And-- yeah. That was the one, one bill-- and I talked to him about it before he passed, if there was a bill he wished he could change, that was the one that he always talked about because of the unintended consequences of so many people who would not be on a public register. But because we don't have one, they're on it. Just bear that in mind for those who are leaving-- for those who are staying, I mean. Any other questions from the committee? Seeing none. Thank you for being here. Any other opponents? Anybody testifying in the neutral capacity? As Senator Holdcroft comes to close, we had 13 letters: 8 letters of support and 3 letters of opposition and 2 in the neutral capacity.

HOLDCROFT: Thank you, Chairman Wayne, and thank you for the test-- testifiers who came in today and stayed so late. I really appreciate that. One of the neutral testifiers was from the Highway Patrol-- the

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State Highway Patrol. They came in neutral. We, we did work with them closely to see how much this would cost both for the future enforcement with the Johns but also with the retroactive piece. And that's where the \$25,000 fiscal note came on that. So, so the, the, the onus of this bill really came when I visited Pro-- Project Harmony. Now, if you haven't been to Project Harmony, I highly encourage you to go and tour the facility. You know, it's a child advocacy place, but it's much more than that. And they have a sex trafficking task force that's embedded in the basement and, and-- with the Omaha police officers who were there actively trying to disengage women who are being sex trafficked. And right, right there down-- they have their-- kind of their command center, but right next door they have all of these nonprofits that are lined up ready to help these young women get disengaged from their pimps. But I asked the police officers there when I toured, and I said, what can we do in the Legislature to try to, to deter this? And they-- and their answer was, put the Johns on the sex registry. Require them to be on the sex registry. And so that was really the onus behind the bill. Now-- I mean, we heard yesterday from Senator Blood. Most of the Johns are rich white people who can just pay the \$100 fine and not worry about it, but are they really willing to get their name on the sex registry which is public to all of their neighbors and friends? Now that's a deterrent. And you can argue all day whether it's a punishment or whether it's, you know, just a, a, a registry, but it would have the deterrent value that we want. That's what I heard all day yesterday, was we need to curb the demand. We need to curb the buy-- the, the buyers, and this bill would do that. So with that, I am happy to answer any of your questions.

WAYNE: Any questions? Seeing none. Thank you for being here. That'll wrap up LB1156 and end today's hearings. I'll entertain a motion to go into Exec.

McKINNEY: Move to go into Exec.

WAYNE: Is there a second? I'll--