

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

BOSN: All right. Welcome to the Judiciary Committee. In the interest of time, we're going to go ahead and get started. I'm Senator Carolyn Bosn from Lincoln, representing the 25th Legislative District, and I serve as chair of the committee. The committee will be taking up bills in the order they are posted. This public hearing is your opportunity to be part of the legislative process and express your position on the proposed legislation. If you're planning to testify, there are green testifier sheets at the back of the room. Be sure to print clearly and fill it out completely, giving it to, to the page or committee clerk when it is your turn to testify. If you do not wish to testify but would like to indicate your position on a bill, there are also yellow sign-in sheets on the back table for each bill. These sheets will be included as an exhibit in the official hearing record. So, for those of you who are coming up after someone who has maybe said what your position is already, you're welcome to just say "I am in agreement with this person." It will then be recorded as such, and you don't have to repeat the same thing that somebody else may have said. When you come up to testify, please speak clearly into the microphone, telling us your first and last name and spelling both to ensure we get an accurate record. We will begin each hearing today with the introducer's opening statement, followed by proponents, then opponents, and finally neutral testifiers. We will finish with a closing statement by the introducer, if they wish to get one. We're using a three-minute light system for all testifiers. When you begin your testimony, the light on the table will be green. When the yellow light comes on, you have one minute remaining, and the red light indicates you need to wrap up your final thought and stop. Questions from the committee may follow. Also, committee members may come and go. This has nothing to do with the importance of the bills; it's just part of the process, as senators have bills to introduce in other committees. If you have handouts, please bring up 12 copies. Please silence your phones. Verbal outbursts and applause are not permitted, and will be cause for you to be asked to leave the hearing room. Committee procedures for all committees state that written position comments on a bill to be included in the record must be submitted by 8 a.m. the day of the hearing. The only acceptable method of submission is via the Legislature's website at nebraskalegislature.gov. Written position letters will be included in the official hearing record, but only those testifying in person before the committee will be included on the committee statement. You may submit a position comment for the record or testify in person, but not both. I will now have the committee members with us today introduce themselves, starting on my left.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

HALLSTROM: Good afternoon. Bob Hallstrom, Legislative District 1, representing Otoe, Johnson, Nemaha, Pawnee and Richardson Counties in southeast Nebraska.

STORM: Good afternoon. Jared Storm, District 23. Saunders, Butler, Colfax County.

STORER: Good afternoon. Senator Tanya Storer. I represent District 43, which is Dawes, Sheridan, Cherry, Brown, Rock, Keya Paha, Boyd, Garfield, Loup, Blaine, and Custer-- 11 counties in north central Nebraska.

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

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

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

BOSN: Thank you. Also assisting the committee today, to my left is our legal counsel, Tim Young, and to our far right is our committee clerk, Laurie Vollertsen. I will have our pages for today introduce themselves.

AYDEN TOPPING: My name is Ayden Topping. I am a second-year student at the university.

RUBY KINZIE: Hello, I'm Ruby Kinzie. I'm a third-year political science major at UNL.

ALBERTO DONIS: I'm Alberto Donis, first year at UNL.

BOSN: Thank you. With that, we will begin today's hearing with a gubernatorial appointment for Candice-- is it Batton? Yes? OK. Welcome.

CANDICE BATTON: Thank you.

BOSN: Good afternoon. Go ahead and tell us a little bit about yourself and why you want to be a part of the Crime Commission [SIC].

CANDICE BATTON: Thank you very much for having me today. I've been a member of the Crime Commission since 2010. Currently the longest-serving member on that commission, and I have been on the Crime Victim Reparations Committee before. And I'll just briefly say,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

I think my interest in the commission-- but also in this committee as well-- that-- really is both personal and professional. So, I grew up in a house where everybody worked in criminal justice, from a deputy sheriff, district attorney; a family member's their first public defender in, in Lancaster County, which-- some of the folks who have been around a while will know who that was. I also have had a family member that was a victim of violent crime, a serious violent crime. Professionally, I was probably destined to study crime and justice in school, and I did. I pursued an education focused on criminology and criminal justice, and completed my doctorate at Vanderbilt University and returned to work in a faculty position at the University of Nebraska in criminology and criminal justice. So, I've been at the university for 26 years, and during that time, I have served as faculty, I have chaired the department, and I'm now working in the Office of Academic Affairs as associate vice chancellor. So, I, I feel like I have both the-- again, personal and professional interests, and my experiences, I think, lend me-- put me in a good position to support the work of the CVR. I think compassion is important, yet it's also important that we have a transparent process. And I think I can support that.

BOSN: Thank you very much. Let's see if there's any questions from the committee. Senator DeBoer.

DeBOER: Thank you. As you know, I work on a lot of the CVR board things, and this year is no exception. I have a, a bill that would put a couple of folks on the CVR commission that have been victims of crime themselves. How do you feel that you would do working with folks who have been victims of crime, and how would that help you, or how would you work with that on the committee?

CANDICE BATTON: Yeah. I think it's important to have a range of perspectives represented on a committee. And so, I think the addition of victims would be, be useful. It's important to hear from those perspectives, as well. I would not foresee any concerns, so.

DeBOER: OK. Thank you.

BOSN: Any other questions? I just have a couple of sort of technical question-- oh, I'm sorry. Go ahead. Sorry.

McKINNEY: Oh, thank you. And thank you for your testimony. I see you were, you were a former member, and now I guess you're going to be back on, I guess. So, what do you think are some things that-- since, since you've been off, are some things that could be improved?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

CANDICE BATTON: So, so I was a member of CVR around 2010-2012. So, several years. And what I've seen is, is that there has been a tremendous amount of process formalized. When I was first on the committee, it was, it was handled much more informally. I don't want to say there wasn't a process, but there was not as much clear and transparent process around the way decisions were made, the criteria. And so, so I've been very impressed to see that we have, I think, a, a very-- a friendly website that's easy to access. The committee regularly-- each year, I think, is considering the amounts that can be paid out in terms of victim reparations and reviewing its criteria. And even having those standard procedures, I think, is an-- is important and an improvement, so I look forward to being a part of that.

McKINNEY: Thank you.

BOSN: All right. Seeing no other questions, we will conclude your part of it, and we'll see if there's anyone here that wishes to testify in support or opposition of your appointment.

CANDICE BATTON: All right. Thank you.

BOSN: Yeah. Thank you very much for being here. Are there any-- is there anyone here who wishes to testify in support? Any opponents? Any neutral testifiers? All right, well, once again, thank you for being here. And that will conclude our gubernatorial appointment for today. And next up, we have LB475 with Senator Riepe. Welcome.

RIEPE: Thank you. Are you ready for me to go?

BOSN: I am.

RIEPE: OK. I paused. Chairperson Bosn and members of the Judiciary Committee, my name is Merv Riepe. It's Merv, M-e-r-v; Riepe is R-i-e-p-e. And I, as a senator, represent Legislative District 12, which is south central Omaha and the fine little town of Ralston. Today, I introduced LB475, which seeks to add ti-- tian-- nes-- I'm trying to-- I'm not a pharmacist, so I struggle here-- tianeptine to Schedule IV of the Nebraska Controlled Substances Act. This classification aligns with other substance like "benzodiatine" [SIC], which have medical uses but also pose risk of abuse and dependency. Tianeptine, often called "gas station heroin," is sold under brand names like Za Za Red and Neptune and Fix [SIC]. Marketed as a cognitive enhancer, in reality, it acts as an opiate-like-- opium-- opioid-like substance. In small doses, it may function as an

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

antidepressant, but when taken in large amounts, it mimics heroin. Reports of abuse, severe withdrawal, and overdoses have surged across the U.S., with poison control centers warning of its dangers. While Nebraska's state forensic lab has not yet identified it, given its availability, it is only a matter of time. LB475 is before you today because of a constituent whose son struggles with addiction, including tianeptine. In researching ways to help, it became clear that federal action was lacking, leaving states to act. At least 11 states have already banned or regulated this particular drug. Mr.-- the, the constituent could not testify today, but I have submitted a letter from him to your-- for your consideration. His story is one of a father doing all he can to protect his son. To verify this drug's availability in Nebraska, my staffer Gerald-- out of personal curiosity and not at my direction-- visited several head shops in Omaha and confirmed that it is being sold under the name Za Za Red. Because the drug is not FDA approved and is not classified as a federal controlled substance, it falls into a legal loophole. Businesses cannot market it for consumption, but they can sell it as a supplemental for research-- or, or as a research chemical. My staff has found no indication that the federal government is posed to take any substantial action of this particular drug. The reality is that people are not buying it for cognitive enhancement; they are using it for its opioid-like effects. Because it is available without prescription, many users are unaware of its dangers until they are already dependent. Given these risk, Nebraska must act by placing this particular drug in Schedule IV. That is, LB475 Will help prevent its unregulated sale while ensuring that any future legitimate medical use is controlled. This bill aligns Nebraska with other states already taking action, examples of which you have in the packet that I have distributed. For these reasons, I urge you-- and for your support of LB475. We will also hear from an individual from Kearney with both professional and personal insight on this particular issue. Thank you, and I will address questions within my scope of knowledge.

BOSN: Thank you. Any questions from the committee? Senator Hallstrom.

HALLSTROM: Senator Riepe, I just briefly reviewed it. Looks like the dozen or so states that have acted have all been, for the most part, Schedule I or Schedule II as opposed to Schedule IV. Any rationale for not being more stringent in terms of the class of schedule?

RIEPE: Thank you, Senator. I know there are a number of states that go from Alabama, Georgia, Indiana, Kentucky, Michigan, Mississippi, Ohio, Florida now, and Tennessee. And they all come down a little bit different in terms of what they're scheduling or if they just outright

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

outlawed it. And I don't have a rationale for why they chose to go the way that they did on their schedule.

HALLSTROM: OK. I'm, I'm just concerned that there is no FDA-approved use for this substance, and it seems like the majority of states-- I'm surprised the feds haven't acted-- but it seems like the majority of the states have been more, more stringent than what we're proposing here.

RIEPE: It would be-- would have been, and would be more helpful if the FDA would have taken a specific alignment, because it's a national problem. We're just honing in on it here in Nebraska now because we've become more aware of it.

HALLSTROM: OK. Thank you.

RIEPE: And I know, Senator Holdcroft had a bill with some of these bills. We just didn't time it enough to get it kind of included in that.

BOSN: Thank you. Any other questions? Are you saying to close?

RIEPE: Oh, absolutely.

BOSN: All right. Before we get started with testifiers, could I see a show of hands how many individuals wish to testify in some capacity on LB475? OK. Come on up. Are you a proponent?

HAYLEY JELINEK: Yep.

BOSN: Come on up. Welcome.

HAYLEY JELINEK: Thank you. Hi, I'm Hayley Jelinek. I am a social worker by trade. I have worked in the public health realm for the last four years as an overdose prevention person. I'm a daughter, I'm a sister, I'm a wife, and I'm a mom of two beautiful boys. One of my boys is here on Earth, and one of my boys is in heaven, and it is due to acute intoxication of "titepatine" [SIC]. On August 3, 2021, my beautiful blue-eyed 26-year-old boy died in Pensacola, Florida, in bed with his two beautiful girls. We knew that he used medical marijuana. As a matter of fact, he traveled from state to state because that made him able to work and able to do what he needed to do as a dad. Knew he took over-the-counter supplements, but we didn't know the impact that this was going to have on our whole family and, as a matter of fact, on the United States in itself. His autopsy stated that he died of acute intoxication of "titepatine" [SIC], better known as drug store

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

heroin. My son was lured by the beautiful red bottle that said, feel good, clear your mind. But that isn't what happened. In fact, the last year he was alive, he gained 100 pounds; he sweat all the time; he got confused, crabbier than he had been before; fuzzy brain. He kept thinking-- you know, you keep needing more. You think you're gonna feel better if you keep needing-- keep taking more, but that isn't the case. Please help us figure out how to get this stopped. There's no reason that they should be selling in any place in the United States, smoke shops, gas stations. There's a lot of information coming out on it. The other thing that I was really excited about was, when I read through the packet, it said that in 2023, Florida did ban it, and that's where my guy was at. So, I'm just really asking for us to do something to help people, because by the time they're taking it, they think that it's OK because it's a dietary supplement. They're hooked, and then they cannot quit.

BOSN: Thank you. Could I have you state and spell-- or, spell your first and last name for the record?

HAYLEY JELINEK: I forgot. I'm sorry.

BOSN: That's OK.

HAYLEY JELINEK: Hayley, H-a-y-l-e-y; Jelinek, J-e-l-i-n-e-k.

BOSN: All right. Any other questions from the committee? Senator DeBoer.

DeBOER: Do you know about how long he was using the substance? Do you have any idea? If it was, like, that was the first time--

HAYLEY JELINEK: No.

DeBOER: OK.

HAYLEY JELINEK: It had been going on for a little while. He first used kratom, which I understand is also a bill that is going to be looked at. He did use kratom for a while, and then he did-- my son, he was bipolar, and he was med-resistant bipolar. So, none of the medications worked that good. He was on an antidepressant, which "titipatine" [SIC] in Asia, Europe, Latin America, is used as an antidepressant, but we don't do it here because the side effects are so horrible. So, we're thinking six months to a year he probably used it, and it just kept continually needing to be more. He had told me one time that he was having a hard time stopping it, and I thought he had stopped it,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

but he had not. And his wife did find in their storage unit a number of empty bottles of it after he had passed away.

DeBOER: Thank you for your story. I'm so sorry that it all happened.

HAYLEY JELINEK: Thank you for letting me talk about it.

BOSN: Thank you very much for being here. Any other proponents? Any opponents for LB475? Any neutral testifiers? All right. While Senator Riepe is making his way back up, I will note for the record we had 1 proponent letter, no opponent, and no neutral letters submitted.

RIEPE: Thank you. First of all, I'd like to, to thank the, the mother who shared her story. It takes a lot of courage to be able to do that, and-- but I think it makes it-- brings it home to the trauma that it can cause, the-- wrecked a family. It's the same situation with my constituent who hasn't lost his son yet, but his son has been in rehab for a number of times. We talked a little bit about the FDA, and I know that they are looking at this, but they're also trying to make sure that they can protect some of the few medical reasons or uses for this particular drug. "Trianepetine" [SIC] is abused for its-- it-- or, used for its euphoric of products similar to the opioids such as heroin, with severe adverse effects including respiratory depression, severe sedation, and death on-- may occur, as we just heard, so. I just think I would like to get this on the books so that we can protect the people that we can. And so, I have no further comments.

BOSN: Thank you. Any questions for Senator Riepe? Oh, Senator Hallstrom.

HALLSTROM: Senator Riepe, I'd be happy to work with you. I-- I'm just trying to figure out-- it, it appears to me-- I haven't found anything yet that says that this substance is approved for any medical use in the United States, at least, or by the FDA. So, that would normally lead us to believe that it ought to be a Schedule I controlled substance. But I'll visit with you off the mic--

RIEPE: Yeah, I'd love to do that.

HALLSTROM: And I-- I've got a bill that's-- I think it's on Select File-- with regard to kratom, that maybe we can work some magic.

RIEPE: OK. I would-- that would be very good if we could do that.

HALLSTROM: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

RIEPE: OK.

BOSN: Thank you.

RIEPE: OK.

BOSN: Thank you for being here.

RIEPE: Thank you.

BOSN: That concludes LB475. Next is LB684 with Senator Bostar.
Welcome.

BOSTAR: Good afternoon, Chair Bosn, members of the Judiciary Committee. For the record, my name is Eliot Bostar, that's E-l-i-o-t B-o-s-t-a-r, representing Legislative District 29. I'm here today to introduce LB684, legislation that transfers the administration of juvenile probation services from the judicial branch to a new juvenile probation agency within the executive branch, and establishes that during felony arrests of a juvenile, probation officer shall forward intake information to a judge to determine the need for detention. While the initial move of juvenile probation services and programming from under DHHS to the judicial branch was well-intentioned, the experiment has been a clear failure and requires correction by this body. Under the administration of the judicial branch, we have seen a continuous lack of transparency. Vital information is being withheld from law enforcement, this Legislature, the Office of Inspector General, local governments, community partners, and families of involved youth. When law enforcement in particular are not privileged to necessary information regarding justice-involved juveniles in our communities, they cannot adequately keep our communities safe, resulting in the very rise of dangerous juvenile offenses we have seen in recent years. Since the full administration of juvenile probation moved to the judicial branch, the relationship between probation and the law enforcement community has become unfortunately antagonistic rather than collaborative, leaving the public and our officers less safe. Community-based nonprofit service providers are struggling to be adequately compensated for the services they provide for our youth and their families under judicial administration. Probation currently operates a voucher-based fee-for-service system that is not conducive to the needs of community-based providers. Before the move to the judicial branch, the state entered into contracts with these service providers that provided for quality care for our justice-involved youth in exchange for adequate recompense of the provider. A combination of inadequate funding combined with the insufficient

voucher system has led service providers to discontinue crucial services. In the absence of contracts, providers are not required to accept or deny youth for placement within a specified time period. As placements have closed, this has left youth languishing in detention for months. Another flawed by-product arising from the judicial branch's oversight of the administration of juvenile probation is that currently, substantive communications are permitted between judges and probation staff, allowing subjective information pertaining to youth to flow to judges outside of normal court proceedings and in the absence of defense attorneys is blatantly inappropriate and requires clear correction. Most alarmingly, judicial branch administration of juvenile probation has, quite simply, made our communities less safe. In Lancaster County, the number of juvenile cases referred to the Lancaster County Attorney has risen from 1,051 in 2021 to 1,954 in 2024. Juvenile felony charges in Lancaster County have jumped from 62 in 2021 to 171 in 2024, while misdemeanors grew from 511 to 626 and truancy charges increased from 196 to 318 across the same time. According to Voices for Children in Nebraska, felony cases involving youths under 18 in Douglas County's District Court and Juvenile Court combined went from 150 in 2017 to 216 in 2023; that's a 44% increase. According to the Omaha Police Department, in 2016, there were 14 unique juveniles with five or more felony arrests in Douglas County. Seven years later, that number was 83. Unique juveniles with felony gun charges rose from 46 to 117 over the same time period, and unique juveniles with at least three felony gun charges-- or, gun arrests in Douglas County increased from 1 to 14 over the same time period. It's important to understand that nationally, the number of youth arrests for violent crimes is actually dramatically falling. From 2010 to 2020, the United States Department of Justice reported a 56% decline in youth arrests for violent crimes. The recent numbers we see in Nebraska are tragic outliers. LB684 also establishes that felony detention decisions rest with a judge rather than a probation officer who is not accountable to the public at large. Judges are in the best position to look at the totality of the circumstances; they can take input from the probation officer, prosecution, public defender-- and, importantly, the family-- and determine what is best for both the juvenile and the community's safeties. No one relishes detaining a juvenile, but releasing a juvenile back into a chaotic, dangerous environment also does not do any service to the child, and has led to serious public safety consequences. Under the executive branch, the new juvenile probation agency would be able to coordinate with the child welfare system and the juvenile services system, allowing for information-sharing, as many families may be involved across multiple systems. The executive branch oversees benefit distribution for

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

families, and the ability to coordinate across the spectrum from basic needs to disability assistance and behav-- and behavioral health will be invaluable. Simply relocating juvenile probation services to the executive branch will not solve every problem, but under current circumstances, we are unable to even view what needs fixing. The increased oversight and transparency of the executive branch will give us the opportunity to make improvements, as opposed to the opaque walls that have been raised by the judicial branch around juvenile probation services. It's clear that current trends and practices are unsustainable and unsafe for our communities and our law enforcement officers. Nebraska requires a model that is genuinely providing corrective assistance to our youth and wrapping services around their families. The courts are capable of, of reforming adults, but our youth and families have needs that are very different and involve more than court supervision. LB684 offers an effective solution to keep our youth, our streets, and our officers safe. I thank you for your time and consideration. I'd be happy to answer any initial questions.

BOSN: Thank you. Questions? Senator McKinney.

McKINNEY: Thank you. Thank you, Senator Bostar. How do you know this is an effective solution?

BOSTAR: So, you know-- I think primarily the way I view this is we aren't able to effectively try to solve the challenges we have now with juvenile probation being located in the courts. And you were at the Exec Board hearings. We, we run up against a problem of separation of powers. That's just the truth. Where-- the way it's supposed to work, right? The way the U.S. Constitution, the way the Nebraska Constitution, the way the Framers designed our system of government is that the legislative branch of government creates policies and laws and appropriates funds; the executive branch enacts those policies and laws and carries them out, and, and spends the funds that appropriated by the legislative branch; and the judicial branch interprets the law. And they're all designed, as-- you know, we all learned in the fourth grade or thereabout that it creates checks and balances across the board. The, the problem that we run into is when you have a judicial branch administering programs and functions and executing legislation, we have created a, a, a flaw within the design at the very, very macro level of how our government works. And so, what we deal with is we cannot see into the court system. And so, whether that's related to stuff related to inspector general work that we've been doing here in the legislative branch, or, or juvenile probation-- right? We see these numbers going up and up and up and up and up. And we can pass a bill that says, hey, probation has to share some information. Well, as

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

you'll hear from testifiers behind me, that doesn't happen. And we don't have any recourse. Right? We can't-- you know, we can say, hey, you know, courts should do this. And where is that going to go? In, in a, in an inter-branch conflict, those are resolved in the courts. So, when the court is party to an inter-branch conflict, frankly, the other branches are screwed.

McKINNEY: But I asked the question of effectiveness because the issues with the juveniles is deeper than the courts.

BOSTAR: Of course.

McKINNEY: And juveniles intersect multiple agencies, a lot of times. And just being frank, the executive branch oversees the "Department of Hell, Harm and Suffering," DHHS. And a lot of these juveniles go through that department.

BOSTAR: Yeah.

McKINNEY: And that is a horrible department that is poorly ran, and been poorly run forever; they lose kids and drop the ball on kids. So, I don't see how you feel comfortable with the executive branch overseeing when they clearly shown to be dropping the ball with these kids anyway.

BOSTAR: No, I--

McKINNEY: So, so, so what makes you feel comfortable for them to see the kids-- oversee the kids, and DHHS dropping the ball already. They're, they're clearly dropping the ball, and then you want them to oversee them over here and not expect them to drop the ball over here. I'm kind of trying to just understand that.

BOSTAR: Yeah, no, I, I-- look, I get it. For starters, you know, a lot of these juvenile probation services that were in the executive branch before were held under DHHS. This bill would not put them back under DHHS; it would create a specific agency to manage this that I, I do believe would be easier for us to hold accountable. I'm going to be honest with you. It, it, it comes down to the Legislature being able to hold probation accountable and to pass laws that will do that. And I understand that there are challenges with that, and I'm not going to pretend there aren't. But right now, we can't even see the problems that are in the judicial branch. And so sometimes, it can look as if-- when we're looking at the executive branch and we can see all of the mess, it can look like, wow, that's really messy over there. And you look over to the judicial branch, you don't see anything. So, there--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

I, I-- there's an instinct to say, well, not seeing anything has got to be better than a mess, but I don't think that's right.

McKINNEY: Maybe you're right, maybe you're wrong. But even if we were able to see, when it comes to holding agencies accountable, the Legislature rarely has backbone to do it because people don't want to buck the, buck the governor. So, what's going to change?

BOSTAR: We'll at least have a shot. The truth is that. I, I-- look, I understand what you're saying. I really do. At the very least, if it moved, there would be more compliance with the laws that are already on the books that there currently isn't. There would be more transparency than there is now. Would it solve every problem? No, probably not. Would we still have challenges? Absolutely. Would we need to work hard and, and would the Legislature live up to its constitutional promise of, of oversight and accountability? I hope so, but, you know, we don't always succeed. But it-- it'd be better than this. This is broken. This is completely broken. And I, I don't know what the alternative is, but right now, this isn't working at all for anyone.

McKINNEY: The whole system is broken because--

BOSTAR: There's truth to that.

McKINNEY: At the end of the day, this isn't going to solve the problem because you could swap who's-- who oversees these kids, but at the end of the day, this deal doesn't hit at the issue of how are these kids ending up in these situations. We're not hitting the root issues of, of, of why.

BOSTAR: Yeah. I-- and I think we would have much, much better visibility into being able to attack the root where we are dealing with a governance structure that we are designed at a macro level to have access to and accountability with, whereas right now, we're not.

McKINNEY: How do you attack the root when you got people that stand up during debate and say, "is that enough for your community?" I don't have no faith.

BOSTAR: I'm not here to tell you that you should.

McKINNEY: And that's the problem. Thank you.

BOSTAR: Yeah.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

BOSN: Any other questions? I assume you're staying to close?

BOSTAR: I will be.

BOSN: Thank you. All right, can I-- before we get started with proponents, can I see a show of hands how many individuals wish to testify in any capacity on this bill? For the convenience of Mr. Eickholt, I will note there are over two dozen hands raised. He always likes it if I count, but I'm not going to count. There's a lot, for the record. OK. We'll begin with proponents. Anyone wishing to testify in support. Welcome.

PATRICK DEMPSEY: Good afternoon, ladies and gentlemen of the Judiciary Committee. My name is Patrick Dempsey, P-a-t-r-i-c-k D-e-m-p-s-e-y, and I'm the president of the Omaha Police Officers Association. I stand before you on behalf of the 780 men and women who selflessly serve to protect this great city of Omaha. In 2010, I took an oath of office to protect and serve the citizens of Omaha and took to the streets of Omaha with bright eyes and a full heart. I was just a kid from south Omaha who wanted to make a difference. During these first several years of being a police officer, I saw the both the good and bad of humanity, things that still haunt me to this day. In 2014, I had the opportunity, opportunity to hang up my uniform and put on a gang unit uniform, and I was entrusted to work with some of the most hardened criminals in Omaha. During my time in the gang unit, I had the opportunity to work with some great partners like juvenile probation, who had the community and the juveniles in their best interest. These probation officers worked hand-in-hand with juveniles and law enforcement so that Omaha was a safer place, and the juveniles were held accountable for their actions that put them on probation in the first place. This partnership between juvenile probation and law enforcement was what was needed to keep these "juvenile"-- juveniles safe and allow them the opportunity to make the right decisions and go on to lead successful lives. Juvenile probation information was shared with us, open lines of communication were available, and we had a grasp on who these violent juveniles were in our community. We have had a proposal-- or, we have a proposal here today to get us back on that level of collaboration. We don't think that the systemic problems can be solved within the current system, and which is why we are asking it to be moved under the executive branch. Since 2016, this has drastically changed in a-- not in a good way. Today, we see the biggest increase in violent repeat juvenile offenders that we've ever dealt with. It was just in 2022 when I was a homicide unit detective I investigated one of the most premeditated homicides of my career. From checking to see if the victim's sister was home so that she did not

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

have to witness the execution of her brother, planting a stolen car and having a dr-- having a getaway driver. This seems like something you would see in a Dateline show, but it was here-- it was all planned and committed here in Omaha by a 13-year-old who was also system-involved. I could stand and give you example after example. It was just this morning that I was notified that a 15-year-old and a 16-year-old who were both system-involved were charged with the murder and execution of a man walking his dog; a man who just wanted to give his puppies a little exercise before he went to work every day. How could these have-- how could this have gone differently? More supervision? More follow-up? These juveniles were already on probation. A time of rehabilitation and supervision is supposed to be the focus. How do these juveniles escalate to this level while on probation? And any of the-- if any of this committee is interested, you can go back and look at the record and see that the OPOA has been down here begging and pleading for help with the juvenile system for a long time. This system is broken. We have tried to work with probation, and it wasn't until LB684 was introduced that they were willing to come to the table and discuss these issues that are plaguing our state. Moving juvenile probation out from the judicial branch and placing them under the executive branch would give us the fresh start; it would give us the transparency that is needed to again work hand-in-hand and make Nebraska a better place; it would give us a chance to hold individuals accountable who make these executive changes that lead to the largest increase in violent repeat juvenile offenders. Having the judge make determinations about detention instead of probation is, is critical. With that, I thank each and every one of you, and I'm open for any and all questions.

BOSN: Thank you. Right on time. Senator McKinney.

McKINNEY: Thank you. How many, how many of these kids have current or past HHS involvement?

PATRICK DEMPSEY: That I'm not sure. I'm sure there's data for that, but I don't have that.

McKINNEY: How many of these kids were already in juvenile court under a IIIA docket, abuse or neglect charge?

PATRICK DEMPSEY: I do not have that answer.

McKINNEY: And what do you need access to?

PATRICK DEMPSEY: One of the things that we've fought hard for is juvenile probation information and GPS information. We've seen time and time again where these juveniles who are these repeat violent offenders that we have multiple contacts with still commit crimes with those GPS monitors on. We've had multiple homicides where juveniles committed the murder with his GPS unit on, and we come up against a wall trying to get that information. It adds delays in the investigation, it makes us not get that information in a timely manner. It hinders the investigation at times.

McKINNEY: So, you essentially want this change because you want access to GPS monitor?

PATRICK DEMPSEY: And I want to go back to the days of where we had the opportunity to work with probation hand-in-hand. It was routine for them to come out and ride with us, go and meet kids both where they're at and hang out with kids; the ability for them and us to work together so we can know who these very violent individuals were, and hopefully with a little bit of attention from them and us together in a positive way, would change their actions. I did see it work time and time again, where some of these juveniles were on the wrong path. Giving them that little extra attention, being seen, listening to what they have to say, you know, their interactions with law enforcement, it changed the-- it changed the trajectory for some of these kids, and that's ultimately what we want again.

McKINNEY: So what is the root cause of why these kids end up in these situations?

PATRICK DEMPSEY: I think we could spend a whole day talking about that. You know, it's a family life. It's where they're stuck. Sometimes, they're system-involved and they don't have anybody that loves them; they don't have the greatest home life; they may be in a one-parent household where they're not getting any attention, and some of this is attention-seeking behavior. But to get at what one root cause of this is, I think we need a lot.

McKINNEY: OK. What is your association doing to address the root causes?

PATRICK DEMPSEY: I think our association does our very best. We engage kids as much as we can. We host things like "shop with a cop," other community events that we do. What we can do at that front is be an asset to these kids as someone to look to if something's wrong, instead of maybe being told that we're the bad guy, or law enforcement

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

only comes to arrest people. If we can change that perception, maybe there's a little bit more respect for the career, and maybe there's not that negativity around it.

McKINNEY: I think the perception might change if-- how you word things as well, and how you post things on social media. I think when you want the youth in the public or the community to look at your association differently, maybe you might word things differently, maybe when you post things on social media it might be posted in a different context. I think when you post things and say things certain ways, it continues to disconnect. And that, it-- from, from my perspectives, what I've seen is the way you guys post things and say things continues to divide.

PATRICK DEMPSEY: Well, thank you for your feedback on that.

McKINNEY: No problem. Thank you.

BOSN: Any other questions? I just want to clarify a few things. You gave an example of an individual who was 15 years old, a recent case. Was that individual on probation?

PATRICK DEMPSEY: Yes. I'm-- I know for a fact one was. I'm not-- I believe the second one was on probation as well, or was previously system-involved. It was a 15-year-old and a 16-year-old.

BOSN: And so, to-- I think where Senator McKinney's questions are is his frustration that some of these kids are on HHS, under exec branch, the fixes aren't being-- I, I don't want to put words in his mouth, but satisfactorily addressed when they're under HHS. Why would it be any different if we create a new agency under the executive branch? And if I'm understanding Senator Bostar's answer is, well, we have to try something. I mean, is that where you're coming from?

PATRICK DEMPSEY: That's 100% where we're coming from. We've come down here and tried to legislate new laws, testify on behalf of a lot of these juvenile laws. Ultimately, probation is probation, but when things go wrong and these violent offenders are in our community, they fall in our laps. And after we've seen these huge increases, like Senator Bostar talked about, of juveniles having five or more felony incidents-- this isn't they got charged one time with five different felonies; this means they were arrested five different times, five different things, each for a felony charge. So, when you see that number going from 17, 18 in '21, I believe he said, up to 83, that's an issue. And I think we need to address it, we've tried addressing it

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

multiple different ways, and this is a chance for a fresh start and to kind of mold that agency into what it once was.

BOSN: OK. And if I understood the beginning of your testimony, it changed in 2014?

PATRICK DEMPSEY: No, I put in 2016, 2017 is when it kind of started to change.

BOSN: And do you know what precipitated that change? Was that legislation?

PATRICK DEMPSEY: No, it was not legislation. We were told that it was an executive order, that they're not going to share that information with us. And that's kind of where that-- where we started to see that frustration between us and probation working together start.

BOSN: So, this youth that is accused of having committed the crime recently that was on probation, how did you find out he was on probation? How did you find the youth? Did you get the GPS information, or what was it that ultimately led you to this individual?

PATRICK DEMPSEY: The, the-- in this most recent murder, part-- people involved in the investigation said that they were on probation. I'm unfortunately not in homicide anymore, so I don't get the-- all the details of it, however that's coming from someone.

BOSN: All right. Any other questions? Senator McKinney.

McKINNEY: Just one quick question. We do have a new Supreme Court justice. Chief. Have you-- once that change happened, did you guys try to go to them and try to get this information?

PATRICK DEMPSEY: No, we have-- I have not spoken with the new Chief Justice, no.

McKINNEY: All right. Thank you.

BOSN: Senator Hallstrom.

HALLSTROM: Are we, are we talking about a, a small number, or do you have any idea what the number of the more violent offenders are compared to those with maybe lighter probation would, would be effective or sufficient?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

PATRICK DEMPSEY: Probation can be a very effective tool for some of these juveniles. I think the last number I heard was there's over 600 juveniles on probation in Douglas County. We're talking about that 50 to 100 who were involved in these felony crimes. The 82 [SIC] we talked about earlier are the ones that are stealing cars and involved in gun crimes. So, we're not talking about the whole large population; we are talking about 50 to 100 of them.

HALLSTROM: OK. And-- some saying about doing the same thing over and over and expecting different results is insanity. What, what would we do differently in switching from A to B?

PATRICK DEMPSEY: I think one, if you brought back that information sharing amongst the departments and probation, we brought back access to those things, we brought back where we are working hand-in-hand together, where they were riding with us, where they were sharing that information of who these juveniles were-- if we got back to that type of collaboration, I think we'd be-- see those numbers drastically fall.

HALLSTROM: Can-- how long has-- and I, I don't assume this has happened overnight. How, how long has this been brewing?

PATRICK DEMPSEY: I couldn't give you the exact date, but I would say it's 2016, 2017 is when this all really started.

HALLSTROM: Thank you.

BOSN: Thank you for being here.

PATRICK DEMPSEY: Thank you for your time.

BOSN: Yeah. Next proponent. Welcome.

DON KLEINE: Good afternoon. My name is Don, D-o-n; Kleine, K-l-e-i-n-e. I'm the Douglas County attorney. I'm here to testify in that capacity in support of LB684. So, good afternoon, Chair-- Madam Chair and members of the committee. The-- first of all, I'd like to thank Senator Bostar for sponsoring this bill, and all the co-sponsors of it. I think it's, it's important that we address the issues and the shortcomings of our juvenile probation system and examine solutions to improve it. One of the things that I particularly is the-- support this provision, Section 39 of this bill, that would require a judge to make the decision about detention of a juvenile when a juvenile is arrested for a felony so that all parties have an input, and the judge makes that final determination with regard to detention. I heard

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

Officer Dempsey testify about examples. I could give you many, many examples, and I've handled many cases involving juveniles and very violent crime. The two 13-year-olds he talked about from a few years ago that were-- committed first-degree murderers, and then what happened to them in the system. I currently have a case involving six juveniles who-- the start of the day, and went to-- about 6:00 in the morning to Nebraska City, and are alleged to have broken into a gun store that's on video, steal a bunch of guns. Later in the day, they go and, and rob a couple people at 120th and Dodge. Again, video of that. And later on, when they're trying to get another vehicle, they end up allegedly killing an Uber driver. These young people range from, I think, 13 to 17, and all have been in the system before. And I have many hearings about these kinds of cases in the courts; you know, motions to transfer to juvenile court and other issues. And, and as with the 13-year-olds, the system really didn't even provide any place to, to put these young people. One 13-year old was sent to Kearney; that lasted for a while, he was transferred to Lincoln; he escaped, stole a vehicle, and is now being prosecuted as an adult in Lancaster County. The other 13-year-old went to Boys Town, absconded; after that happened, Boys Town says we don't want him back. And when I put a probation officer on the witness stand, juvenile probation officers, and we talk about these very serious crimes, they testify that, you know, the judges are somewhat hamstrung with regard to these cases because no one will take these young people involved in these very serious crimes. And so, that's a problem in the juvenile system in and of itself. But it-- there's-- it's obvious that things aren't working the way they should be, and I would hope that this bill at least-- I don't know what the answer is as far as, you know, executive branch or judicial branch, but certainly it isn't working the way it is, and I would hope that this creates some dialog so that we can do whatever we need to do to try and fix things so they work better. I guess my goal in the, in the process like this is, hey, if something's not working, I'm not just going to stand by; I want to try and do something about it so we can fix it. And I think this would be a fix, at least. At least that's something that we could try and do, because it's not working right now, and I, I-- again, I-- my time is up. I could give you plenty of examples. I deal with this pretty much on a daily basis. And I'll be happy to answer any questions, but I'm a proponent of this bill.

BOSN: Let's see if there's any questions of the committee. Senator DeBoer.

DeBOER: You talked about juvenile probation being hamstrung. Why, why are they hamstrung?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

DON KLEINE: Well, I didn't say that. I said the--

DeBOER: The judges.

DON KLEINE: The judges are hamstrung because they're, they're looking-- OK, what do, what do I'm supposed to do, say, with this 13 year old?

DeBOER: Uh-huh.

DON KLEINE: There used to be-- sometimes, we would send them out of state to a place called Canyon State in Arizona, or Boys Town would take them, or somewhere. But pretty much people are saying, no, we're not, we're not going to take these, these kids anymore if they're here on a murder case, or even a car theft case anymore. Canyon State is saying we won't take them. So, the judges are like, OK, what do I do? The only option I have, send them to Kearney. Usually the, the length of stay in Kearney-- the average length of stay is between 8 months to 12 months, and they're released.

DeBOER: So--

DON KLEINE: And so that's, that's not the answer. That's not the solution.

DeBOER: So-- I, I get that-- I see the problem that you're painting. How does this bill change that?

DON KLEINE: Well, I'm hoping that with a, a branch of government, the executive branch, it's going to try and deal with this, maybe. Maybe they'll have more resources, maybe they'll keep a better handle on things, maybe they'll give the juvenile judges a, a greater, greater options with regard to placement. I don't know all the fiscal things that happen now, and how they used to be, and how they're-- could be. But certainly-- and maybe you'll hear from some other folks who will talk about that, as to how-- you know, there's obviously a resource issue, and I'm just hoping that this might resolve that.

DeBOER: It sounds to me like what, what you're describing is that there is a lack of folks that will take these-- this population. And I'm not, I'm not sure that we have anything in the bill that will envision where to put the population. You're saying indirectly, there might be some result?

DON KLEINE: Well, but that's just an example. But, but the, the problem is we have so many young people that are still in the system

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

that have been on probation, and obviously that's not working out because we just keep seeing them as repeat offenders, or they graduate into felony charges as an adult. So that's, that's probably the bigger picture issue here. The other issue is just an issue with regard to where do we place these people that are, are involved in these serious crimes. We've had, we've had first degree murders, we've had women who-- two women who were raped at-- in the Memorial Park area, and the person was too young to do anything with as an adult, and the juvenile courts said I don't-- we don't, we don't-- where, where are we going to place them? Or, do we just put them on probation and let's hope that they do what they're supposed to do? So, there's all kinds of examples of cases involving very young people anymore. It's the biggest thing-- difference I've seen as a prosecutor. I've been involved in this business a long time. I've never seen as many very young people involved in very violent crime.

DeBOER: So, let me ask you a little bit about that too, because you have kind of the, the best history here. You were the prosecutor before LB605, right? Before juvenile probation was transferred over to the judiciary branch-- judicial branch.

DON KLEINE: Yes.

DeBOER: First, let me ask you, did you have concerns when we moved-- when the Legislature moved probation over to the judicial branch?

DON KLEINE: Yes.

DeBOER: OK. What was-- so, what did you think was the benefit of having it in the executive branch at that time?

DON KLEINE: Well, I, I, I saw as, as Officer Dempsey said, better cooperation between probation and law enforcement, maybe more efficiency with regard to holding people responsible and accountable for, for things that they did while they were on probation. That-- that's probably the biggest thing.

DeBOER: And what do you attribute that better accountability to, and, and the efficiency to?

DON KLEINE: Well, I think there's now a question about whether it-- as part of the judicial branch, they can work in that capacity as much with law enforcement. I think there's a little bit of a-- more of a wall built up. I don't know. They could-- they, they can address that when they're going to testify, but that's what I'm-- it seems like the appearance is to me.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

DeBOER: And from your perspective, from the prosecutor's perspective, has it affected your ability to interface or conduct your work as a prosecutor?

DON KLEINE: Well, it does-- it, it doesn't-- I just want to see-- I don't, I don't want to have to deal with young people involved in very violent crime.

DeBOER: I understand that.

DON KLEINE: I have 16-- I have 16 lawyers in the juvenile court system now, and they're extremely busy. And so, whatever we can do to make probation more effective and, and maybe make it have a little bit more teeth in it, I'm, I'm all for, and give the judges opportunities to do what they need to do.

DeBOER: Other than seeing the folks in the, in the juvenile system and, and having to look at those unfortunate cases, are there any specifics where your interface with the judicial branch, in terms of juvenile probation, has either been inefficient or miscommunicative, or something like that?

DON KLEINE: No, I, I think-- I think the people that are working in juvenile probation are trying to do everything they can. I'm not faulting any person or, or, or anybody in that regard, or the judicial branch. I just think that it's, it's obviously not working maybe the way it should be. And I don't know what underlying problems there are that prevent it from working the way it should, but it isn't. And so, I'm just take-- said, let's take another look at this and maybe have some dialogue about it, and see what we need to do.

DeBOER: OK. Thanks.

BOSN: Senator Hallstrom followed by Senator Storm.

HALLSTROM: Yeah, not to belabor, but maybe you can do this on your other time. Thank you for your service, Mr. Kleine.

DON KLEINE: Sure.

HALLSTROM: It seems to me that we, we, we have an observed problem, we don't know that we have a solution to it, and maybe if you could, at your own time, paint a picture for us as to what this system would look like if we found the resolution, and maybe we can work our way backwards into it.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

DON KLEINE: Sure. I'd be happy to.

HALLSTROM: Thank you.

DON KLEINE: All right.

BOSN: Senator Storm.

STORM: Thank you, Madam Chair. Thank you, Mr. Kleine, for testifying. And I should have asked Mr. Dempsey this, but I didn't. He said that the probation is now coming to talk after this bill came up. So, is there a way to, to communicate together and mediate through this without making this whole change, in your opinion? Or not?

DON KLEINE: That-- that's a hope that I have. I just want to see a solution. Let's do a better, better job, whatever that takes. It looks like that-- this is a, a solution, I think. The-- to have to take a harder look and a different approach. And so-- but then, if that brings everybody to the table so that we can talk and figure out another way to handle things, that's great.

STORM: So, you believe it has to go to the executive branch is the only way to [INAUDIBLE]?

DON KLEINE: Well, I think that's a, that's a way to do this. But I-- like I said, let's-- I'm willing to talk about it in any way that we can do it and make it better.

STORM: OK. Thank you.

BOSN: Senator McKinney.

McKINNEY: Thank you. Thank you. What is usually the background of these youth that you're discussing?

DON KLEINE: Well, usually it's a situation where there's not a whole lot of supervision going on. Sometimes, is-- like the, the group of people I talked about in the last [INAUDIBLE] out at 3:00 in the morning doing things, and there's obviously nobody supervising them. I think sometimes-- most of the time, what I see is they're not in school and-- or they're put in some alternative school. My, my impression is that, you know, when kids get in trouble, it's because they're not in school and because they've somewhat lost hope. And we need to give them hope; we need to give them an education; we need to start them at a very early age in the educational process. We can't give up on them in school. I, I see young people that, that-- in our

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

system that don't have the skills, the educational learning skills that they should have at the age that they're in. And I, and I wonder how that could possibly happen if they-- they'd gotten passed through, and-- and I, I don't know. I, I try and work on that. One of the things we do in juvenile court is we try and help young people stay in school. We help families that are dealing with difficult issues, with not being able to get their kids to school, or whatever that might be. I work with the superintendents. So, those are the kinds of things that I see that, that-- with young people that are-- have problems.

McKINNEY: Why have they lost hope?

DON KLEINE: Well, I think part of it is that, like you said, there-- there's probably poverty issues, there's education issues, school issues, gang issues. They, they become part of, of something that they shouldn't because they want to be a part of something. And it's very sad for me to see. I, I see some kids, and I think, well, this young person never really had a chance.

McKINNEY: OK. So, does your office-- so, let's talk about educational issues and poverty. Does your-- because if you're concerned about that, does your office come down to this Legislature and testify for bills that would increase educational attainment, decrease poverty? Do you come down and testify to, testify to sort of bills for that?

DON KLEINE: I never, never really testify here, but I certainly have before the learning-- whatever they call it. The, like, group that was-- learning commission, or whatever they were.

DeBOER: Community.

DON KLEINE: And, and I meet with the superintendents, I meet with families, I meet with school groups, and it's, it's all about doing whatever we can to make sure kids are-- have the ability to go to school. We've also set up something called the Young Adult Courts, where we keep people who are, are-- can't go to juvenile court, and we try and prevent them from getting a felony by helping them, helping them with educational issues, helping them with whatever training they might have, trying to get them jobs. And those are some of the kids I see that say I-- you know, what-- you want to--

McKINNEY: Do you--

DON KLEINE: --you need to get your driver's license, they say I can't read, or I can't [INAUDIBLE]--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

McKINNEY: Do you think, as the Douglas County attorney, it would be helpful for you to come down here and advocate for bills to decrease poverty, increase educational attainment for youth?

DON KLEINE: Yeah. Yeah, if that'll help, I'd be happy to.

McKINNEY: So, why haven't you?

DON KLEINE: Well, I don't know that I've ever been put-- made aware of, of exactly what you're talking about. If it's an educational bill, I think I have testified before about helping kids stay in school, doing-- we tried to change-- you know, we've changed the statute a number of times with regard to truancy. There were a lot of things that happened when I first came into office because we were trying to get parents together, and some parents were saying we were overstepping our bounds because we were trying to help families. You know, sometimes it was both parents are working and, and one of the kids was at home watching the other kids; sometimes, it was the bus route didn't make it to pick this per-- young person up. So, any-- I would do anything I could--

McKINNEY: But don't you care about public safety?

DON KLEINE: Of course I do.

McKINNEY: Don't you care about the youth?

DON KLEINE: Yes.

McKINNEY: So, why aren't you paying attention to bills that would assist with public safety and, and, and help the youth?

DON KLEINE: Well, I, I do care about bills. I've been down to the Legislature many times about bills that--

McKINNEY: But you--

DON KLEINE: --concern public safety.

McKINNEY: But you've missed bills that would have did those things this year so far.

DON KLEINE: I don't, I don't know what you mean. I can't understand what you're talking about here.

McKINNEY: You didn't come testify on bills that would help youth. And what I'm saying is, you're saying you care about public safety, you

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

care about the youth, but there's been bills in this Legislature so far this year to assist in those areas, and you wasn't here to testify in support. I'm just curious of why not.

DON KLEINE: All right, I, I probably wasn't aware of it. And if it was necessary for me to be here, I would be here.

McKINNEY: If, if you care about youth and public safety, it's always necessary, right?

DON KLEINE: Yeah, I care about youth and public safety, and I care about the victims of crime, also.

McKINNEY: It still, it still works in the same thing. If you care about youth and public safety and victims of crime, you'll make sure that the youth that you're discussing are not in poverty, not dealing with these adverse issues. So, even if you-- so, it's still valid. That's all I'm saying.

DON KLEINE: OK. Well I don't, I don't agree that, that I'm not involved with everything I could possibly do with regard to public safety, with regard to youth, with regard to victims of crime.

McKINNEY: And, and last thing. An individual from OPOA brought up a situation with a death. And that youth was placed on probation by a judge. So, how does this bill solve that?

DON KLEINE: I'm not sure which case you're talking about. Which one are you talking about?

McKINNEY: It was a, a, a recent case where a youth that was on probation was placed on probation by a judge. How does this bill solve--

DON KLEINE: Prior to committing a homicide? Is that what you're saying?

McKINNEY: Yes.

DON KLEINE: OK.

McKINNEY: So, how does this bill solve that-- resolve that issue? Because--

DON KLEINE: I don't know that the bill-- this bill exactly solves that issue, but it certainly takes a bigger look at the whole system

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

overall, and I would hope that it, it works better from the standpoint of cooperation with law enforcement.

McKINNEY: And-- last thing. I'm still trying to wrap my mind around the trust in a department that has historically failed youth and lost kids. Well, no, not a, not a department, but-- and-- placing probation under the executive branch which oversees a department that has historically failed youth and kids and families, and thinking that they're going to do a better job-- I, I just, I just would love to see the data and the facts that back that up. That's-- I'm, I'm just wildly curious of why you think that's a better idea.

DON KLEINE: Well, I, I-- what branch? It doesn't work in--

McKINNEY: The executive branch.

DON KLEINE: I understand. But I mean, when I think about HHS-- sure, there's problems with HHS. I think there's a lot of people that work very hard in HSA-- HHS to do their job to the best of their ability. And maybe there needs to be an overhaul in that regard, but I guess that's something, I guess, it's a legislative issue, not a county attorney issue.

McKINNEY: No, I'm not saying it's a county attorney issue. What I'm saying is the executive branch oversees HHS,--

DON KLEINE: Right.

McKINNEY: --and it's a failure. So, how are you so trusting of the executive branch to oversee juvenile probation, considering the fact that HHS is a failure?

DON KLEINE: Well, I, I, I don't know about that, exactly. I'm just hopeful that if it's in that hands and there's some leadership, that they will take some responsibility and make sure that their-- that things are done the way they're supposed to be done, even by HHS.

McKINNEY: All right. Thank you.

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

DON KLEINE: Thank you.

BOSN: Next proponent. Welcome.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

JOE VILLAMONTE: Good afternoon, Senator Bosn, and all members of the Judiciary Committee. My name is Joe Villamonte, J-o-e V-i-l-l-a-m-o-n-t-e, and I am the president of the Lincoln Police Union. Today, I'm here to represent the except-- exceptional men and women of the Lincoln Police Union. Today, the police union would like express our opinion in support of LB684. In addition to my duties as the police union president, I'm a member of the department's gang task force, and have been since 2018. During my time on the task force, I've been involved in numerous investigations involving juvenile offenders. These investigations range from narcotics, auto thefts, burglary, assault, robbery, and homicide. In many of these investigations, the juvenile offender was already justice-involved, and many times was on juvenile probation but had very little supervision. I first want to talk about the murder of Lincoln police investigator Mario Herrera, which has had a long-lasting impact on our membership, the community, and most importantly, the Herrera family. The individual responsible for this murder had numerous felony arrests and investigations prior to murdering Investigator Herrera. This individual was on juvenile probation with apparently very little supervision. This individual is being investigated for a murder that was separate from the murder of Investigator Herrera, and when it came time to arrest him for that crime, investigators were not able to use law enforcement research-- resources to determine the person's probation status, probation officer and were not aware where he was being-- he was being housed at the Omaha Home for Boys, an unsecure facility. This individual eloped from the Omaha home for boys once learning of the homicide investigation warrant, and a short time later, he murdered Investigator Herrera to escape arrest. The incident shows extreme consequence of what can happen when law enforcement agencies are not working in cohesion to accomplish the same mission. Sadly, this was not an isolated incident. Another example of chaos these juvenile offenders have caused was a group of juveniles in the age range from 14 to 17 committing numerous auto thefts, and ultimately obtaining a firearm. The group began to steal occupied vehicles by assaulting their victims with the firearm, and in one case, they pointed the firearm at the victim and pulled the trigger, and luckily, the firearm malfunctioned. Law enforcement was able to locate these juveniles on one occasion, and they led over 20 law enforcement officers on a citywide chase, causing a significant danger to the public and officers in the process. Thankfully, arrests were made during the incident, and no one was seriously physically injured. Fast forward a year, and some of the same juveniles are again involved in a burglary where the shots are fired at an, at an innocent homeowner, a vehicle pursuit with law enforcement, possession of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

stolen firearms, and an incident where one of the juvenile gang members brandished a stolen firearm at a park where thousands of people had gathered for an event. All these juveniles were on probation during these incidents. Downtown Lincoln is known as a great place to socialize, with many options of restaurants and bars to patronize. On a fall Friday night, numerous citizens enjoying Lincoln's downtown atmosphere came face-to-face with a, with a gang shoot-out that was a result of a longstanding gang feud between Omaha and Lincoln youths. During this incident, approximately 41 shots were fired, striking numerous people and businesses directly on O Street. One of the shooters in this incident was on juvenile probation, and was wearing a GPS ankle monitor that LPD investigators could not obtain location information, as no access had been granted. This is another example where collaborative efforts could have aided investigators in quickly making arrests in violent crimes. The lack of consequence in catch-and-release of juvenile offenders over the past several years has negatively, negatively impacted the public, law enforcement, and ultimately, the youth involved. With proper supervision, we can collectively create an environment to build an accountability to ensure youths do not re-offend.

BOSN: Thank you. Any questions for this testifier? Senator McKinney.

McKINNEY: Thank you. How many of these juveniles you were discussing were under a IIIA docket, abuse, or a neglect charge?

JOE VILLAMONTE: I don't have that information.

McKINNEY: OK. Thank you.

JOE VILLAMONTE: Thanks.

BOSN: You're gonna get off easy. Thank you for being here.

JOE VILLAMONTE: Thank you.

BOSN: Next-- welcome.

MATAYO BASS: Good afternoon, Chair Bosn, and members of the "Judiciary" Committee. My name is Matayo Bass, spelled M-a-t-a-y-o B-a-s-s. I am a student, and I was previously on probation at Lancaster County for three years. I am 17 years old, born in Lincoln, Nebraska. I'm here to testify in support of LB684 on behalf of Lancaster County. I'm here to share my experience with probation, and how community partners can play a critical role in supporting youths who are involved in the system. The probation system seemed challenging and difficult to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

navigate. There were resources available, but they didn't always follow through. They offered classes and programs, but I didn't feel like there was enough support or accountability to keep me motivated. If they really wanted to help, they needed to be more invested. One of the most important things I've learned through this process is the power of community partners. I think things would have worked better for me if there were more community partners involved, and if they were properly referred and compensated for their work. What made a difference for me was working with the community partners who understood me both as a Latino and black person. They took the time to get to know me and where I was coming from. I felt like they really cared, and that was something the probation system never gave me. They understood my struggles because they shared similar experiences. El Centro's youth program is a perfect example of how community partners can make a real difference; they invest time in building relationships and providing support to kids who need it. If programs like El Centro were more integrated into the system, they could help kids on probation by providing the support they needed to succeed. They took the time to engage with me and get me back on track when I made mistakes, unlike probation, where there was no real follow-through. To make the system fairer and more transparent, I believe all interested parties, community partners, probation officers, and others need to be involved in the process. We need a system that works together, supports each other, and help us break the cycle rather than continuing it. I'm sharing this because I want to see a real change, not just for me, but for other young people who are stuck in the same system. Thank you for your time, and thank you, Senator Bostar, for introducing LB684 to help youth and their families.

BOSN: Thank you. Any questions for this testifier? Senator McKinney.

McKINNEY: Thank you. Thank you for your testimony. How did you hear about the bill today?

MATAYO BASS: Can you say that again?

McKINNEY: How did you hear about the bill today?

MATAYO BASS: I, I--

McKINNEY: How did you find out about the bill today?

MATAYO BASS: By the El, El Centro youth program.

McKINNEY: All right. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

BOSN: Any other questions for this testifier? Thank you very much for being here. Next proponent. Good afternoon and welcome.

ISAAC LOEWE: Good afternoon. Good afternoon, Chair Bosn, and the member of the Judiciary Committee. My name is Isaac Loewe, spelled I-s-a-a-c L-o-e-w-e. I am here today to testify in support of LB684, sharing my personal experience navigating the juvenile probation system and how community-based support, specifically from Lighthouse, played a crucial role in my success. As a youth, I struggled to meet the requirements of my probation. The system lacked the structured support I needed to stay on track, and at times, I felt like I was set up to fail rather than given an opportunity to grow. It was not until I connected with Lighthouse that I found the guidance and accountability that I needed to successfully complete my probation and move forward in my life. Lighthouse provided me with mentorship, educational support, and a stable environment that helped me meet my goals and fulfill the expectations of my probation. Today, I am proud to say that I am employed at Lighthouse, where I now work to support other youth who are facing the same struggles I once did. I understand firsthand how overwhelming and discouraging the juvenile justice system can be without the right resources. Through my work at Lighthouse, I strive to provide youth with the same encouragement, structure, and opportunities that helped me turn my life around. Unfortunately, under the current structure of the juvenile probation within the judicial branch, youth often lack access to community-based services that can be-- or, excuse me, that can make a difference in their lives. The voucher system in place limits funding for programs like Lighthouse, making it difficult to provide consistent, quality services to the youth who need them most. Without adequate financial support, many community organizations struggle to sustain the work that helps young people stay out of detention and successfully complete probation. Additionally, the absence of clear "constructural" agreements between probation and service providers create unnecessary delays in connecting youth to the support that they need. I have seen too many young people remain in detention longer than necessary simply because the system does not move efficiently to place them in the right programs. If I had not found Lighthouse when I did, I might have been another statistic; another young person lost in a cycle of probation violations and missed opportunities. Furthermore, the lack of data sharing and transparency within jur-- the current juvenile probation system prevents meaningful evaluation of what working and is-- what is not. Without proper-- participation in research-driven assessments, we cannot fully understand how to improve services and outcomes for youth in our community. Reforming the structure of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

juvenile probation to return it to the executive branch would allow for greater collaboration with community-based organizations, ensuring that young people receive the support they need in a timely and effective manner. LB684 represents an opportunity to realign the juvenile justice system with the best entrance [SIC] of the youth it serves. I am living proof that with the right support, young people can overcome the challenge of probation and build positive futures. I urge you to support this legislation so that more youth have access to the services and mentorship they need to succeed. Thank you very much for your time and consideration, and thank you, Senator Bostar, for introducing LB684. I would be happy to answer any and all questions.

BOSN: Thank you. Any questions? Senator DeBoer.

DeBOER: Thank you. So, I hear what you're saying about, you know, having the community-based supports, and how really helpful those are. Thank you for your work at-- is it called Lighthouse?

ISAAC LOEWE: Yes, ma'am.

DeBOER: Thank you for your work there. That, that sort of thing is very much what we need.

ISAAC LOEWE: Thank you.

DeBOER: What I'm struggling to do is put the-- is sort of make the dots connect to how that has to do with the bill that we have in front of us. Why would groups like yours be more likely to get support if we move to a different agency than they are now?

ISAAC LOEWE: I can't answer that question for you, ma'am.

DeBOER: OK. Is there something particular about this bill that you think is going to help your group?

ISAAC LOEWE: The voucher systems, making sure that we get the correct funding for our program.

DeBOER: And the voucher systems, can you talk to me a little bit about those? What does that look like?

ISAAC LOEWE: I can't answer that for you right now, ma'am.

DeBOER: So, you just-- they give someone a voucher and you-- what, what does it look like when it comes to you?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

ISAAC LOEWE: I'll be honest, I don't deal with any of that sort of thing at all. I'm not really sure as to what it does, but I know that it is messing with our funding.

DeBOER: OK. Thank you.

BOSN: Senator McKinney.

McKINNEY: Thank you. How did you find out about the bill today?

ISAAC LOEWE: I talked about it with-- at Lighthouse.

McKINNEY: All right. Thank you.

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

ISAAC LOEWE: Thank you very much.

BOSN: Yeah. Next proponent. Good afternoon.

STEVE CERVENY: Good afternoon, Madam Chair, Senators of the Judiciary Committee. Thank you for the opportunity to speak with you this afternoon. My name is Deputy Chief Steve Cervený, S-t-e-v-e C-e-r-v-e-n-y, with the Omaha Police Department. The Omaha Police Department supports LB684 for the following reasons. A juvenile probation administrator would be established, and would set forth valuable training for probation officers, including risk-based supervision strategies, relationship skills, cognitive/behavioral interventions, community-based resources, and targeting risk factors to reduce recidivism. The juvenile probation administrator would design procedures for transitioning juvenile probationers across levels of supervision and discharge that are consistent with evidence-based practices. This bill would also allow juvenile judges to review cases when juveniles have been arrested for felony offenses, and determine the best course of initial action, whether to release or detain. We feel juvenile judges are best suited to make this determination, because they know what rehabilitation resources are available and how they can be best applied. Oftentimes, we've seen system-impacted youth released after a felony arrest only to re-offend, which is most harmful to the child and to the community. We would rather see a juvenile judge afforded the opportunity to have rehabilitative resources applied immediately, when they could be most effective at critical times. The ultimate goal for these kids is rehabilitation, and we feel this bill, if implemented correctly, could be a valuable way to achieve that. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

BOSN: Thank you very much for your testimony.

STEVE CERVENY: My pleasure.

BOSN: Any questions for this witness? Testifier, excuse me. Senator McKinney.

McKINNEY: Thank you. Does the judicial branch not use evidence-based practices currently?

STEVE CERVENY: I don't know that they're being used effectively, because we've seen an increase in juvenile offenders who are committing multiple felonies.

McKINNEY: How, how does-- how are y'all evaluate DHHS? Because there's overlap with a lot of these kids. So, how do you grade DHHS?

STEVE CERVENY: Well, I, I wouldn't want to grade any-- anyone poorly, but this bill would create a new, a new department, if you will.

McKINNEY: I know. I understand that, but there still would be overlap, even with the new department, because a lot of these kids are IIIAs, or dealing with something else.

STEVE CERVENY: Yeah.

McKINNEY: So-- and they'll still be-- and they'll both be under the executive branch. And a lot of these kids are already system-involved--

STEVE CERVENY: Yes.

McKINNEY: --so-- and a lot of the ball-dropping is happening not with probation all the time, but with DHHS, which is under the executive branch.

STEVE CERVENY: Yes.

McKINNEY: So, if they're dropping the ball, or a lot of the-- like, 60-plus percent of these kids are those kids [INAUDIBLE] with the IIIAs or abuse or neglect or something--

STEVE CERVENY: Right.

McKINNEY: --how are we grading that agency or the executive branch, who you're saying we should put these kids under?

STEVE CERVENY: There would be overlap. Correct. My hope is the creation of this new department and administrator, with the, the numerous requirements that this bill has in, in-- included in it would-- including regular reporting-- would help stay on top of the-- many of those issues you're talking about, Senator.

McKINNEY: I guess that's my issue, is there's a lot of requirements for DHHS to do a good job, and consistently they don't do a good job, and they're under the executive branch. So, how am I supposed to be hopeful that a good job is going to be done?

STEVE CERVENY: I'm hopeful, because I believe and I hope that the creation of this new department working, overlapping, working with DHHS, required to provide some of these valuable resources-- rehabilitative resources with regular reporting that's required would help. I'm hopeful that it helps improve the, the current condition.

McKINNEY: Where does the hope come from? Because there's no historical evidence that there should be hope.

STEVE CERVENY: Well, there should always be hope. And I think one of the biggest problems we have is the lack of resources. These--

McKINNEY: Yeah, and our state is in a budget deficit and we're cutting budgets.

STEVE CERVENY: Yeah, we need more re-- rehabilitative resources for these kids. And I'm hopeful by what I read in this bill, like I said, would create a department, if you will, that has a list of requirements that are very optimistic to me to provide-- help provide evidence-based practices and wraparound resources for these kids in tandem with the overlap that occurs with DHHS, and I'm hoping that improves the system, because that's what these kids need. They need the wraparound rehabilitative resources as soon as we can get them to those kids.

McKINNEY: All right. Last thing. Who's going to say these evidence-- who's going to approve of these evidence-based practices and say this evidence-based practice is, is good, or this evidence-based practice is bad? Because what I've learned so far, depending on who writes the report or who doesn't makes something good or bad. So-- because I'm sure the, the judicial branch would come up here and say we do evidence-based practices, we do good work; we don't understand what people have a problem with; we, we do a fine job; we do, do all these great things, and there's some type of confusion. So, if we move it

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

under the executive branch, who's going to say the, the, the exec-- the evidence-based practices under the executive branch is good or bad?

STEVE CERVENY: That's a good question. I'm not a data person, but I know that there, there are, there are a lot of data across the country that could be used on a factual basis to implement best practices. And I, I hope that through the cr-- through the passage of this bill, that that would occur.

McKINNEY: All right. Thank you.

STEVE CERVENY: Thank you.

BOSN: Thank you very much for your service and for being here.

STEVE CERVENY: Thank you. I appreciate it.

BOSN: Thank you. Next proponent. Welcome.

MICHON MORROW: Hi. Thank you. When you're ready.

BOSN: Yes.

MICHON MORROW: OK. Good afternoon, Chair Bosn, and members of the Judiciary Committee. My name is Michon Morrow, M-i-c-h-o-n M-o-r-r-o-w. I'm the chief of the Lincoln Police Department, and I've worked at the department for 30 years. I'm here today to express my support for LB684, which seeks to enhance the effectiveness of the Nebraska Juvenile Probation system. At LPD, we hold ourselves to a high standard of professionalism, and are committed to providing quality police services that promote a safe and secure community. We do this in part by maintaining high standards, continued training, and following best practices. We also do this by participating in research endeavors that evaluate our data, test our programs and practices, and challenge assumptions. And we do not do this in a silo, but with our partners in the criminal justice system, and this should include juvenile probation, as success is dependent on the entire system working together. And currently, they do not participate. We have experienced the detrimental impact on our investigations and subsequently the safety of our community due to the lack of collaborative information sharing from juvenile probation. Law enforcement frequently needs critical information they possess regarding system-involved youth placements and access to GPS data for monitors as a part of our investigations. We need a consistent commitment to exchange information, as doing so can swiftly minimize

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

the potential for future criminal activity, and ultimately reduce victimization within our community. Between 2022 and 2024, we experienced a 13% increase of youth ages 10 to 17 being responsible for violent crime and auto thefts; that was a total of 356 youth. 89 were involved in more than one case, and 53 were involved-- excuse me, 53 were-- of those 89 were involved with auto thefts, and 20 of all of those youth were involved in four or more cases. This is compared to 2019 to 2021, when that total was 315, with 71 involved in more than one case, and only nine that were involved in four or more case, so we've seen the increase. With this increased number of youth involved in these crimes, we must recognize changes are needed, such as ensuring consistency in decision-- in decision-making to [INAUDIBLE] youth, establishing additional oversight in the process would be beneficial. This data is important because one of the critical, critical aspects of the bill is the focus on assigning manageable caseloads to juvenile probation officers. A reasonable caseload will ensure that probation officers can provide closer supervision and meaningful interaction with the youth. This level of engagement is key to fostering trust, building positive relationships, establishing a support structure, and ultimately, preventing recidivism. This change alone would help improve outcomes for youth while enhancing the safety of our communities. For these reasons, I strongly encourage your support to LB684. This legislation represents a significant step in improving the juvenile probation system by prioritizing proper training, fostering collaboration and consistency in decision-making, and ensuring officers have the resources necessary to effectively fulfill their roles. Investing in these measures will not only benefit probation officers and law enforcement, but also contribute to the long-term success of Nebraska youth. Thank you for your time and consideration. It's an honor to be here in front of you today, and I'm open to any questions.

BOSN: Thank you. Any questions? Senator McKinney.

MICHON MORROW: Yes, sir.

McKINNEY: Thank you. I just thought about something, sitting here. This would start-- and I did realize when I read the bill, but this would start a new agency by 2026, which means we'll transfer the operations of juvenile probation under the executive branch. I could foresee a million issues with that transfer; staffing issues, issues with forms, who's going to be in charge of who. Just-- what makes you feel comfortable that is-- that's going to be a seamless transition?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

MICHON MORROW: I don't know that I'm comfortable that it'd be seamless. I think any change comes with challenges. I think that what I hope out of this is the commitment of all involved who recognize that there are changes that need to be made and want to see the success, and will collaboratively work together toward that better future, notably for our youth.

McKINNEY: Even with the state cutting budgets? You, you--

MICHON MORROW: Yes. We're-- we are certainly living in a tough budget time. But I, I would argue that there are still yet efficiencies and conversations that have to be had, despite staffing and other considerations. I've heard the conversations and some of the questions, and what I want to tell you is that I'll maintain hope, because the moment we decide we don't have hope and we put our head in the sand, the-- our youth will suffer and--

McKINNEY: No.

MICHON MORROW: --all of us want to see a, a better future for them.

McKINNEY: I have hope in the kids and the youth. I don't have hope in the people running these agencies.

MICHON MORROW: Then we're going to have to have these hard, challenging conversations and get the right people at the table to be able to make a difference.

McKINNEY: That's the problem. I, I, I think we're dealing with-- well, I don't think-- but that's my philosophical beliefs. But I'm going to leave it there. Thank you.

MICHON MORROW: That's OK. I think we can get there.

BOSN: Senator Hallstrom.

HALLSTROM: Thank you for being here, officer. You're, you're the third witness that has cited increasing-- significant increase in youth violent crimes. So, it almost seems like we're overloading the system. Why do we have so many more youth crimes? That may not be a fair question, but what do we do to address the core root of that problem if the end result is we're overloading the system, and maybe we don't have a good solution under those circumstances?

MICHON MORROW: Well, I think I'm going to have to borrow Senator McKinney's word and, and answer this philosophically. I don't think

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

that we have gotten to the root cause of the issue. These youth need support systems well in advance, before they go down the path of becoming system-involved, because they're committing crimes. Generally speaking, it starts small and it grows from there, and we don't have disrupting measures in place to stop them from continually escalating in their behaviors. So, you, you heard from a student client of El Centro and the Lighthouse; these organizations in, in our communities and advocacy groups, they're the ones that are the boots on the ground, very regularly working with these youth. And so, as we continue to build the collaborative partnerships and we open up research, I think that we may find that it is those grassroots efforts that on the front end can help benefit these youth and lower recidivism, lower the temperature, reduce some of the violent crimes. But we have to start making the changes now, because we continue to see the increases today.

HALLSTROM: Thank you.

BOSN: I just have a couple of questions.

MICHON MORROW: Sure.

BOSN: Thank you for the print-out of your testimony, but I noted in there you talk about the focus on manageable caseloads in juvenile probation. Have the number of youth supervised by one probation officer-- has that increased? Is that where you're going with that?

MICHON MORROW: We certainly have that anecdotal information. And when these, when these youth have a lot of challenges, they're system-involved in, in many capacities, and the support structures are non-existent for them, it's going to take a lot of time and dedication. So, having case management at a, a small, finite level will allow those case managers, the probation officers, to spend more time with them so it's not a watered-down relationship. I think we heard from a prior testifier of-- they were nonexistent to them.

BOSN: So, it's your position, then, that the ratio of, of individuals on probation to probation supervisors needs to be a, a closer ratio than it is right now.

MICHON MORROW: It is certainly a positive step forward.

BOSN: OK. Senator McKinney.

McKINNEY: I guess what confuses me-- again, with putting this under the executive branch is the Department of Health and Human Services

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

has caseload caps that they fail to meet all the time. So, how are we going to be-- how are we going to also say putting this under the executive branch, we're going to-- they-- like, those, those probation caseloads are going to be manageable. I'm just struggling with that, knowing the fact that HHS, HHS caseloads are not being managed properly. I'm struggling with that.

MICHON MORROW: I think they are, too. Here's, here's what I guess I want to share with you in terms of my support for this. What we have right now isn't working, and this is the first opportunity that, that I saw where there was somebody, Senator Bostar-- and thank you for bringing this forward-- that offered an opportunity for us to have the conversation. So collectively, there are a lot of things in here that I think are important for the change necessary moving forward for juvenile probation. And I know that the focus of the conversation and questions you have are judicial branch versus the executive branch. And I'm here to tell you, I don't know that the executive branch is the right answer, but what I know is the right answer is status quo is-- the wrong answer is status quo.

McKINNEY: I would agree. I think the system is horribly messed up, and is failing the, the youth and the juveniles. I would agree 1,000%, and I wouldn't disagree with you. I just don't know if this is the answer. I wouldn't disagree that the system is failing the youth. I, I-- I'm not disagreeing on that. Thank you.

MICHON MORROW: Of course.

BOSN: Any other questions? Thank you very much for being here--

MICHON MORROW: Thank you.

BOSN: --and your service. Thank you. Next proponent. Welcome.

DAN MARTIN: Thank you, Senator Bosn, members of the committee. My name is Dan Martin, D-a-n M-a-r-t-i-n. I am the vice president of the Omaha Police Officers Association, a 20-year veteran of law enforcement, currently working as a lieutenant in the patrol section. I've work gangs, homicide, and I also have a soft spot in my heart for youth in the system, so. I don't have this lengthy speech written out, but I can tell you why this bill is important to me and to our organization. One, I think public safety is the most important thing, and two, better outcomes for the youth involved in the system. Senator McKinney has mentioned HHS and that it's a mess, and I don't disagree with you. I think two things can be true at the same time. I don't think

juvenile probation can get much worse than it is right now, and the youth that we're seeing. So, whatever we can do to improve the outcomes of the youth that are in juvenile probation, I think we should give a shot. And I'm not here to, to rag on probation officers; I know a lot of them, and they are very passionate, and they care a lot about the clients that they serve. They're frustrated as I am. They're not going to be here today testifying in front of their bosses. Part of the problem with them being in the judicial branch is they can't unionize and, and come here and speak against what they're doing in fear of those consequences. So, like Senator Bostar said, I think probation, for all intent and purposes, is a function of the executive branch, just based on the things that need to be done. Moving it to the executive branch will provide oversight to probation; it'll provide accountability, transparency and better communication. All of those things, I think, will result in better outcomes. I am going to tell you a story about a few people and the consequences of a broken juvenile justice system. I work in, in Northeast Precinct, where District 11 is. I have most of my career. And I've met some friends up there. One of those friends was Larry Thompson. He lived in the Spencer projects, and he was 60 years old and a Navy veteran. And he never hesitated-- every day, I'd drive through the Spencer projects and he'd come out and say hi, give me a hug. I remember his wife died, I helped him through that. Every time the kids would go out and have these neighborhood events, Larry would come out and wouldn't be afraid to talk to me. Then, Larry was outside on his porch in Spencer projects a couple of years ago smoking a cigarette. And juveniles who were on juvenile probation came and murdered him for no other reason than where he lived. Alon Reed was also murdered in front of his mom, execution style, on the front steps of their system-- by a system-involved youth. I'm sorry.

BOSN: You may finish. Go ahead.

DAN MARTIN: OK. Just last month, Pedro Velasquez was walking his dogs in South Omaha, and he was murdered by juveniles who were on probation, hunting. And then finally, Mursal Jama, who is an Uber driver in Omaha who is-- other testifiers have talked about. All of these accused murderers were on juvenile probation at the time. When I say it can't get much worse, it can't. And I'm here to support LB684 and move it out of committee.

BOSN: Thank you. Thank you for sharing your stories. Any questions for this testifier? Senator DeBoer.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

DeBOER: Yeah. Thank you. Thank you for being here. Do you see these sorts of things in adult probation? Are there adult probationers who are out, who get involved in crimes?

DAN MARTIN: Sure, we do. The difference between adult probation and juvenile probation is when adult probationers violate their probation, there's consequences.

DeBOER: And you, you don't see any consequences for juveniles who violate the terms of their probation?

DAN MARTIN: I don't see a system of accountability. I, I think that the Omaha Police Officers Association and most of my coworkers that I work with and, and other agencies, we want to believe in rehabilitation, and we-- that's our goal is, we don't want the recidivism; we don't want people to-- we don't want to see them again. I hate the fact that you might have to lock up a 15-year-old, and-- that just murdered some man for no reason. "How did we get there in the first place?" is a great question, Senator McKinney, because it's true. How did we get to where we are out hunting other humans for sport?

DeBOER: I mean, that's-- we can all agree that's just--

DAN MARTIN: Yeah.

DeBOER: --really, really, really sick.

DAN MARTIN: It is.

DeBOER: So, I don't-- you have been on the force for a while.

DAN MARTIN: Yes, ma'am.

DeBOER: Do you remember, prior to the movement of juvenile probation over to the judicial branch, did you have similar issues at that time, when it was under whatever it was called, the juvenile-- whatever the branch was called before it moved over to the judicial branch and it was in the executive. Do you remember having similar problems at that time?

DAN MARTIN: I remember juvenile crime was much lower. Juveniles involved in crime.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

DeBOER: OK. Do you know the juvenile pro-- like, did the-- OK. Let me just stop there. Do you have relationships with those who are in the juvenile probation office now? Under the judicial--

DAN MARTIN: I do.

DeBOER: And you all talk, and I assume you have some--

DAN MARTIN: Yes.

DeBOER: --some kind of relationship there. What do they say? What do they say about the way it's run? And I mean, obviously, they can't talk too freely, but--

DAN MARTIN: I think we have a difference of opinion, and I think that we have-- I'm not going to sit there and tell them how to do their job.

DeBOER: Yeah. So, they're not reporting to you the same--

DAN MARTIN: A lot of their hands are tied, too.

DeBOER: They're not reporting to you they're-- a lot of the problems.

DAN MARTIN: No.

DeBOER: OK. I just was curious--

DAN MARTIN: Yeah.

DeBOER: --if that was something you were hearing from them as well. OK. Thank you.

BOSN: Senator McKinney.

McKINNEY: Thank you. If you need access to a file, why don't you just get a warrant?

DAN MARTIN: What do you mean?

McKINNEY: Like, previous testifier said that, you know, the-- one of the problems is, is information sharing or getting access to GPS monitoring or a file. Why don't you just seek a warrant?

DAN MARTIN: A lot of times, we need that information right now. A warrant takes time. When I'm going to a call, or I'm-- have arrested somebody for a crime, I can usually see most of their criminal

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

history, see if they're on-- you know, what they've been arrested for, if they have warrants, all of that stuff. If they have a history of carrying weapons, that type of stuff is, is important to us. I mean, if I had to seek a warrant every time I did a data check on somebody, which is essentially what I would need, that would take time and could harm officer safety.

McKINNEY: OK. And I know you said it can't get no worse, but DHHS is, like, at the bottom, and it's being managed by the executive branch, so it could-- like--

DAN MARTIN: Senator, I, I--

McKINNEY: I'm, I'm, I'm struggling.

DAN MARTIN: I agree with you that-- and I also think that two things can be true at the same time. If it's managed by DHHS at least, then maybe-- we have to look at that. And I'm, I'm willing to come back and support a bill that revamps DHHS, too. That's, that's not a problem.

McKINNEY: No, what I'm saying is DHHS is managed by the executive branch. And, and under my opinion-- this is Terrell's opinion-- DHHS is, if not the worst, top-two worst agencies in the state. So, I'm, I'm struggling with that it can't get any worse, because we have an agency that is horribly ran.

DAN MARTIN: Yeah, and I think a lot of the-- although they do intersect, they have different missions. And I think the stats themselves speak for the, you know, the unique identifiers that the previous testifiers mentioned are, are-- speak for themselves.

McKINNEY: But a, but a lot of these kids are intersecting both of these.

DAN MARTIN: Yeah.

McKINNEY: So , it-- there will be intersections.

DAN MARTIN: Let's fix them both. I'm here for it.

McKINNEY: I'm all for fixing both. I just--

DAN MARTIN: Yeah.

McKINNEY: --my "spidey senses"--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

DAN MARTIN: I would love to sit and talk with you offline on how we can do both. I'd love that.

McKINNEY: All right. Thank you.

DAN MARTIN: Yeah.

BOSN: Any other questions? Thank you very much for being here. Next proponent. Good afternoon and welcome.

ANTHONY CONNER: Good afternoon. Good afternoon, members of the Judiciary Committee. My name is Anthony Conner. I'm president of the Nebraska State Fraternal Order of Police. Anthony is A-n-t-h-o-n-y; Conner is C-o-n-n-e-r. As a 25-year veteran of the law enforcement profession and president of the Nebraska Fraternal Order of Police, I am proud to stand before you today in support of LB684. I'd like to thank Senator Bostar for bringing this important legislation. This legislation represents a critical step and-- step forward in strengthening Nebraska's juvenile justice system, improving public safety, and ensuring our probation system is working effectively for both law enforcement and the communities we serve. Every day, police officers across Nebraska encounter young people who have made mistakes; some of them serious, some of them the results of difficult circumstances, and some who simply need directions. Our goal in law enforcement-- as law enforcement professionals is not to just make arrests, but to work within a system that prioritizes rehabilitation for young offenders while ensuring accountability and the safety of our community. LB684 takes an important step in making that possible by transferring juvenile probation functions from the judiciary [SIC] branch to a dedicated juvenile probation agency within the executive branch. This shift isn't about politics or bureaucracy; it's about effect-- efficiency, oversight, and making sure that the juvenile probation system is aligned with best practices in rehabilitation, law enforcement coordination, and public safety. Right now, the probation system is housed within the judiciary [SIC] branch, limiting its ability to coordinate directly with law enforcement agencies other-- and other community resources. By moving it under the executive branch, LB684 ensures clearer accountability, transparency, and more effective supervision of juvenile offenders. It also allows for improved communications between probation officers and the law enforcement officers who are on the ground engaging with these juveniles and their families every day. For law enforcement officers, this bill is about to make-- is about making sure that when we encounter juveniles in crisis, we have a system in place that hold them accountable, provides them with a structured path towards

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

rehabilitation, and ultimately, makes our community safer. We see firsthand the impact that broken juvenile system can have: kids cycling through the system without real guidance, victims left without justice, and families struggling to find solutions. LB684 helps fix that. I urge members of the committee to pass this-- LB684. This is an opportunity to make Nebraska's juvenile probation system more effective, more accountable, more transparent, and more responsive to the need of both law enforcement and the communities we serve. Thank you, and I will take any questions.

BOSN: Thank you. Any questions for this testifier? Are you raising your hand? Senator McKinney.

McKINNEY: Thank you. Thank you, Mr. Conner.

ANTHONY CONNER: How you doing, sir?

McKINNEY: What best practices do you foresee getting better under the executive branch?

ANTHONY CONNER: I think, first of all, one of the problems right now in juvenile court, juvenile-- the juvenile system is a lack of accountability. We talked earlier-- everyone was talking about, you know, you know, before and after, with the way things are now, the way things used to be. The way things used to be, there used to be some, some level of accountability; now, that accountability is gone. Our officers are seeing juveniles that are stealing cars, carjackings, doing very violent things. And they will literally tell our officers they-- I'll be out of-- I'll be out of the youth center by time-- you know, in the next hour, because they, they know that there's no there's no accountability in the system. So, that's why you're starting to see the "rezidifism"-- recidivism and, and the, the re-- re-- repeat offenders.

McKINNEY: I guess, how would that accountability change practically?

ANTHONY CONNER: I think it all, all starts with transparency. I mean, you talked earlier about DHHS. I mean, a lot of the issues that I'm sure you're aware of is, is because there's some transparency there. You're able to see it. Right now, we're not able to see a lot of the problems in juvenile probation, and we're not able to really look at and identify what needs to be done. So legislatively, you guys can all get together and, and legislate the right solutions for those problems.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

McKINNEY: Yeah, but I'm still struggling with-- the kids still might just get out. Like, practically speaking, how does the accountability change?

ANTHONY CONNER: Well, I think when you take that responsibility from a probation officer that makes the detention-- which, which this bill does that, too-- and gives it to a judge, that judge is now held accountable by the public, where this probation officer has kind of, like, gonna-- no one knows who, who that person is. Kind of like, you know, cloaked in the, the, the shroud of secrecy.

McKINNEY: Yeah, but there's a recent situation where a judge put a kid on probation, then something happened. So, how does that resolve it?

ANTHONY CONNER: It's not saying it's going to completely solve it. I'm not saying it's going to be 100% perfect. No, no, system's 100% perfect. But certainly, that judge, we know who that judge is. You can say this is Judge McKinney, for example; we know exactly who this judge is, and we're going to hold him accountable, as a public.

McKINNEY: How many times are judges not retained, though? Like, [INAUDIBLE]

ANTHONY CONNER: It's very-- it's very rare. Yeah. Very rare.

McKINNEY: That's what I'm saying.

ANTHONY CONNER: Yeah.

McKINNEY: Thank you.

ANTHONY CONNER: Yeah. Thank you.

BOSN: Thank you very much for being here, and for your service.

ANTHONY CONNER: All right. Thank you.

BOSN: Next proponent. Good afternoon and welcome.

TIFFANY PELLEY: Hi. My name is Tiffany Pelley, T-i-f-f-a-n-y P-e-l-l-e-y. In 2020, at the age of 13, my daughter became involved in the Sarpy County Juvenile Court system. Due to their lack of supervision and the-- them detaining her, her behaviors escalated over a five-year period, and she also got involved in the Douglas County Juvenile Court system. During the four years that my daughter was under Sarpy County probation, she had four different probation

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

officers. I've literally been in to court over 100 times. My daughter was court ordered to an out-of-home placement, and when she became non-compliant, she-- probation was not able to be reached from the facility. They would reach out to talk, what do we do with her? They would not return calls. And it wasn't just one P.O. I reported to probation in all of this; like, I have all the facts, you know, proof of all this. But I reported multiple inappropriate things that happened with my daughter or in facilities, such as inappropriate relationships with adult male staff, narcotics being brought into facilities, and even my daughter escaping from a locked facility out of state. One facility encouraged a fight club amongst the youth. Oh, and then, the lack of supervision. At a foster home where the mother-- the foster mother actually smoked marijuana with my daughter and encouraged sexual relationships with adults. There was never a true set case plan as required by the courts because of a consistent catch-and-release for my daughter. Each time my daughter ran from a placement, probation refused to detain her. A care plan addressing her mental illness and, you know, all the stuff that she had been through just never happened for us. Never was done. My daughter was behind in school and was put on an IEP that ended up being used for the benefit of probation, to warehouse my child to any and every foster home that they could. Probation attempted to put my daughter in a foster home with a convicted felon who was on federal parole, had only been out a year, known gang member, and there was another convicted felon living in the basement that was involved in the murder of Jimmy Wilson, Jr. Each time my daughter violated the terms of her probation, she was never violated. In October of '22, while my daughter was on the run because probation refused to detain her, my daughter was sex trafficked by three adult males. I had to take my daughter to the hospital, only to discover that she had been sexually assaulted with beer bottles and had cigarettes put out on her. That's the time that probation decided to tame my daughter, was after her eight-day stay in the hospital. Prior to her running away that October, there was a court order from a judge that stated if she even attempted to run, she was to be detained. That day, my daughter tried to run, and I literally had to hold her down in the middle of the street until police came because she tried to [INAUDIBLE] 41-year-old man she met on social media. The police-- or, the sheriff called probation, and probation said take her back to the foster home. And within hours, she ran, and then she was trafficked. In December of 2023, my daughter's case was successfully discharged from Sarpy County probation while she was currently in the care of the JJC. In 2024, right after she was successfully discharged, my daughter was involved in an accident on the interstate that was-- a 35-year-old man that offered to give her

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

ten grams of meth and another adult female. They attempted to run from police, they hit a guardrail, and the other lady died. Again, no accountability. My daughter has now graduated into the adult court system where she's, she's attempting to do the young adult program. I was made to look like the crazy parent that just wanted my kid locked up and, you know, whatever. At this point, nothing can help my daughter. But after everything I've been through, I'm not going to sit back and not try to help other youth. And, Senator McKinney, you said at the very beginning about DHHS dropping the ball, and I'm kind of glad you brought that up, because I actually brought proof of probation dropping the ball, so that you guys can see. I have a flash drive that has an hour interview that will shed a lot of light on stuff. So, I have one for you and anybody else that wants one. That's all I got.

BOSN: Thank you very much for sharing your story. We're all snickering because we received a flash drive from a witness, and were scolded promptly that we can't put them in state equipment, so. That's not a dig on you, but we got lectured for that about two weeks ago. So, all of us are like--

TIFFANY PELLEY: That's fine. Anybody else in here?

BOSN: --we can't take them here.

TIFFANY PELLEY: Anybody else in here?

BOSN: But yes.

TIFFANY PELLEY: Because I feel like there needs to be light shed on things.

BOSN: You can still provide them to us. We just can't plug them into our state computer.

TIFFANY PELLEY: No, no, no. That-- that's completely fine. This is for your own personal, you know, I--

BOSN: Information.

TIFFANY PELLEY: Yeah.

BOSN: Sure. Any questions from the committee? Senator Storm.

STORM: I have a question. Thanks, Chair. Is your daughter currently incarcerated? Or is she--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

TIFFANY PELLEY: She is.

STORM: OK.

TIFFANY PELLEY: She's been incarcerated since January 1. She's been on the run nonstop since she was successfully discharged from Sarpy County, so.

STORM: Sorry to hear about that.

BOSN: Thank you very much for sharing your story.

TIFFANY PELLEY: Yep.

BOSN: Next proponent.

BEN HOUCHIN: Hello. Ben Houchin.

BOSN: Welcome.

BEN HOUCHIN: B-e-n H-o-u-c-h-i-n. I am here for the Nebraska Sheriffs Association in support of LB684. I'm not going to go into a whole lot of what everybody else has already said with law enforcement.

BOSN: Thank you.

BEN HOUCHIN: I'll give you a break on that part. I do want you to understand, though, it is wasting-- a lot of probation is wasting law enforcement time. We end up picking them up, making an arrest. We have to stay with them at the juvenile facility until probation shows up and does their eval. At two in the morning, you're making a phone call to get somebody out of bed. 45 minutes later, they show up. Another hour later, they're making a decision. If they don't make the decision that they're going to be held there, we have to find someplace else. I can guarantee you it's two hours of law enforcement time dealing with that juvenile. A lot of times, law enforcement officers aren't having them-- or, trying to put them into custody just because of how much time it takes, and the frustration of it when they let them out, and then two hours later, we're dealing with them again because they run from their parents. So, there's a lot of things wrong, and I think-- the, the big thing is we can't just keep doing the same thing over and over and over again. I'm more here to support this bill just because we need to try something different. And it's frustrating, and-- I guess that's the big thing I'm just very concerned about. We call probation, we can't get a hold of them. They're supposed to come to the facilities and do the evaluations; we've had deputies call them,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

listen to the thing over the phone, and say, oh, we're not coming in. I guess I have a really hard time when you have probation officers that have six months, seven months of experience, and you have a law enforcement officer who has 20 years, and you're going to ride on the six-month individual-- it's just crazy to me. So with that, that's all I have to say.

BOSN: Just for clarification, are you saying that the parents are calling you, and then you're looking to the probation officer?

BEN HOUCHIN: No. We end up having to release them to the family because they will not put them into custody, and then they end up running away from the parents and then doing more crimes. There's no accountability in this system whatsoever. It is absolutely frustrating. We had kids running around on the highway with a knife trying to stab his grandpa, and they wouldn't even put them in custody. We ended up think-- thankfully, he admitted to wanting to commit suicide so we could put him into CAPS. It's just craziness.

BOSN: Thank you. Senator Storer, followed by Senator DeBoer.

STORER: Thank you, Chairman Bosn, and then thank you for your testimony today. Out of curiosity, and, and I don't expect, like, a solid number, but what, what percent of the juveniles that you pick up are repeat offenders?

BEN HOUCHIN: A lot.

STORER: More than 50%?

BEN HOUCHIN: Oh, I'd say it's 70%.

STORER: OK.

BEN HOUCHIN: We-- honestly, in our profession, we deal with about 10% of the population over and over and over again, and that includes with the juveniles. And it's-- it is an-- they know they're-- nothing's going to happen to them. They steal a car, they're out that day.

STORER: And how far-- I missed what county you're from.

BEN HOUCHIN: Lancaster County.

STORER: OK. Lancaster County.

BEN HOUCHIN: Yeah, I'm the chief deputy there at Lancaster County.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

STORER: OK. Thank you.

BEN HOUCHIN: You bet.

BOSN: Senator DeBoer, followed by Senator Storm.

DeBOER: Thank you for being here.

BEN HOUCHIN: Yeah. Sorry. Yeah.

DeBOER: No, that's all right. I'm curious. Is your support of this bill "we need to do something different" support? Or is the support of this bill "this idea is the idea" support?

BEN HOUCHIN: I am just really happy somebody is talking about this issue. And--

DeBOER: OK, so you're more along the lines that you would-- would you characterize yourself as more along the lines of "we absolutely can't keep the status quo, we need to change things," but you maybe don't know what the specific change needs to look like in the end?

BEN HOUCHIN: I, I get-- Mc-- Senator McKinney's concern of where it's going. I understand that, and I'm not going to sit here and argue that part of it. But something's got to be better. I hope that we can find the individual that gets placed in that top position that really cares and makes a difference, and, and tries to change things, is really what I'm hoping for at this time. And nothing has changed; we complain all the time about what's going on, and it goes on deaf ears. So, yeah, I'm, I'm here hoping this position and maybe the Senate [SIC] can do something here to make it better. I-- I'm just tired of sitting on my hands.

DeBOER: So. You've been in for longer than ten years, and--

BEN HOUCHIN: 31. Yes.

DeBOER: Yeah, OK. So, you remember bef-- you know, what was that, 2014 or something, where they did LB605, where they moved this from DHHS, the juvenile--

BEN HOUCHIN: Mm-hmm.

DeBOER: --probation to the judicial branch. Do you think that the way it was before is laudable? Should we be looking at the way it used to be? Or is-- or we need a third way?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

BEN HOUCHIN: Well, we used to be able to go in-- we made the decision as law enforcement officers if the individual got lodged or not. And we don't have that anymore; we're, we're-- again, we are having to call probation to come down and do that for us. And I don't think there's always the accountability, and sometimes, you know, the law enforcement officer has probably more experience in dealing with that juvenile than even the probation officer who may have not even met that, and we're going off the word of them. So, one thing, at least on the felonies, the judges get, get to look at it. I don't know-- you're right. They may not make the right decision either, but I know a lot of times the right decision isn't being made right now.

DeBOER: So, one of the things that we've heard in the past-- one of the things that we've heard in the past is that the instrument which is being used to evaluate whether or not to detain a juvenile is a problem. Would you concur with that?

BEN HOUCHIN: Yeah, I was-- I've been on meetings with that. I think there's going to be a study that they were looking into, and I sat--

DeBOER: I heard that's happening.

BEN HOUCHIN: Yeah, I sat in on that and had those discussions, and there was law enforcement officers throughout the whole state, east and west. And-- yeah. You want to hear the same thing over and over again, that was the staff meeting of all the thi-- same problem that everybody's having. And I feel even worse for the law enforcement in the western part of the state, because when they end up deal-- dealing with it, to even get them to a facility, it could be an eight-hour drive. That's craziness. That's an all-day event that they may only have three officers or two officers on the department, and that you're-- you got one crew out of-- you know, across the state. So, yeah, it's, it's frustrating.

DeBOER: So, so you were actually on the panel that's seeking to review that?

BEN HOUCHIN: Yeah, they were doing the-- some checking and talking on that part of it, and going over--

DeBOER: Do you-- sorry. No, no, no. That's OK. Do you--

BEN HOUCHIN: Oh, go ahead.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

DeBOER: Do you think if we came up with a better instrument for determining whether or not to detain folks-- the woman who testified, I-- you were right there,--

BEN HOUCHIN: Mm-hmm.

DeBOER: --I saw you testify. Her daughter-- and the way that her daughter was, as she described, "catch and released." Do you think that that-- we might be able to find a better solution, that is, to make sure that juveniles-- when necessary, when clearly at risk like she was-- would be detained? Is that something that was part of your discussions?

BEN HOUCHIN: It was certainly discussed that, that we need to do something different than that. But some of the problem is, is the probation officer has the, the right to override it, even when it says they're supposed to. And that happens. And I don't know why it happens, but it happens. And sometimes it goes the other way, too, that they'll lodge them--

DeBOER: Override it.

BEN HOUCHIN: --the other way, too. Yeah. But I think it's a 12, and I've-- I know on the conversation that we-- at that meeting, kid scored a 16 and they didn't lodge them.

DeBOER: So, is the lack of lodging because there aren't places to lodge them?

BEN HOUCHIN: No. Well, I think in western Nebraska there is; not here in our area-- [INAUDIBLE].

DeBOER: You have places.

BEN HOUCHIN: --facility. Yes, there's plenty of spots. I mean, that-- the-- it's very low. I think-- they have beds, and they are able to take more juveniles, if that's is needed.

DeBOER: OK.

BEN HOUCHIN: I don't think that's the problem in Lancaster County.

DeBOER: OK. Thank you. That's helpful.

BOSN: Senator Storm.

STORM: Thank you, Madam Chair. Thank you for your testimony.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

BEN HOUCHIN: You bet.

STORM: So, you've been in law enforcement for 31 years?

BEN HOUCHIN: Yes.

STORM: What, what do you see as the rise in violence for juveniles, and what's, what's the cause of the uptick? Do you-- can you think--

BEN HOUCHIN: One is not-- nobody's holding them accountable. I think we're releasing kids that are very dangerous into the community and back. I think the family system and structure in some of those situations is horrible. I think sometimes they're better off probably being incarcerated than they would be at home, just because of what is transpiring, and that's a scary thought.

STORM: Right. What's the drug use amount amongst all-- most of them? Do you see that or not?

BEN HOUCHIN: There's drug use, yes. And not-- but not in all of them. I mean, that's just one of the things. The problem is, some of it is the sale of-- sell of it, and, you know, the gang portion of that. I am proud to say we are placing one of our deputies into the gang unit here in Lincoln, just because we realize this is a problem and we need to step up and put our resources to that. So, it-- it's guns, it's-- just because they're in possession of a gun does not mean that they will get lodged. And I'm sitting there-- a juvenile is in possession of a stolen gun and they're not being lodged? This is-- that's, that's unbelievable to me.

STORM: OK. Thank you.

BOSN: Thank you. Thank you for being here.

BEN HOUCHIN: You bet. Thank you.

BOSN: Next proponent. Welcome.

AMBER WOOD: Hello. My name is Amber Wood, A-m-b-e-r W-o-o-d. I'm in Douglas County. Some of you have seen before, and some of you have heard of, of my reason for being here. My daughter, Karly Rain, she was 20 years old. She, in November of 2022, decided to go to her first party ever. She never went out and partied; she had three jobs, and-- I wanted to make it a little personal. This is her, so that we remember what we're talking about when we're talking about all these, these bills and things. She went to that party, and within 18 minutes

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

was shot eight times by three different guns. We do not have the other two people; we have one person who shot her with one. Six of those bullets were lethal and fatal. So, why am I here about juveniles? Well, the guys that killed her, or had-- or anyone involved in this shooting-- it was a mass shooting where nine total people were killed; Karly is the only one that was the-- deceased. All of those people involved in that shooting were brought up in the same juvenile system you're talking about. They are now 27, 26, 24 years old. It's been going on too long that it's not working. Tiffany testified to the fact that, you know, she tried to get help years ago. What did it end up with? Her daughter is an adult incarcerated now, who never even got out of, you know, teen life. When I read this bill, when it was brought to my attention, there's some things that stand out to me. When your daughter is murdered-- and she was innocent. My daughter was not involved in a juvenile system, but it still affected her, and we need to remember that it affects public safety. So, it could be your children; it could be at the gas station. Because remember, there's still two more guys out there that didn't mind unloading clips in a room of 50 people smaller than this. So, when I read this bill-- and as a voter, reading legal jargon can wrap your brain up in knots-- what I find is that I got a little excited because of all the things that I've come in front of this committee, other committees, gone to 360 meetings; I'd go to our commissioner meetings in Douglas County. There is, one, a lack of collaboration, and as an outsider looking in, the first time I saw it, I was appalled, and I felt like it was juvenile-- junior high when I watched some of the elected officials be, you know, insulted that no one discussed this with them before they came in front of you. I think this brings more transparency. Victims' families, victims' parents, they can't get answers. I've tried to get answers out of probation several times. Haven't gotten them. I think this also shows a lot of accountability, and then is going to follow up with consequences. There is no one for me to be able to go scream at that has any accountability. I can scream at the system, I can scream at senators who decided to do this years ago, but there's no one that gets their hand slapped or says, "hey, you screwed this up." One more thing I would like to say-- and thank you for letting me go longer-- the guy that we do have, that was sentenced to thank-- thankfully, 168-plus years, but it wasn't his first run-in. None of these kids that you're discussing, these small portions, is their first run-in with the law. He was repeatedly released from probation for failure to comply as a juvenile and as an adult. That's the problem. We can't say, hey, probation is a gift; that's because you spent some time here, we're putting you on probation, that's a gift. You honor that gift, and you do what we're supposed to do, or

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

there's a consequence. And if there's no consequence, you have no teeth. And from what I read, this program and this, this administrator, and all of this puts that accountability in it, and it makes sure that these programs that are getting any funding are definitely going to have to have accountability, and you're going to see it work. And the one last thing I want to say is I really like the fact that it, it involves ex-offenders who've been through the system, who can talk to these kids. It also involves victims because we matter, and those voices of ex-offenders who can help these kids matter. But it has to be the right voices. Thank you.

BOSN: Thank you very much. I think I speak for everyone, thank you for sharing your story. Are there any questions from the committee? Seeing none. Thank you for being here.

AMBER WOOD: Thank you.

BOSN: Next proponent.

TAMMY PARKER: Oh, this is tough.

BOSN: Welcome.

TAMMY PARKER: My nephew-- my name's Tammy Parker, and my nephew was killed by a 14-year-old a couple of years ago on Labor Day. And Mister [PHONETIC] is his name, that's my nephew. Him and this man had gotten into a, a, a fight, and we still don't know what it was about. All I know is that this, this, this man that my nephew got into a fight with, Mister knocked him out. He had no weapons on him, they fought like you're supposed to fight, and Mister knocked him out. The kid-- the father-- the kid seen his dad passed out or whatever you wanna say, shot Mister twice in the back. Mister was going to go get his wife and his kid and go home after this, and then Mister was shot twice in the back from this man's son, who was 14 years old. We went to court, which was a total joke because this kid knew he was going to-- nothing to do. This kid was never, ever held responsible for what he did to my nephew. The judge-- everything the judge ordered, we had came back a couple months later. Here, we're thinking that something maybe was going to be done after he'd been sentenced. You know why we were there? The kid wanted to wrestle, and he wanted his ankle monitor off. I ended up leaving. Here to find out, he got his ankle monitor off, and then a couple months later, guess what? He's on a pursuit; the police were after him, and they caught him again with a, with a, a fire-- a gun. What is-- and nothing, and nothing has happened. This kid, he, he murdered my, my nephew. He's been held accountable for

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

nothing that he has done. Something has got to change. These kids are getting out of hand, these gang members are telling them to go do this, go do that because they know they're not going to get into trouble. There's nothing that's going to be done. And everybody here has a story to tell, but the thing is, people got to listen. We need help. These poor officers can only do what they can do. That judge can only do what he could do. He even told me he was sorry because he knew you can't do anything to the kid. And now, he's 16 years old. I've lost contact with him. I don't even know what's-- I, I have no idea what kind of trouble he is, what he's doing, but I know the last one is that he was being chased by the police, and they found a gun on him again. Something's got to change. And you know what? That's what-- it's the hardest thing, because I still have that picture in my mind when I'm at the court and I see my nephew laying on that table. Y'all close your eyes and think about a loved one laying on that table because of somebody's stupidity, because they thought they were a big man with a gun. That's all I can see, is Mister laying there on that table, the autopsy table, with two shots in the back. It's not fair. These got-- these kids have got to learn. There's got to be change. And that's all I got to say, but please, [INAUDIBLE] think about everybody in, in here. Think about your family member. How would you feel if your kid came-- and your kid ended up dead? Then you got to see it laying on the table. How would you feel about that? And then you find out a couple months later after he'd been sentenced he hadn't done anything the judge had told him to do; from counseling to therapy, he had done nothing. But he wants his ankle monitor off so he can wrestle. Well, then, then he got kicked out of that school district as well. And then they caught him a couple months later with another gun. Something has got to change. These kids have got to get into trouble. They need to get therapy. Well, that's all. I'm sorry, but it's just-- it's been a nightmare. And then to top it off, a couple months after Mister was killed, we lost my mother and lost-- she died from broken heart. She had raised Mister. And two months later after Mister died, we had to bury her. She died from a broken heart. Thank y'all for listening, but please get change.

BOSN: Ma'am, I thank you very much for sharing your story. Just for the record, could you please state-- or, spell your first and last name for us?

TAMMY PARKER: Sure. It's Tammy, T-a-m-m-y, and the last name is Parker, P-a-r-k-e-r.

BOSN: I'm very sorry for your loss.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

TAMMY PARKER: Thank you.

BOSN: Thank you for being here. Any questions for this testifier?
Seeing none. Thank you.

TAMMY PARKER: Thank you.

BOSN: Next proponent. Welcome

RYAN DVORAK: Good afternoon. Good afternoon, Chair Bosn, members of Judiciary Committee. My name is Ryan Dvorak, R-y-a-n D-v-o-r-a-k. I'm the coordinator for pre-adjudication services for Lincoln-Lancaster County Service Department. I started my career working at YRTC in Kearney; I've spent 13 years working as a probation officer and 10 years in human services. I'm here to testify in support of LD684. Although moving juvenile probation to the judicial branch was well-intended, over time it has become apparent this move has created detrimental issues for youth, families, local officials, community partners. In Lancaster County, Human Services Department provides case management for youth on juvenile diversion, pre-adjudicated services, with service provision delivery through our contracted community non-based partners. These partners have struggled to adequately be compensated for services they provide for our youth and families. Instead of entering into contracts, juvenile probation operates on a voucher system for services whereby the provider is paid per service at a rate set by probation. In practice, if a nonprofit agency travels to pick up a child and the child does not report to a program provider, it does not get compensated. With an inadequate funding rate combined with the voucher system, we have seen several community partners in our jurisdiction close doors entirely. In addition, without a contract, it is difficult to set standards with providers. With the office of juvenile services in charge of supervision, contracts were in place that specified how many days providers had to decide whether or not to accept a youth. With such contractual agreements, it is not uncommon for adjudicated youth to linger in detention for months on end, simply because they're awaiting placement. Additionally, juvenile probation also has consistently refused to participate in a qualitative, research-based service that drives the work in our county. The city of Lincoln and Lancaster County has invested in having the University of Nebraska-Lincoln evaluate our juvenile adult criminal justice data to determine what services are working, address disparities, determine how we as a system can do better. The police, sheriff, county, city attorney, detention, jail, and diversion all submit data. However, the judiciary refusal to contribute data has made it impossible for us to analyze

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

the complete progression through the criminal justice system. Finally, since juvenile probation officers and judges fall within the judicial branch, what ordinarily would be considered ex parte communication regularly, regularly occurs between juvenile probation officers and judges, potentially exposing the judiciary to subjective information pertaining to youth outside the safeguards of judicial proceedings. While juvenile probation "funkser"--functions were housed in the executive branch, communication not be allowed to occur, ensuring that all interested parties were present when discussing matters involving juvenile cases. Thank you for your consideration. Thank you, Senator Bostar, for introducing LB684. Be happy to answer any questions.

BOSN: Thank you. Any questions? Senator DeBoer.

DeBOER: So, did you serve as a juvenile probation or an adult probation officer?

RYAN DVORAK: I served with the local juvenile probation office here in Lancaster County for almost 13 years.

DeBOER: And was that when it was under the judicial branch, or when it was under the executive branch?

RYAN DVORAK: Well, probation has always been under the judicial--

DeBOER: Sorry.

RYAN DVORAK: --and then, yes, HHS was under the executive, but it was, it was different 20-some years ago, yes.

DeBOER: So, what do you see as the benefits specifically for-- if we were to move juvenile probation back to the executive branch, what specifically do you think would, would be the benefit?

RYAN DVORAK: Well, I think there would be more-- as other people have mentioned, there'd be more transparency. I think the data would be shared. I know the Inspector General's office could oversee things and look at data, and look at what's working, what's not working. I know we've had many people testify today about things that are working, which direction to go. You know, this might point a direction in, in giving us an opportunity to look at how better to serve the youth in our communities.

DeBOER: A lot of the things we've heard, though, we, we could do regardless of whether we moved branches of government, as it were. And we probably, maybe should do some of those things, obviously, from the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

"testimony"-- testimony today. So, other than the, the ease of communication sort of within the branch, are there other specific ways in which you see that the executive branch is better capable of handling this sort of work?

RYAN DVORAK: Well, I think it's been mentioned a couple times by law enforcement and other staff, if this would move to another branch, it might be a new beginning, a new way to look at things. I think the intention of probation moving-- or, in doing the restart, basically, in 2013, was-- they looked at more of a restorative justice model. And now, we have a system, what's called a system of exhaust, where they have to try certain services, lower-level services before a youth can [INAUDIBLE] go through levels of placement. And I know Senator McKinney's brought it up, and other people have testified there's a lack of resources, there's waitlists for providers. I-- I've heard attorneys in-- just in juvenile court talk about waitlists for waitlists, which is, which is ridiculous. But I, I think in looking through some of that, how do we get past that? For instance, when I'm in court and I work with a pre-trial family, the last thing they want to hear from me is, well, there's a waitlist for this service, there's a waitlist for that service. They're crying and asking, "I need something now."

DeBOER: And-- OK. I suspect we won't magically find the money just because we moved branches of government. So, there's probably still going to be some problems to address on that front. Do you think-- having been sort of more on the front lines of this than, than kind of anyone we've heard so far on this-- moving branches, will there be disruption? Right? So, if we move the department from one branch to another, yes, there's the kind of starting-over aspect, but is there also a "building the plane while we're flying" kind of aspect, too? We're in sort of a crisis mode right now, and we're going to transfer-- I mean, do you see that being a problem, or do you think that personnel would kind of transfer over 1-to-1, and it would sort of not be a big disruption?

RYAN DVORAK: I think there's always going to be factors in that. I think there's always going to be some type of disruption. I think everybody in this room knows there's problems with budget cuts, things like that. How do we do that, and how do we look at that? But I would agree; how, how we're doing things right now is just is, is not working. And although like, like I mentioned earlier, I think the intent there was to reform a system; we've really kind of gone backwards in that law enforcement has testified that our real high-risk offenders are being turned out. One of the issues that I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

hear in court quite a bit is we have no placements in this state, and Boys Town, Omaha for Boys, places like that won't accept our youth that are-- they're high-risk, or that have the charges that are getting now, and our prosecutors are having to bring them through adult court at 16 and 17 year olds, even younger. And then, we're having to look at out-of-state because there's no place for them.

DeBOER: So that's what I don't understand, how this changes any of that. What I don't understand is how, if we have a lack of placements for kids, changing where we house your work is going to change the lack of placement. I mean, the money is still probably not going to be there any different between one than the other, and so I guess I'm trying to understand the many, many issues with juvenile probation. And then sort of as an aside, look at this bill, because I have to evaluate this bill about whether or not I want to do it. So, I am grateful for all the testimony about all the problems that we have in juvenile probation. But if I want to fix it, I have to address what legislation is in front of me and if there's additional legislation that needs to be. So, you've said you think there will probably be better communication if we adopt this legislation, but I'm just trying to get at some, some of these problems that everyone's been talking about and whether this will-- this legislation that is in front of me today will have any effect on any of that.

RYAN DVORAK: Yes. Yep.

DeBOER: So. I guess that wasn't a question. Sorry.

BOSN: Let me just see if I can try and-- I, I echo the comments that she has, and it sounds like you sort of agree as well. But some of what I'm reading in your testimony-- which I appreciate the copy, thank you-- is that it escalates to an out-of-home placement where some of these are contracts that are failed because of the voucher system versus a contract system. Is that sort of what you're also highlighting as one of the issues? Before an out-of-home placement, we-- before we rise to the level of an out-of-home placement, we try things that are less restrictive, right?

RYAN DVORAK: Correct.

BOSN: And the voucher system, as you're articulating it, is not working. And previously, you used a contract system. Can you explain a little bit more about that?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

RYAN DVORAK: One of the things that I was looking at or, or talking about is, for instance, a contracted provider, like a nonprofit, there was a program here in, in-- or, CEDARS used to have a reporting center, and they no longer have one. That was tried with a local nonprofit, Pathfinders, that had a reporting center that lasted less than two years. Simply, they weren't getting enough youth and weren't getting paid for services, so they went a different direction. So, I think under the executive branch, it might be better for-- to be able to work with better contracts, or have contracts in place versus a voucher.

BOSN: Have you tried to address the voucher system with probation? Or has anyone-- I guess I shouldn't put it all on your shoulders. Has anyone addressed the voucher concerns with probation thus far?

RYAN DVORAK: That I could not.

BOSN: OK. And then on page two of your testimony, you talk about the judiciary refused to contribute data to the University of Nebraska study that was done for analyzation-- for analyzing and completing progression through the criminal justice system. Why? Did they-- do you know why they did not provide the data that everyone else provided?

RYAN DVORAK: I do not know specifically why they did not provide the data. I know the data has been delayed, and it does not come in regularly when asked for it.

BOSN: OK. Those are all my questions. Anyone have any questions in light of that? Thank you very much for being here and for your work. Next proponent. Anyone else wishing to testify in support?

BILL MICHENER: Good afternoon, Chair Bosn, and the entire Judiciary Committee. My name is Bill Michener, B-i-l-l M-i-c-h-e-n-e-r. I am the executive director of Lighthouse here in Lincoln. I have been employed for Lighthouse for 29 years. I was actually one of the original youth of Lighthouse 35 years ago. What we do is we provide a-- many services in this community for our young people, including education supports and financial literacy to lots of programs that are just dedicated to try to improve our young people and where they're at. And I've been there long enough to see our collaborations-- and I, I did have a prepared statement, but I decided to, to speak from the heart after listening to all the testimony up to this point, primarily because when he was talking about the voucher system-- many years ago, we actually had a collaboration with probation. And for quite a few

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

years, we no longer have any sort of communication with probation, and we do get probation kids to Lighthouse. And I think that's a mess on our ability to connect with young people and then help move them along. I'm not really here to speak upon whether they should move or not to one branch or the other; that's beyond me. I'm here to say that I just want to see some sort of system change, to make for sure that it's-- they're utilizing the community resources better, because that's what we're here for, is to make for sure that we're helping our young people just find a different pathway and a different way to their future, and hopefully brighten it up. So, that's exactly why I just want to be a part of this conversation, is because I think it's important that we have transparency and have these conversations, regardless of where this bill goes. I think it's important that it opens up some additional things in the future.

BOSN: Thank you very much. Any questions for this testifier? So, I guess let me ask you follow-up. So, you previously had contracts with probation. When did you stop those?

BILL MICHENER: It's been many years. And so, our, our current contracts are actually with diversion. So, it's before they go on probation. The voucher system is very hard for us to be able to do that because-- again, I know it's been mentioned before, but the reality is I can't hire a staff person and then not have money come in, as a nonprofit organization, to pay their salary. So, then he said that, you know, people went away, like, entire non-profits. But in reality, in my world, that would mean that I would have to fire that person, because if I don't have the money to sustain that for that work, then I can't have them as a part of our organization, so.

BOSN: Thank you.

BILL MICHENER: Yep.

BOSN: Thank you for being here. Appreciate it. Next proponent. Now we'll move on to opponents, anyone wishing to oppose LB684.

BILL REAY: Afternoon. My name is Dr. Bill, B-i-l-l; Reay, R-e-a-y. I'm the CEO and president of Omni Behavioral Health, a multi-service agency in Omaha, Nebraska. I've been providing services to the executive branch and the judicial branch with probation since Governor Thone. Across multiple governors, those years have had multiple initiatives that I have witnessed and participated in. This is an issue of juvenile court; not county court or district court, but juvenile court. It's different. LB684 would move the Office of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

Probation Administration to the executive branch, away from the juvenile-- away from the judicial branch. Such a move would put juvenile court and county court judges in even more subservient position under the governor as all service dollars would be controlled by the executive branch, a move that destroys separation of powers within a decision-making role of judges, interferes with decades of relationship and-- with judges and probation officers, and ignores an existing Supreme Court case from 2002 that appreciates the importance of protecting that relationship. The not-too-hidden intent of LB684 is to give the executive branch absolute authority to do whatever the governor and his appointed leaders wants to do with services to the troubled, troubling, and poor, which includes drastically reducing rates to providers and-- which he attempted to do in 2002-- 2022. Funding restrictive institutional settings that currently do not exist, promoting by elimination of rehabilitation programs so more youth can be charged as adults. That prognostication is actually foreseeable. Since coming to power, the executive branch administration has slashed direct services to the population within their authority. Reducing support for public safety services would have immediate results that would not be beneficial. My organization provides services to some of the most violent and lethal probation youth of Douglas County, and I do not have one bit of problem getting data from the probation administration. Not one. Supervision requirements for these youth can be very expensive, and that's the issue. This is expense. The mission of child and service-- child and family services and mental health and disabilities are very different than probation. Public safety and risk management concepts are very real considerations with youth being supervised probation. In my opinion, the executive branch is driven by a relentless pursuit to reduce state bending [SIC], notably aimed at relieving some property tax burden. The judicial branch obviously is obligated to use state funds wisely. We have crossover youth that are in DHS [SIC] and also in probation. Those are very complicated cases. Probation struggles with them, judges struggle with them. The presentations are very difficult; they have mental illness, they have lower IQs. The executive branch has commoditized the child and family service system. Human-commoditized economic models assume in error that all children and families are alike and all providers are alike, so find the cheapest and continue to drive the price down as far as possible. Liken it to a tomato: a tomato is a tomato, purchase the cheapest. The business model or public management approach to public safety that is commoditized is dangerous and should not be promoted. LB684 should not advance. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

BOSN: Thank you. Any questions for this testifier? Seeing none. Thank you for being here. Next opponent. Good afternoon.

COREY STEEL: Good afternoon, Chairman-- Chairwoman Bosman [SIC], members of the Judiciary Committee. My name is Corey Steel, C-o-r-e-y S-t-e-e-l, and I'm the Nebraska State Court Administrator. I have prepared testimony that I'm handing out with some other materials, but I'm going to go a little off-script. And I'm happy to answer any questions at the end of, of my testimony here. Just to clarify, probation and-- juvenile probation has always been in probation, in the judicial branch. It's been in the judicial branch since 1971, when it was created. The only change in statute in 2013 was transferring the Office of Juvenile Services population over to probation, so there was one system operating juvenile services. Over the past year-- over the past 20 years in probation, we've had two administrators. These two administrators have had a total of, I believe, 40-- or, 87 years of service in probation. Liken that to the Department of Children and Family Services in that same 20-year time frame, has had 11 different directors. The reason I bring this up is stability. I think stability is crucial when you look at the difference between the judicial branch and the executive branch. I have a little information in there about the transfer of OJS over to probation, but I'm going to skip that. What I can tell you is what our current data shows us with juvenile probation. 84% of the youth that are placed on probation do not recidivate, and 79% are youth-- of our youth are successfully released from juvenile probation by the court. Additionally, 26% of juvenile probationers were ordered to out-of-home care. This is comparable to when the Office of Juvenile Services had the 1,500 juveniles, their out-of-home care was drastically higher. Their out-of-home care reached 60-- or, 59%. Also, what does data tell us as we look at data? Crime, crime trends in Nebraska have gone down. We've heard about a lot of serious crimes and violent juvenile crime that has taken place. We know that's a small percentage of the overall crime rate. We're working hard with many different folks to determine how we supervise in case management these very hard and difficult youth. I think one thing that I want to bring up is some of the-- some of the issues that came up. One of the things is data sharing. There's a state statute that guides and directs juvenile and the courts on what data they can share. 43-2,108. This Legislature set forth statute that directs how we can share information from the courts. Waitlists. There are waitlists. Funding is an issue. We have come in and asked for more juvenile placements, we've worked to increase juvenile funding throughout the state. It is lack of placements and lack of providers to provide those placements. We also know, Senator McKinney, that 42%

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

of the kids currently on probation have had prior DHHS involvement. They may have had an open family case that the kid wasn't attributed to. Maybe the neglect wasn't on that kid, but we can ascertain that, based on our data, 42% of the kids have had an, a former abuse/neglect engagement with DHHS. So-- by the time they've come to probation. We also know the voucher system-- the voucher system was actually created back in the 2000-- and Deb Minardi can speak a little more to this-- 2012 to '15 with the Community Corrections Council. This Legislature, with Chairman Kermit Brashear, was the one that set that type of payment structure for probation services due to the fact that we needed to be good stewards of the servant-- of the money that was given to us by the state, so that way, we weren't paying placements that weren't serving, serving juveniles. I could go on, but I'll stop there, and I'm open to answer any questions you may have.

BOSN: Thank you. Senator DeBoer.

DeBOER: Thank you. OK, so I clearly am wrong and misinformed, so--

COREY STEEL: You're not wrong, Senator.

DeBOER: Let me-- well, I was. But let me, let me understand it, because I, I want to understand it properly. So, what was the population of youth that were served by OJS under DHHS?

COREY STEEL: So, at the time we transitioned in 2013 into 2014, there were approximately 1,500 juveniles that were with the Office of Juvenile Services. Currently at that time, we had about 3,500 juveniles on probation under juvenile probation. So, there was about 1,500 juveniles that-- cases that transferred over during that time frame.

DeBOER: And were those 1,500 juveniles discrete from the 20-- what did you say was the other number?

COREY STEEL: About 3,500.

DeBOER: About-- from the 3,500, or was this the same-- some of the same population?

COREY STEEL: No, they were individual cases. Correct.

DeBOER: So, so nobody was on both.

COREY STEEL: Correct.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

DeBOER: OK. So, what was-- what put you in OJS? What sorts of--

COREY STEEL: Great question. So, prior to the transition, any juvenile that was on probation that needed some sort of out-of-home service or needed treatment costs that a family could not afford or did not have insurance for or were not Medicaid eligible for, the court had no option because they needed payment for that service. The juvenile court would commit their custody to the Office of Juvenile Services, so then they became a state ward and payment for those services that were needed or out-of-home placement. We did have a couple counties, our larger communities, that had small pools of money for group home care that was utilized, but the majority was-- the transition happened solely because there were no funding for services. Prior to that 2013, juvenile probation had \$0 to pay for services.

DeBOER: So, prior to 2013 then, you could ostensibly have committed the same offense, juvenile offense, and one person was in the OJS and the other one was in the judicial branch under juvenile probation.

COREY STEEL: That's exactly correct. So, we, we did not see a, a difference in the adjudicated offenses of the kids that were on juvenile probation or with the Office of Juvenile Services; it was simply the fact that they could not afford the services or out-of-home care that was needed.

DeBOER: So, fast forward to today. Now, we have this voucher system which you described was under Senator Brashear, which-- what was the time frame of that, would you say? I'm trying to remember, too.

COREY STEEL: 2006.

DeBOER: OK. So, about 20 years ago. Not quite, but close. All right. And so, the issues-- have you been sitting in here for this, this whole hearing?

COREY STEEL: Yes, I've been here the whole time.

DeBOER: OK. You hear there are some issues, they don't have placements. I think you were at the--

COREY STEEL: Correct.

DeBOER: --the LR this summer that said we don't have enough placements.

COREY STEEL: Cannot disagree with that at all.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

DeBOER: Is that a "there are not enough supply placements to put them in," or is it "we don't have the money to pay for the placements?" What's the issue? Or is it kind of both?

COREY STEEL: I'd say a little bit of both, but the bigger issue is we don't have high-end placements in facilities in the state of Nebraska that will take these kids.

DeBOER: OK.

COREY STEEL: There are wait lists solely because the bed capacity is full.

DeBOER: OK. And has the number of cases per juvenile probation officer increased over the years?

COREY STEEL: Actually, we've seen a decrease in the amount of juveniles placed on probation over the years. So again, the transition, we roughly had-- it was about-- by the time we went through the court process and made the transition with OJS, we had about 4,750 kids that were on juvenile probation at that point in time. We do a point in time now, we have about 2,500 juveniles on probation. So, we have seen a decrease. And that's due to a lot of-- we've seen a lot of growth in diversion programs across the state. You look back 10, 12 years ago, we didn't have robust diversion programs outside of the metro area. Now, those-- there's been community aid dollars that is spread. So, we're not seeing the lower-risk juveniles on probation anymore; we're not seeing the MIPs, we're not seeing the simple shoplift, we're not seeing those kids on juvenile probation anymore.

DeBOER: So, what you're telling me is that we now have more complex or perhaps high-risk cases on juvenile probation since we've taken that one population out.

COREY STEEL: Absolutely. So, our, our risk-- and we do risk assessments, and our risk has gone from majority of our juveniles being in that low- to moderate-risk to a moderate-high to high-risk. So, we've seen that transition with much more complex kids.

DeBOER: OK. So, what I was really trying to get at is the caseloads per officer. What has that done over time? Do you now-- what's your caseload right now? Do you know?

COREY STEEL: So, our caseloads vary depending on the risk. Our high-end risk are 12 to 15, and what we look at as a moderate risk

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

could be up to 20 to 25 juveniles. Our case loads are relatively in-check and, and-- in what we feel that the right caseload. There is no national standard. That's the thing is well, there's no national standard that says 1 to 5, 1 to 15, 1 to 20. We base it off of risk, and the higher the risk, and those specialize-- we call them specialized officers that are high-risk officers that have been with the system, have done additional training, we have treatment-based officers-- they have a lower caseload of typically 1-- 1 to 12, 1 to 15.

DeBOER: That makes sense. Has that changed over time?

COREY STEEL: Yes.

DeBOER: And what direction has it gone over time?

COREY STEEL: We've shifted more what we had at the start of low-risk officers to our higher-risk officers because we-- our population has shifted, and so we've had to put more officers supervising those higher-risk juveniles.

DeBOER: And do those officers that are supervising those higher-risk juveniles-- has their caseload gone up over time?

COREY STEEL: No, we try to keep their caseloads at the, at the capacity. So, we're not seeing anything from 1 to 20 to 30 to 40 on high-risk caseloads.

DeBOER: OK.

COREY STEEL: We really focus on the high-risk juveniles.

DeBOER: OK. I think that's my questions. Thank you.

COREY STEEL: Thank you.

BOSN: Senator Storer, followed by Senator Hallstrom.

STORER: Thank you, Chairman Bosn, and thank you, Mr. Steel. This is an obviously very complex issue to get your head wrapped around.

COREY STEEL: Yes.

STORER: I'm going to just go back to-- I mean, just because I can put some context on my own experience back in 2013, when it was a very intentional decision to shift the focus of how we dealt with juveniles. Right?

COREY STEEL: Correct.

STORER: And I was actually teaching in a shelter classroom, literally when the transition was taking place. Kind of had a front-row seat. Went from, went from, you know, when kids came in, you know, we took away their personal belongings, they earned them back. We saw, we saw a positive change in behavior to total flip-flop in how they were processed when they came in. So, when I look at some of the numbers that you're providing on, on how the, how the in-home, in-home versus out-of-home has shifted, it, it-- that's not because juvenile behaviors changed, that's because there was an intentional move to, to treat-- leave them in-home for services. Right?

COREY STEEL: Right. Right. We were able to build and-- and build more in-home services. So we've, we've worked with providers to create therapeutic in-home services.

STORER: But that really has no-- there is no correlation to that and offenses of juveniles, or there-- meaning change in sort of juvenile offenses, right?

COREY STEEL: Correct.

STORER: So, how-- can you, can you give me a correlation to what, what we've seen, in terms of arrest of juveniles and crimes-- which I'm, which I'm having a little trouble wondering if there's even a direct correlation there, based on what I'm hearing. You know, if there's-- if, if they're not able to be retained, there was a statistic here somewhere that juvenile arrests, I think, have went down, and I have to ask myself a little bit "why?"; why the arrests have went down when I hear police officers say they're exasperated, like-- they understand that nothing's going to happen, is what I'm hearing.

COREY STEEL: Right. So, I-- the, the data that we provided came from the Nebraska Crime Commission. So, it has the data that shows that the juvenile crime rate has decreased. But what we know--

STORER: So, is it possible that the arrests have went down? Is it possible that the arrests have actually went down because law enforcement knows there's no consequence on the other end?

COREY STEEL: Well, I can't speak to what law enforcement is doing on their side, whether they're not citing or, or what have you. But--

STORER: Right. And I understand that sounds like somewhat speculation, but it-- but, but we only can track that data if there's an arrest and a booking and a-- right?

COREY STEEL: Correct.

STORER: OK.

COREY STEEL: Correct. But I'm not going to disagree with a lot of law enforcement officers up here that say we are dealing with some serious juveniles. We know that. There are juveniles that have serious mental health, serious substance abuse; there's serious gang involvement, guns, more than we have ever seen. We look at our detention population ten years ago, we would have-- we have four, four facilities across the state, but we would have only one or two or three, four adult criminal charges. We now see close to a third of those juveniles in our detention populations for adult felony charges, and serious charges. And so, we're seeing a small percentage-- it's still showing that it's a small percentage of violent felony offenses, but they are more violent and more-- than they ever have been.

STORER: The other, the other question. You'd mentioned that part of the problem is lack of access to beds for-- I mean, we don't have the facility space for kids. How many facilities-- how, how-- how much did that intentional shift back in 2013 affect-- I'm never going to figure out a good way to ask this question. Did we have more facilities in 2013 than we have today?

COREY STEEL: I don't have the data with me, but we can get that for you, because we've been able to track since when we started who con-- who was in our, in our system that we were using for facilities versus now, and it depends on the level of care, too. There's different levels of care and multiple different types of facilities. We see facilities come and go, we see facilities crop up, new ones that we utilize, and we see some that, that have gone away. But we continue to put emphasis on trying to bring new facilities into Nebraska.

STORER: OK. Because in all fairness, when, when that, when that very intentional shift was made in 2013, there was less demand for facilities. So, it would be safe to assume that some closed due to the need for them, for at least a period of time. And so, whether or not we've caught back up with that, or-- I, I mean, I don't know if there's any hard data on that, but I had-- I just have to wonder if that is some impact on the lack of access today. I probably may come back with a few more questions, but I-- but acknowledging that-- I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

guess, I guess just a really broad question. And we've, we've listened to a lot of testimony. I think it's undeniable we have some frustration within law enforcement, from my seat, just having sort of seen that transition since 2013, some frustration. Where do you see this going from here? What are-- what recommendations would you make to make improvements to what we're hearing the breakdown is? The-- whether it's communication-- because for those juveniles that are not-- that are somehow falling through the gaps, for lack of a better word, there are serious consequences. Not only for them, quite frankly, but for others,--

COREY STEEL: Absolutely.

STORER: --innocent people.

COREY STEEL: Absolutely, absolutely. I think there's, there's quite a few things statutorily we can change to make a difference. I think you heard from law enforcement about access to data. I, I talked to you about 43-2,108. We need to work on what information can be shared to law enforcement. Statute dictates what we're allowed to share to NCJIS. That's what we share. Is it enough? Is it-- do they need more? What do they need? We also have to make sure that we're not oversharing, and that's what was happening back in the, in the '90s and early 2000s, is probation's case management system was wide open to law enforcement. They could look at substance abuse evals, they could look at family history and, and everything that was in there; there's medical records, there's substance abuse records, there's all those different things. So what is it that law enforcement needs so that we can put that in statute so that it can be shared through NCJIS, and how do we do that in a manner where it's easily accessible to law enforcement? GPS-- I think you'll probably hear testimony on GPS and those records. Again, there's an avenue now. It's not an easy avenue. It either has to be in the court order to allow for the access of GPS, or they have to go through the warrant route, which is cumbersome; we understand that. If state law says you need to provide real-time access to law enforcement for GPS, we can do that if statute allows for it. It doesn't allow for it now. I think other things-- we don't disagree with LB556 in which I-- that component of the juvenile intake was placed in here, where judges should have decisions on felony-level cases at the time of arrest. We've been preparing our judges for that across the state for a year. We had these discussions a little over a year ago about juvenile intake needs to change; we're seeing much more violent offenses that are coming into juvenile intake; it's not fair that a probation officer is making these decisions on these cases; we need to get judges involved at that time.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

So, we have no problem with that. The jurisdiction age and those things, those are policy decisions we won't touch on. We're looking at-- and we've been working in Omaha to determine a problem-solving approach with these high-end juveniles. So, how do we get-- because we've seen the statistical analysis of our problem-solving courts and how well they work, because there's high judge engagement, there's high service delivery, and there's high wraparound with the probation officers. So, how do we work on a mechanism to make a determination these kids are very susceptible to high-end crimes, get them in a problem-solving court approach with our juvenile court. We would like to-- we would like to look at that approach. We need additional services. We need secure services. We, we have high-end residential need. We see more kids today than we ever have with mental health and substance abuse, as you heard Dr. Reay speak about. Those, those are either psychiatric residential treatment facilities or other facilities that can, that can handle those. Those are things that we have to get the legislative support on in order to do those, whether it's statutory change or funding or what have you, for the high-end facilities.

STORER: I learned just-- thank you. I mean, just today, that there is a risk of fund-- not enough funds just in our re-- re-- behavioral health in my, my district. Thank you. I, I will probably have a few more questions, but I appreciate it.

COREY STEEL: Absolutely.

BOSN: Senator Hallstrom.

HALLSTROM: I appreciate, Mr. Steel, you're identifying some statutes that might be helpful and some other services that perhaps can be considered, but from sitting here today and coming completely fresh to the issue-- I don't have any preconceived notions-- it seems to me that there's a famous line from Cool Hand Luke that says "what we have here is a failure to communicate," and it seems to me that there needs to be a willingness of the parties to get together, to trust each other as to what those solutions are going to be going forward. And I-- I've heard there's some preliminary get-together plans. Is that something that's, that's acceptable to you to get together and, and visit with those who have raised concerns today?

COREY STEEL: Absolutely. We're always more than willing to sit down, and we've been working with Douglas County Sheriff's Office, with the Omaha Police Department on a pilot project that we're looking at and, and doing some things there. We're more than willing to sit down, but

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

I think it can't be probation, and it can't be law enforcement. That's not enough, right? It needs legislative support, it needs HHS because we know there's behavioral health dollars there that we have to utilize. It takes community providers, it's-- it takes a lot of people in order to sit down and make sure we can get things moving on the juvenile justice system in the right manner.

HALLSTROM: Thank you.

BOSN: Mr. Steel, can you tell me-- I'm looking through your testimony, which-- thank you for sharing-- says 84% of youth placed on probation do not recidivate. What do you calculate as a--

COREY STEEL: So, the Supreme Court has set a recidivism definition. And-- you're going to ask me to-- off the top of my head-- I'll get it to you, but it's something over a class whatever misdemeanor adjudication. And we do, we do a 3-- a 3-year look out from the successful completion of, of the term of probation.

BOSN: But if a kid-- if a, if a juvenile who's on probation isn't being detained and isn't having an increased number of services, you're considering them a successful completion of juvenile probation. Is that fair to say?

COREY STEEL: If the court successfully releases that juvenile from their term of probation, that's a successful release of probation.

BOSN: But my question is, they could have violated terms and conditions--

COREY STEEL: Correct.

BOSN: --you wouldn't have asked for a revocation of their probation to the county attorney, and then they are considered successful, despite that you--

COREY STEEL: Correct. If we were able to address the issue by putting services in place, by whatever it may be, and correcting the issue, and they've addressed that issue long enough where then we ask for that release of probation from the judge and the judge releases it, then that's a successful term. Just because they may have violated terms and conditions, it doesn't mean it's a failure of probation. They're youth. They're juveniles. They're going to make mistakes. Right? Very rarely do we see any youth come in probation that skates through, has no issues or what have you. They probably shouldn't have been on probation. Right? The kids that we see on probation, they're

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

going to have failures, and we're going to address those with sanctions, with putting services in place, whatever it may be. Motion to revoke, and a lot of motion to revokes go to the judge, and once we get things in place, they may place them back on probation.

BOSN: So, you were here today. 15-- I counted 15 proponents came in from a variety of-- we had no repeat testifiers from the same group-- talking about extensive, detailed problems that they're experiencing. It's a diverse number of individuals. How do you account for that?

COREY STEEL: Well, I think every system has issues. There's no question about-- are we perfect? Not even close. Do we have a lot of work to do? Absolutely. I think that "alls" we can continue to do is collaborate with them, find those issues, address those issues, and see what we can do to continue to build and get better. You know, we-- we've, we've had some issues in Douglas County, and we've directly worked with Sheriff Hanson on those, and we've made policy changes based on him bringing it to our attention and saying, "hey, here are some issues, here are some concerns." And so, we're more than willing to do that and, and sit at the table and address those issues. Is probation-- either juvenile, adult-- is parole, is child and welfare services going to be exemplary and not have any issues? Never. We're in the human service field. It's never going to be without issues.

BOSN: And I don't--

COREY STEEL: We're going to do our best to, to address the issues.

BOSN: I understand that, and I don't necessarily disagree, but your answer to me just now was that we need to collaborate with them, and the very firm response from them was that they're getting the door shut in their face when they make those efforts to try to address those problems. And then, we have-- we hear from Mr. Dvorak that there was a study at UNL, and everyone submitted data for them to come up with some solutions, and-- except for you guys. And so, that further collaborates [SIC] what law enforcement is saying is a door in the face of efforts to try to fix the problems. So, I guess my question, because I, I-- Senator DeBoer doesn't like it when I make statements-- is are you willing to change that? I mean, are you willing to provide UNL the data on recidivism and information on probationers? Are you willing to work with law enforcement and provide them the information?

COREY STEEL: We provide a lot of information and data to a lot of different entities. Can we provide de-identified information that has all the court record and all of the probation record without statutory

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

change? There are things that preclude us from, from giving detailed information.

BOSN: And that leads to my next point. So, when I joined the Legislature in the middle of 2023, we worked extensively on LB50--

COREY STEEL: Correct.

BOSN: --and my recollection was that the reason law enforcement joined in in support of LB50 was because there was a solution to the GPS monitoring sharing conundrum that we were experiencing, and there was a promise by probation that if they supported that, they-- that would be fixed in there. And it's been brought to my attention by a number of individuals that still isn't occurring as we sit here today. So, it seems as though we, we make the statutory fix, or what we think is the statutory fix, and then now, there's-- the goalposts have moved to somewhere else.

COREY STEEL: Right. So, if you, if you look at--

BOSN: I have it up.

COREY STEEL: Yeah. Look at the changes. If it's placed in the court order, probation will release that information. The judge must determine at the time of-- at disposition or sentencing that GPS coordinates can be shared with law enforcement.

BOSN: Are you aware of any cases thus far--

COREY STEEL: We have--

BOSN: --since 2023 where the judge has ordered the sharing of electronic monitoring information with law enforcement?

COREY STEEL: I believe there is some. I believe that, that there is some in Omaha that we have in the court orders that it can be accessed upon law enforcement request. Is it in every order?

BOSN: I would appreciate that follow-up.

COREY STEEL: Is it in every order? No. Is it in a majority of orders? Probably not. It's a judicial decision whether they want that access to law enforcement or not. We don't have the authority as probation to release that information unless a judge grants us that authority.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

BOSN: I think there was a strong understanding on the part of law enforcement in 2023 that that was going to be what was shared with them in the bill that was passed. And I don't know how that got misconstrued, but I--

COREY STEEL: But if you read the language of the legislation that was passed-- upon court order. I can't, as state court administrator-- probation administration can't tell a judge "you have to put this in your order." We've educated judges on the law and said, if you so choose, this can be in there, it is recommended sometimes by probation. But if a judge doesn't put that in the order, we're not allowed to share it.

BOSN: I understand that. Thank you. Any other questions in light of that? Senator McKinney.

McKINNEY: Thank you. Senator Hallstrom brought-- I forget the bill number, the bill that will require sheriffs or law enforcement to kind of assist probation with arrest. Did you, did you work with him on that bill? And why did you--

COREY STEEL: We did. We actually brought that bill to Senator Hallstrom. And one of our-- I think Gene Cotter testified on that bill. That bill is to change a-- law enforcement "may" assist probation with arrests to "shall." And the reason is, we've actually come into some issues, and we're compiling that. We, we told Senator Bosn after the committee we're compiling information to specific areas. Probation has the authority to arrest anybody on probation if they're in violation. Now, we can, we can ask for, for the judge to do an order, send it to law enforcement, and say-- this is what we call a pick-up order; when you come in contact with the adult, the juvenile, they need to be picked up. But there are times probation officers will do home visits, do work visits, they'll be responding to a call, and they get in a situation where they need law enforcement right away. And so, we will call, and we've had instances where they are there, there's a clear violation, the individual is clearly violating their probation and putting, potentially, somebody in harm that they have to take them into custody. And so, we would then take them into custody and call upon law enforcement to transport and to transition custody over to law enforcement. That's been the issue. These-- we're talking very few cases that that actually takes place. The majority of time, if there's a motion to revoke or a violation and a pickup order, we will then facilitate that in the manner where we would submit it to law enforcement and say, pick this adult/juvenile up. But there are instances in time where we've had law enforcement say, we can't help

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

you. And we're stuck with an individual that needs to be arrested and detained, and we don't have the ability and means to transport.

McKINNEY: Thank you. And I thought it was interesting because I don't-- I think somebody from the Lancaster Sheriff office came in opposed to it, and I thought it was interesting because they also said, like, probation is letting all these bad people go and these violent people go. And if you're trying to get these people arrested, I'm, I'm just-- it was just interesting. Thank you.

BOSN: Senator Storer.

STORER: Thank you. One last question. Is there a way to follow up with data? When, when you tell-- you say 84% of youth placed in juvenile probation do not recidivate, and 79% are successfully released, is there a way to break that down by level of crime, like your--

COREY STEEL: Yes.

STORER: --violent crime offenders, what percent of them "recivitate"--

COREY STEEL: We--

STORER: I can never say the word.

COREY STEEL: Recidivate.

STORER: Thank you.

COREY STEEL: Yes. We can, we can break that down. We can break it down based on level of offense, and we can also break that down by what we call risk level; based on our assessment, are they a higher-risk youth or a lower-risk youth?

STORER: Would-- can you follow up with that information?

COREY STEEL: Yes. Yes.

STORER: Thank you.

BOSN: Thank you for being here.

COREY STEEL: Thank you.

BOSN: Next opponent. Welcome.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

JUSTIN WAYNE: Thank you. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e. I had a long speech, but I'm just going to answer some questions. What this bill, to me, comes down to is laziness and kicking cans down the road. And I can say that, because I brought this bill similar to this two times. And I did it because I thought it was a quick fix. The last time I brought it, I wanted to make sure we had a conversation with parties. But here's why it's a kicking the can down the road. If you go down this pass, you're going to spend the next 2 to 3 years hearing "it's a transition period; we're working through issues; give us time to catch up and figure it all out." In the meantime, we're not solving that problem. I think Senator McKinney asked a critical questions: how many of them had previous DHS [SIC] involvement? Mr. Steel stole the thunder with 42%. Now, that 42% doesn't include maybe an older child, so if you have a baby who was born with drugs, that child and that parent is situated in DHHS involvement. Three years later, you have another kid, that kid will not show up on the system because that kid's name is not placed in that first. So, I would tell you that it's higher, and if you look at the "Smoke and Mirrors Committee," when you hear "system involvement," it often means DHHS. But nobody wants to say that, because that falls under the governor's purview. We don't want to hold them accountable like you do the Supreme Court. What's interesting is Don Kleine brought up the Uber driver. What he failed to mention was that Uber driver-- the one of the interesting kids, there, and they're all interesting when you read about them and you get to know them-- was involved in HHS for two years prior. And his escalations started moving up while he was involved for two years with HHS, the state failed to file a motion and notify the court of something that would have removed that kid. And I can tell you with a reasonable degree of certainty that murder would not have happened if HHS would have filed a simple motion. I can tell you that because I represent the 13-year-old involved in that case. I am heavily involved in juvenile court, having over 40 cases. I brought that bill, but now, since I have been back in juvenile-- if you want to solve the juvenile problem, you have to start with HHS. I can tell you that, and if Sheriff Hanson comes up and talks on another bill, any bill, just randomly ask him, based on his experience, if we moved 25 families out of Omaha, that would take care of 95% of our problems. That's how ingrained the issue is. And just ask him. Now, the number could be as low as 12. Move 12 families. So, HHS is where you need to start with this problem. And again, I brought this bill. And I understand, Senator Bosn, that 15 people showed up, but they're not telling the whole truth about HHS involvement. The reality is, is they can't give the data/information to UNO [SIC] unless we authorize it. I was a part

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

of the negotiations on LB50. If there's issues in how the language was written, cops signed off on it in 2023. If it's an issue, that's because we didn't have the right language back then, and you have the opportunity to fix that language. I will be brief about two other issues: one about the beds, it was brought up multiple times. The issue with the bed goes directly to our reimbursement rate. How the system works is, you have HHS and probation, and they're both charging a very similar rate. The reason they do that is because if you charge one really high, everybody's going to jump to one system, and you won't have beds over here. So if both, actually, sit down and talk and figure out what's a reasonable rate. The problem with that is, from the juvenile side-- it's different if a parent has a IIIA and you're working on family engagement and therapeutic in a family environment, and you're getting this set rate; that same kid who has multiple felonies and violent, there's not enough money if you're based off of that rate to, one, pay for insurance, and two, the risk that goes with that. So, that daily rate affects everything. And I think you heard that also from Bill Reay, but I'ma give you a better perspective because both sides, those rates are very similar, and that's why juveniles always suffer. The last thing I'll say is the VOP. That's the violation of probation. Regardless of where you place probation, a prosecutor has to file that. The problem in most of these cases, the laziness. We don't file. And I will tell you, Senator Bosn, I have sat in at least 30 adjudications since being-- leaving this office, and not one prosecutor has asked for a GPS requirement to be placed in an order. Not one. So, don't blame the judge, because the judge can only hear what's brought to their attention. If the prosecutor wants a GPS enforcement to where it is given quickly to them, they can ask for it; they never do. I've never heard that. And I wrote the rule, so I understand the law, but I'm not going to ask for it, as defense counsel. So, those are some brief things that I wanted to say. But the reality is, is juveniles are very, very complicated. But if you want to fix our juvenile system, you have to start with HHS. That is 90% of where our problems come from. And it isn't just a 42%, I can guarantee you it's bigger than that. But every one of those violent crimes you're talking about, they are system-involved, which means HHS-involved. And trust me, I represent a lot of these individuals. And if you have any questions, I am here to answer any questions. Oh, I have one more, but the red light's on, and I'll respect the time. But if you want to ask the same question of why this is happening, Senator Hallstrom might have a good answer for you.

HALLSTROM: Please provide that answer. Excuse me.

BOSN: Senator--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

HALLSTROM: May I? May I?

BOSN: Senator Hallstrom.

HALLSTROM: Please provide that answer.

JUSTIN WAYNE: So, in Omaha-- and I can't speak to Lancaster, but I will say I see it because I come down here quite a bit for basketball. I'm coaching my daughter again in basketball. We have redlined activities in Omaha. East Omaha, there is nothing for kids to do. Senator McKinney-- you could ask him probably how many wrestling teams are left, there's probably three; when he was wrestling, there was ten. When I was growing up, we had the Kellom League, we had over-- each neighborhood had their own basketball team, their own football team. Right now, for my daughter to play basketball, it is \$2,500 per session. There are three sessions. So, if I want to get involved in sports at third grade, whether I am a male or female, and I have never played basketball, tell me a parent who's going to throw two grand to go try something out. There's nothing for those kids to do in east Omaha, so they go to their afterschool program till 5:00, 5:30. Then they go home from 5:30 to 8:30, and if you talk to Sheriff Hanson, he will tell you that is probably their most juvenile activity-- it's because they have nothing to do. We opened up a beautiful park downtown, and there are juveniles down there pretty much every day and every weekend because we don't have structured places for them to go. That all changed in '95, '96, and I remember it because that's when Derick Cleghorn, a good friend of mine who was a freshman at Northwest, got killed. We used to have a lot of activities, and we have turned it into a money-making decision to build businesses around youth sports, and we have left out the opportunity. You add that to the "influxuation" of immigrants who are coming in, and we don't have structure. There's a lot of people with that "unsupervision," doing a lot of terrible things. That's the truth.

HALLSTROM: Well, I think even more fundamentally than that, some of the kids don't go out on their own to play [INAUDIBLE] unless there's a structured [INAUDIBLE].

JUSTIN WAYNE: 100%. So, if you drive down Fontenelle Park, Kountze Park, these are all areas of North Omaha where, when I was growing up, it was a, a, a three minimum game wait if you showed up and you wanted to play, because there were teams were already selected. Those parks are empty unless there's a structured activity there.

HALLSTROM: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

BOSN: Senator Storer.

STORER: Thank you, Chairman Bozeman. And thank you, former Senator Wayne. I'm not sure whether I should call you "Senator Wayne"--

JUSTIN WAYNE: I tell people, don't call me "Senator;" I'm no longer a senator. I lost-- I've lost 50 pounds. I gained 5 pounds just sitting back there, dealing with the stress of watching this, so.

STORER: Well, I appreciate your perspective very much. And I guess just-- I have a question, and I-- just one comment in regards to the observation that there's less for these kids to do. I, I, I would tell you, I think that's broad-- a very broad problem. I don't think that's unique to one community or one part of our state. I've sat in many communities who are deliberating over what do they do with the baseball park that they worked hard to build, because there's no kids that want to come play. You know, parents tend to-- we just see less volunteerism in general. It--

JUSTIN WAYNE: Correct.

STORER: It is-- I think it is a systemic sort of societal problem, not, not unique to any neighborhood. And so, I do-- I guess I do-- kind of a follow-up question, but I think everybody shares the same, the same desire-- ultimate desire, right? Is-- how do we-- how do we do better for our kids? And, and I also think there's one general consensus here, is what, what we have now is not working.

JUSTIN WAYNE: I would disagree what we have right now is not working. We are, we are gaslighting the issue by taking a couple cases here, and they are, they are horrible cases. I'm not saying they're not. For the most part, it generally works if people want to, want to actually try. And what I mean by that is, if you're having an open dialogue with probation-- before every hearing, you get a probation report, and that probation report has every time they messed up, every time they've had a-- they tested positive. I, I've been in a case where I look at counsel and I'm like, well, why haven't we filed a motion for violation of probation? So, it, it does require the human element of us wanting to, to do better. And I think part of it is, is juvenile is so complicated. And here's what I mean by that: if you have a dual docket which is IIIA and-- IIIA is a, a, a neglect or child abuse juvenile charge, along with a delinquency, which is a child-- which the child, child picked up a charge. You can have anywhere from 8 to 10 attorneys in the room. Just scheduling a hearing takes 6, 7 months. By then, the juvenile oftentimes is still out-of-home, and all those

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

factors come in. So, yeah, there are things that we can do, but it requires some serious, serious, uncomfortable conversations.

STORER: And on that-- and one just final comment is, again, I'm hearing very similar concerns that I've heard here today from my very rural counties, and my very rural county attorneys and my very rural county sheriffs, which makes me believe it's, again, not, not sort of a pocket--

JUSTIN WAYNE: Agreed.

STORER: --problem, so I-- so I'm more inclined to, to feel that we do have something systemic here that's not, that's not working.

JUSTIN WAYNE: So, I would submit to you that if the county attorneys all asked for that GPS require-- like, just say GPS for one example-- asked for that, I don't know a lot of judges who would say no. And in fact, I would submit juveniles probation actually has a lot more authority, because they allow, in the case of Omaha, probation to detain. So, if a juvenile, before the-- even the motion of violation is filed, they'll detain them. And so, they give them that authority. So, I say all that to say, is it perfect? No. Are there cases that slip through the crack? Absolutely. But I do think it first starts with HHS. At least the cases that I see, there is always a family element that is not being addressed before the juvenile gets picked up.

BOSN: Senator Hallstrom, round two.

HALLSTROM: Just-- I think on two occasions, you've suggested that we need to have more motions for violations of probation in serious cases, and I don't expect you to step back from your defense attorney posture. But if you're not involved, how do we enhance the likelihood that those violations of probation in those serious cases are filed?

JUSTIN WAYNE: So, I'll give you a prime example. The 27-- 24/7 program. I hate that program. I supported it legislatively, because policy-wise, it works great. But for my clients, it's hard to get down there in the morning and get down there again by 5:00. And there are strict consequences. But what that allows me to do as defense counsel is to say, hey, if you keep showing up late, you're going to get a five-day sanction. That puts the onus back on them to make the change to behavior. What I see in juvenile-- and this is where I do give the police officers association and Sheriff Hanson a lot of credit-- is they're saying the behavior isn't changing, and I'm saying the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

behavior is not changing because we're not, we're not doing our due diligence to, to make sure we're filing the motions. But that does give me, as defense counsel, to say, "hey, look, you do need to be home at curfew, you do need to listen to your mother, because judge X, Y, or Z has no problem putting you in DCYC for a couple of days." That-- then we're all sitting here working together. But if my client, whether he's 14 or, or she's 21, feels like there's no consequences, it's hard for me to say, "hey, do it" when there's no consequences. So, we do all we have to work together.

HALLSTROM: Thank you.

BOSN: I see it's still sweater Friday somewhere.

JUSTIN WAYNE: Always. Just a little, a little size smaller.

BOSN: So-- I can't help myself. You, you introduced LB474, as you pointed out, a couple of years ago, in conjunction with my predecessor, to address some of the concerns that you've heard about today.

JUSTIN WAYNE: Correct.

BOSN: And you have some really great quotes in your introduction there, stating it's hard to have accountability on probation when they're housed all over the place, we don't know how to keep them accountable, establishing this under the executive branch, it may happen. Then, you go on to state it's a start to a real conversation about the gaps and problems that we're having in parole, supervised parole and probation. And you're telling us today that you're change in position is because you weren't a practicing juvenile defense attorney then, but you are now?

JUSTIN WAYNE: No. Why I'm changing position is because I became more educated, and I would ask this whole committee to do the same. I'm changing positions because-- actually I'm-- in a sense, I'm not changing completely everything, because if you listen to what you just said, it was the start of the conversation. I had no intent of actually trying to move it over there. In fact, if you were to ask all the party holders, that's what I told them all. But we need to have a real conversation. Those conversations started having-- I termed out.

BOSN: So, tell me what changes were prompted as a result of those conversations that have fixed the concerns you had that resulted in your changed position today.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

JUSTIN WAYNE: Well, one of them was access to data, and that was LB50, which we, we included. And I thought the language was-- OK, if you need this, you should-- well, somebody should request it-- i.e. the D.A.-- because you shouldn't have a "cart blanket"-- GPS can be everywhere, it can be monitored. Because, I don't know, I believe in a smaller government; I don't think it's good to monitor every citizen, no matter if they're on probation or not. So, I think in those cases where there maybe is a violent crime, in this case, that county attorney should say we would like instant access on GPS because of the violent nature of these crimes, and I think that goes into the court order. That's what I thought back then, and that's why the language said that. So, that's what it was.

BOSN: But is it your understand-- you would agree that nothing in LB50 actually granted law enforcement the ability to request that information,--

JUSTIN WAYNE: No, but it--

BOSN: --it was just the county attorney. And your position is--

JUSTIN WAYNE: No, that's not true. If you look at Section 10--

BOSN: Yep.

JUSTIN WAYNE: --of your-- of the statute. Look at the statute. Section 10 gives law enforcement the ability to have access.

BOSN: I don't know that I agree with that. Any juvenile court--

JUSTIN WAYNE: Does it not use the word law enforcement?

BOSN: --"any juvenile court order that places a juvenile on electronic monitoring shall also state whether the data from such electronic monitoring (device) shall be made available to a law enforcement agency immediately upon request."

JUSTIN WAYNE: So, they were-- they can request it, and they-- we can give it to them if the court allows so. So, that again, I don't think as-- I don't think, as a state, government should monitor everybody. I do think on a case-by-case basis--

BOSN: I don't even agree with that. How do they ask for it? What's your, what's your mechanism--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

JUSTIN WAYNE: Just like they ask for placement. Just like they ask for detention. Just like you ask for anything in the court. You say, "Your Honor, I would like this to be included in the order."

BOSN: But law enforcement doesn't have a seat at the table in [INAUDIBLE].

JUSTIN WAYNE: That's why your county attorney's supposed to.

BOSN: OK, so that's-- but that was my question is, the county attorney can ask for it, but law enforcement doesn't have a seat at the table to make those-- they don't have anyone to advocate--

JUSTIN WAYNE: They're not a party. They never will be. Right? So you, the county attorney, are, are their mouthpieces in the courtroom. They arrest somebody, you are their mouthpieces to follow through on the charges. Why would it be any different if they want to-- if they want to have GPS monitoring, you are their mouthpiece in the courtroom to give them that.

BOSN: Well, I guess I see that differently, but I, I appreciate and understand your explanation of that.

JUSTIN WAYNE: But you would agree that everybody who supported that bill and LB50, including law enforcement, didn't raise that issue until recently, as of last year, of the language not being what they wanted. But they wanted it at the time, and that is the ever-evolving of this role in the Legislature, is you don't always get it right. A comma makes a difference, and sometimes you got to clean it up.

BOSN: Well, I can't answer questions as I sit up here, but I appreciate your comments.

JUSTIN WAYNE: It wasn't a-- it wasn't a question, it was just a statement. I appreciate it.

BOSN: Any other questions for-- I almost called you Senator Wayne-- former state Senator Wayne?

JUSTIN WAYNE: No, just Mr. Wayne. I'm good with that.

BOSN: Thank you for being here.

JUSTIN WAYNE: Thank you all. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

BOSN: Before this testifier, can I get a show of hands of how many more there are? OK, so make sure you're not repeating somebody else's testimony in the interest of time and the three bills that we have up after this, please.

ROGER HEIDEMAN: It's still "good afternoon," or is it "good evening?"

BOSN: It is good afternoon-ish.

ROGER HEIDEMAN: Chair Bosn and members of the committee, my name is Roger Heideman; R-o-g-e-r, Heideman, H-e-i-d-e-m-a-n. I'm a juvenile court judge in Lancaster County. I began my practice of law in 1992. I worked in juvenile court throughout my law career before I became a judge in 2006. So, 19 years on the bench. So, Senator DeBoer, I have that prior history. And I do-- our association submitted a letter, did they not? I just wanted to point out the highlights of that, that we're not commenting or taking a position on policy, but we are opposed to the moving of the Office of Probation from the judicial branch to the executive branch because of that interplay, that communication we currently are able to have with probation, probation personnel, because they are officers of the court and under the judicial branch. I, I find it kind of interesting in, in hearing the testimony, because the-- in my history, or, or prior instances of this, that, that issue of whether that's inappropriate or not seems to have been brought by defense counsel, because there is a belief that this communication would be a hindrance to their clients. But the testimony today seems to be more that that communication may be a hindrance to law enforcement. I can tell you anecdotally, before me, any time any probation officer requests to talk to me, it's always been in the furtherance of public safety issues with-- without fail. You know, whether monitors should be implemented, whether they should come off, those sorts of things. So, it's always revolved around issues of public safety. Corey Steel talked a little bit about the continuity of leadership within the probation office; I just wanted to expand upon that a bit, because they won't take credit where, where sometimes credit is due. But that leadership has been nothing less than outstanding in my view. They are-- quite frankly, when you have to answer to the Chief Justice of the Nebraska Supreme Court, you're-- you better be on top of your game. They have been nationally recognized for their training and implementation science, they're continually doing quality assurance, and, and locally, I think our probation office has been exceptional from their leadership down to their frontline workers. I think I can address maybe some specific issues-- maybe yours first, Senator Bosn, in regard to this, and expanding a little bit about what Mr. Wayne said. Since the

implementation of that bill, I have never had the county attorney-- and I'm saying this knowing at one time our county attorney was in the back of the room, and my public defender was back in the room as well-- I've never had our local prosecutor ask when I'm ordering GPS monitoring for the law enforcement to be able to access that. I don't do it on my own, because I take quite literally subsection (7) of 43-246 and how the juvenile court-- Juvenile Code should be construed, and that is to provide judicial procedures through which these goals and-- purposes and goals are accomplished and enforced, in which the parties are assured a fair hearing and their constitutional rights are protected. So, rather than carte blanche ordering it, if there's a GPS monitor, I believe the parties are-- should be heard on it. It may be at the end of the, the hearing, I order it because of a valid reason, but no one has asked of it, as of yet. But if the prosecution has a right to ask for it, then clearly, the juvenile and their counsel have a right to state their position and oppose it as well. And then ultimately, that decision's on me. Right? I would--

BOSN: You can finish. Sorry. I-- but I appreciate that you're the first one to respect the red light today.

ROGER HEIDEMAN: All right. And I expect I'm going to start hearing some issues. At the end of the day, I, I think I-- well, I'll also address another issue you brought up about the number of proponents and their background. It seemed to be several of the testifiers had issue with the payment system, this voucher system, and I'm sure Deb Minardi will talk more about that in her time, or can answer questions about that. When you go to, I believe-- this might get my personal opinion. If you go to a contract system-- and I've had providers tell me this-- that before I can commit to doing something, especially as a nonprofit, I'd have to have some insurance of money coming in. And it becomes a difficult proposition when you're the stewards of, of the people's money, how do you award contracts when potentially they not being utilized? That perhaps they're just sitting there, waiting for something that may not ever be utilized. Where, on the voucher system, it's a pay-for utilization type of, of props-- you know, issue, that they are getting paid as they do the work as opposed to being awarded money, and then, if the work comes, you know, they will do the work. And-- I-- at, at the end-- and I'll just end with this, with-- at the end of the day, as long as I've been involved in juvenile court, at the end of the day, it comes down to relationships, and-- relationships with the attorneys and their clients; the relationships that the court is able, to the extent they can, build with, with juveniles. And then, when they are in probation supervision, the relationships that those workers or officers are able to build with

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

those juveniles. Sometimes, those are easy to build. Sometimes, they take time, and unfortunately, sometimes they never happen. I think that's just a reality of, of the world. But the work they do is yeoman's work, and I don't believe just switching it from judicial branch to the executive branch is going to cure the, the issues. I think there are a lot of statutory provisions that can be implemented. Again, we are required to be bound by the rule of the law. This body sets what the rule of law is. You can change the various provisions that will accomplish a lot of, I think, what the issues that were raised by the proponents of this bill were without changing it from the judiciary into the executive branch. With that, I can--

BOSN: Any question--

ROGER HEIDEMAN: --answer any questions.

BOSN: Any questions for the judge? I guess part of it is-- and I think-- and I appreciate the detailed explanation on, you know, the electronic monitoring or the GPS monitoring issue. I think there's a belief that-- have you ever ordered it, I guess I should ask, thus far?

ROGER HEIDEMAN: Again, no one is-- and again, I say no one, I'm talking about the prosecutor-- no one has asked for it. And I would assume them, being a branch or an arm of law enforcement, would be the ones that would be asking for it routinely, if I'm ordering a GPS monitor.

BOSN: Have you ever-- I mean, I think there's a belief that you wouldn't grant it if they asked, I guess is the impression I'm getting from law enforcement, is that if they came to the county attorney's office and said, "hey, we don't think this kid should have been placed on probation in the first place, can we track them?" that the courts-- and I shouldn't say you personally, because there's a number of individuals in Lancaster County Separate Juvenile Court, but-- would say no unless and until there was some, you know, new violation or something that then, maybe, they could see it.

ROGER HEIDEMAN: Well, without giving a potential advisory opinion of what may happen in my courtroom, I can tell you this. If I'm ordering an electronic monitor, there's a specific reason I'm ordering it, and it usually relates to issues of public safety. Public safety, including that juvenile themselves.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

BOSN: OK. Do you know anything about the data sharing that was expressed by Mr. Dvorak? I mean, I guess--

ROGER HEIDEMAN: Absolutely nothing.

BOSN: OK.

ROGER HEIDEMAN: It's above my pay grade, I think, is the response there.

BOSN: OK. I've never heard you use that response before. As always, thank you very much for your service and all that you do for juveniles.

ROGER HEIDEMAN: All right. Thank you.

BOSN: Thank you. Yep. Next opponent.

LORI HARDER: Good afternoon, members of the committee. My name is Lori Harder, L-o-r-i H-a-r-d-e-r, and I spent over 35 years working within the Nebraska Department of Health and Human Services in areas such as economic assistance, resource development, utilization management, Medicaid, juvenile services, developmental disabilities, and child welfare. I currently work today as an independent consultant, and today, I'm testifying out of concern for children impacted by the proposed changes to juvenile probation. Moving juvenile probation from the juvenile [SIC] branch to the executive branch could have serious implications. Transferring this responsibility to the executive branch would shift control of a state agency under the governor's administration, could lead to increased bureaucracy and an impact on effectiveness of rehabilitation programs. Additionally, we must consider the fine-- the financial impact of these changes, and the numerous examples of financial mismanagement by agencies supervised by the executive branch. The Families First Prevention Services Act, known as FFPSA, was enacted on February 9 of 2018 by President Trump during his first term as president. It aims to reform systems by impro-- emphasizing prevention services to keep children safely with their families by providing a 50% match of federal funds for in-home services, and to reduce the reliance on foster care. Nebraska had been proactive in implementing FFPSA, and the key steps taken had included that Nebraska was among one of the first 13 states to commit to implementing FFPSA by October 1, 2019. In June 2018, DHHS initiated a planning process, and hosted a Family First kickoff event, which led to the formation of eight specialized workgroups. Those workgroups developed a comprehensive statewide service array scan to assess

existing resources and identify gaps. From that, a five-year prevention plan-- evidence-based, trauma-informed services plan, identifying services in three primary areas of in-home parenting skill-based programs aimed at strengthening the family dynamics and parenting practices, mental health by providing accessible mental health services to meet various psychological needs, and substance abuse prevention and treatment services targeting families where substance abuse posed a risk to children. In May 2019, there was an RFQ issued to providers to provide the qualified services in the network. On October 15 of 2019, Nebraska submitted its FFPSA plan to the administrator for Children and Family Services, and it received federal approval, enabling Nebraska to access federal funds designated for prevention services. Yet, nearly six years later, FFPSA is not a reality in Nebraska, and our state did not benefit from 50% federal match for in-home services for any child or their family. Removals of children and placement in foster care still occur at alarming rates in this state.

BOSN: You can finish.

LORI HARDER: OK.

BOSN: Yeah.

LORI HARDER: Another federal funding program, Title IV-E funding under the Social Security Act, provides financial assistance for states for foster care, adoption, assistance and guard-- kinship guardian. Yet, Nebraska does not have ford-- a formal Title IV-E agreement with juvenile services or probation, and instead, Nebraska chooses to use state general funds to fund these services rather than Title IV-E foster care reimbursement. States like Pennsylvania, California, and Arizona all have structured Title IV-E reimbursement agreements that allow juvenile probation to claim federal funds for eligible youth. This includes maintenance payments; payments that cover foster care placements for eligible youth; administrative costs that help support case management, training, and oversight; training funds help probation officers receive training on trauma-informed care, family engagement, and prevention services; and I believe Nebraska should be mandated to have a Title IV-E MoU between the new Juvenile Probation Agency and DHHS for youth served by juvenile probation, for both out-of-home placement and for FFPSA service prevention. We also have TANF access funds, and regarding the surplus of those TANF funds, Nebraska does not specify provisions for accumulating or receiving lump sum payments of unused benefits. In Nebraska, Temporary Assistance for a Needy Family [SIC], or TANF, is referred to as aid to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

dependent children, or ADC, and it provides financial assistance to low-income families with dependent children--

BOSN: Ma'am, I am going to have you kind of wrap it up a little bit,--

LORI HARDER: OK.

BOSN: --because I have let you go a long time.

LORI HARDER: Well, this is-- the ADC is set at 55% of the standard of need, and for a person [SIC] of two in Nebraska, they would pay out \$464 a month. In comparison, the Bridge to Independence program, which supports foster children transitioning to youth, receive \$944.14 a month. We-- the state contracted with Chapin Hall-- that is from the University of Chicago-- and they've done numerous research and studies that indicate if we increased the TANF amount, children not be-- would not be becoming system-involved. So my question is, we're leaving a lot of money on the table that we have not accessed to help support these children in probation, and that has been the fault of the executive branch. So, I don't know why we would give them more to do. And the other thing I would say is, I would put the YRTC's with the children who utilize them.

BOSN: Thank you. Any questions for this testifier? Seeing none. Thank you for being here.

LORI HARDER: Thank you.

BOSN: Next opponent.

DEB MINARDI: Good evening, Senators. My name is Deb Minardi, D-e-b M-i-n-a-r-d-i. I am the recently-retired as the state probation administrator, but I am here today as a, a private citizen with over 44 years of experience. I am going to do like many others and try and synopsise my statement to you today by first trying to address issues that have not been discussed. One of the things that I haven't heard anybody talk about is that in 2013, the law-- when many of these laws were passed, the youth didn't look like they look today. As was already mentioned, in 2013, we didn't see youth who were committing homicides, carjackings, or carrying guns. We also didn't face the mental health issues that we face today; the lack of empathy, the influence of social media, the disengaged families, or the socioeconomic challenges that are prevalent today. Youth under 13 also face their own unique challenges, and these factors must be considered as we're having these discussions. Corey mentioned to you how the shift in the risk has occurred in youth. In 2013, about a third of our

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

youth were considered as a high-risk to recidivate; now, well over 50% of our youth are considered at high-risk to recidivate. You'd be hard-pressed to find a staff person who wasn't deeply-- a probation staff person who wasn't deeply concerned about community safety and creating safer communities. Nebraska is not the only state facing these challenges, yet no state has found a solid solution. The reality is, the state has not provided the support and funding necessary to keep pace with our youth. There is no state facility to address youth with persistent mental illness. Detention, by statute, is considered to be temporary custody; it is not a jail. The Youth Rehabilitation Center is the only treatment facility that is allowed to be locked. It's also not a prison; it's intended to be a treatment facility, and by law, it is the last resort for youth. Our behavioral health system lacks the financial support and infrastructure needed to address these complex issues of our youth, and this is compounded, as been stated, with our long waiting list and our staff shortages. So, if we want to make change, we need to reflect on what we're missing since 2013, and those changes are possible if we are willing to come together and continue to have these discussions. With that, I'm happy to answer your questions directly.

BOSN: Thank you. And thank you for this, for the handout. Any questions from the committee? Senator Storer.

STORER: I would be remiss-- I guess not necessarily a question, more of a comment. I could-- we could probably have a, a very good discussion, but given the time, perhaps off the mic, we can do that. But what's interesting about 2012-2013-- and something I've been kind of passionate about, but I'm just curious. You're-- there's, there's a variety of reasons, I think, that we can look at what's changed with our youth and behavior, and increase in violent crimes and mental health. It was also 2012 when Facebook became sort of a skyrocketing, commonly-used-- just as the most, most recognized social-- form of social media. So, I'd-- you'd probably agree, there's a variety of things, and it does look different. The, the argues and the problems that we're dealing with do undeniably look different than they did in 2013. Do you think that it's time to consider, similar to what was done in two thurs-- 2013, just revisiting the entire package of juvenile probation?

DEB MINARDI: I think that there's-- I, I-- one of the things that I would say is that we, as a system, have to keep pace with changes. We can't look at changes 20 years later. We can't look at changes 10 years later. Our world is changing too quickly. We have to be committed to looking at these on an ongoing basis and see when the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

changes are necessary in relationship to that. So, are changes necessary? Are changes possible? Absolutely. Will it require a total revamp? It doesn't require moving probation. Probation has been working under the judicial branch. What it does require is, if we don't like what's happening as the laws currently read, we need to reexamine the laws and see where that has to-- where we can keep pace with the current status of what is happening in our communities.

STORER: So, there's some agreement that we do need some form of reform in our current system?

DEB MINARDI: Absolutely. And as a matter of fact, probation has done extensive work in having national researchers in Nebraska looking at juvenile justice. Law enforcement was engaged in that, DHHS was engaged in that. We have provided reports in relationship to that. National consultants have been in Nebraska to say, what are the things that can help and should help? Those are the things that we have been trying to implement along the way. And on that note, I just also want to mention the fact that you've heard today about a lack of cooperation with probation. I will tell you that probation off-- probation officers, including chief probation officers, on a routine basis train law enforcement on intake; they train SROs, they meet with law enforcement on an ongoing basis. So, I, I, I do-- I am concerned when we hear a lack of cooperation, because everywhere we can, we do. But we are prohibited in certain instances where we cannot share information. So, maybe we need to review where we can and where we could in the-- moving forward.

STORER: Want to-- just a follow-up question on that. On that note-- and if I can find my notes, but-- can you help me understand why-- what changed in the statutes that prohibited that access for law enforcement information? I mean, I was-- one of the earlier test-- testifiers indicated that it was distinctly a change in state statute. And, and I can follow up and find that later, but I didn't know if you had--

DEB MINARDI: Yeah. What I can-- what I can tell you again, and I'm going to go from recollection, and I think Corey stated the statute in particular, 43-- well, something or other. But-- and, you know, at that point in time, we talked about protecting children, and so the information concerning children became more guarded. We weren't as quick to just release everything about children as you had heard Corey say, where we released medical records and, and behavioral health records, and, and we tightened that up because of those changes. The law, the philosophy, the culture then was we needed to protect

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

children more, and so those changes occurred to protect children and save that information so it didn't follow them their entire life, so they got a chance at habilitation. They had a chance to, to move into adulthood without being targeted.

STORER: Thank you.

BOSN: Senator McKinney.

McKINNEY: Thank you. What do you foresee as a risk of putting pro-- probation under the executive branch?

DEB MINARDI: Well, one of the biggest risks I see is the disconnect with the courts. You know, one of the things that we have not talked about is the ability for probation officers to engage swiftly with the courts. In particular, you heard the judge address that, when there is a, a concern about public safety, a probation officer can speak with a judge because they are acting on behalf of the judge and carrying out those orders. That swift and certain sanctioning is a critical component of effectiveness that would be disrupted if you were talking about two different branches.

McKINNEY: How does the courts and, let's say, DHHS currently interact?

DEB MINARDI: Well, I'm going to-- you know, remember I'm a private citizen now; I'm not representing the Supreme Court, I'm representing Deb Minardi. But I, I will say that we've-- it's ebbed and flowed. It is-- you know, right now, I would say that we are in a state where it has been improving. We've also seen times where it's been horrific and it's a fight. That's like anything else. It ebbs and flows.

McKINNEY: All right. Thank you.

BOSN: Were you in here when Mr. Dvorak was testifying about the information sharing with a study group from UNL, and that the only group that had not provided information was the courts?

DEB MINARDI: Yes.

BOSN: Do you-- can we share that with them?

DEB MINARDI: What, what--

BOSN: I mean, I know you're not there anymore. Why was it not shared? Or-- tell me what you know.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

DEB MINARDI: This is what I recall in relationship to that conversation. We have a-- and I-- you, you notice I'm only 30 days out, literally 30 days today. Well, we only have.

BOSN: Welcome back.

DEB MINARDI: We have a very small research and data unit, an extremely small. And when we requested to do that, our list of research requests were so long that we were incapable of meeting their deadline. That was shared with them, that we were incapable of meeting the deadline that they needed that information for, that we had other legislative and other priorities that we had already committed to that wouldn't allow us to engage in that.

BOSN: How long do you need?

DEB MINARDI: Well, it depends upon how long the list of priorities are. You know, like the-- and you heard Corey say, we have the data. It is possible. But if I have to choose-- as a probation administrator, if I have to choose to respond to you or respond to the university, I'm going to respond to you first. That's my priority. And so, when we have requests like that, we have to prioritize that in accordance with our limited staff and time.

BOSN: OK. Any other questions? Thank you for being here. Next opponent.

DENNIS MARKS: I'm not sure what time it is.

BOSN: It's 5:30, so you can say "good evening" officially.

DENNIS MARKS: Good evening, Senate [SIC] Chair, Senators. My name is Dennis Marks. I've been a public defender in Sarpy County representing exclusively juveniles in the juvenile, the adult, and the appellate level for 28 years. Think of me as the anti-Don Kleine, OK? So, I had an outline of things that I was going to talk about, but I'm-- Corey went a little off script; I'm going totally off script. I've had the opportunity to travel the country and attend different juvenile justice seminars. I've had the opportunity to present at these seminars. I've got a unique perspective in that I see what happens in the juvenile justice system in other states. I've seen their probation, I've sit in-- I've sat in on their court hearings, I've evaluated defense systems. We have a very good juvenile justice system here in the state of Nebraska. We have one of the best. And I would put our probation office against any other probation office in any other state. I think there, there was a constant training, education,

and there's really a system that is evolving constantly to evolve. Even now as we speak, they're implementing different assessments at the pre-sentence investigation level, based on science. The sky is not falling. It is working. Just like the adult system, we have a continuum of offenses that are committed; lesser offenses, serious offenses. And what we've really kind of focused on today is the serious and most violent offenses, which is roughly the 5%, what I would say the 5%. Nobody's talking about the other 95%, which indicates probation is working. Corey talked about that we have a 19% to 21% recidivism rate. That's the national average. We're at that. If you look at the Nebraska Crime Commission numbers, violent crime in Nebraska is down from '20 to 2023. I originally came here to talk about the RAI, which-- Senator DeBoer, you raised the question about that, but that's going to take more than a minute, so. But I will tell you this. There was a lot of time, effort and money spent in creating that device, the RAI is the risk assessment instrument which informs probation on the potential outcome for a detention that the judges also rely on in making a decision. There's been a lot of money and resources in retraining and training officers to implement that RAI, and right now, there's a process that's going on-- I believe it's with Ann Hobbs of the Juvenile Justice Initiative [SIC] at, at UNO-- to validate that instrument. There's a lot of states that don't have an instrument like this. This is probably going to be a prototype for many other states to utilize. Validation is--

BOSN: If you'll wrap it up, you're fine.

DENNIS MARKS: OK. Validation is important. It's significant because what it does is it gives credibility to that detention device. It gives reliability, and most importantly, it gives consistency. Because what we don't want is, we don't want justice or injustice by geography; you want the same result for a youth that is in North Platte under the same detention facts as a youth in Lincoln, as someone who's in Sarpy County. And you also want consistency within that district so that you get something from one judge and something different from another judge.

BOSN: Let's see if there's any questions from the committee. Are there any questions from the--

DENNIS MARKS: I'm going to go with "yeah."

BOSN: Senator DeBoer.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

DeBOER: Thank you. So, let's talk about the RAI for just a second. Was it not validated before? It's been used, but previously unvalidated?

DENNIS MARKS: No. There was a group that was formed many years ago that-- they looked at best practices, best evidence, looked around the country to see what was going on. The factors that are in that RAI, and, and I think you-- if you don't have a copy, you'll get a copy of, of [INAUDIBLE]. So, those factors in there are-- weren't in there accidentally. One of the factors, you know, you want to look at is when was the-- when was the first offense by the youth, because that's predictive of, of risk. So, every-- everything that's in there is based on potential risk to re-offend.

DeBOER: OK. But it was not validated-- up till this point, this is the first time you've done a validation of the RAI?

DENNIS MARKS: It's been going on for, I, I think a couple of years now. And it, it takes time, you know, because you've got to gather-- number one, you got to gather the data. Then you have to statisti-- and this is way above my head--

DeBOER: But I think I asked someone when they thought that this process would be completed. Do you have any sense of that? It's OK if you don't. I'll ask someone else.

DENNIS MARKS: No, I, I-- I don't, I don't think that there is a specific date certain that they're going to have this done. I, I, I did talk with Ms. Hobbs, but--

DeBOER: OK.

DENNIS MARKS: I know it's-- I know that it's a work in process. I know they've, they've, they've done a lot of work up to this point.

DeBOER: I will tell you that in the seven years that I've served on the committee, I think I have heard about the RAI in a negative light from law enforcement and from folks who are not knowing where to place juveniles for years. And so, you know, I think that is something that, even if it's validated, we're not going to-- we're not going to stop having bills about it. And we're a little off topic here, so I'm not going to belabor the point. But I do think that that is at the heart of a lot of the bills that come around juvenile justice issues-- oftentimes have to do with folks that are not happy with the instrument, don't think the instrument yields the kinds of results that they want, and so there might-- at some point, we're going to have to have a really serious conversation about that. I think we have

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

for years, but we're going to really-- after it's-- we figure out what the validation results are, we're going to have to have a real serious conversation about that one.

DENNIS MARKS: The, the RAI simply recommends, and then you have to utilize the statutory factors to determine, you know, the-- whether or not the-- you know, what the outcome is. But it, it-- it's-- it provides at least some guardrails. It's a, it's an objective device as opposed to a subjective device, which we had when I first started. And the subjectivity is what leads to arbitrary and capricious decisions.

DeBOER: And, and I absolutely agree that there needs to be an instrument. That part, I don't disagree about. I just know that there has been enough smoke in the time I'm here that I begin to suspect fire around that instrument.

DENNIS MARKS: Yeah.

DeBOER: Because it gets-- it comes before this committee a lot more than it should. So, you said that our juvenile justice system is one of the best-- you think it's a great system?

DENNIS MARKS: I do.

DeBOER: What explains, then, the at least perceived rise in juvenile violent crime in our state?

DENNIS MARKS: Well, number one, I disagree that there's been a rise. I-- actually, when I look at the numbers from the Nebraska Crime Commission, it's gone down. Nonetheless, I, I think what has come out is the amount of violent crime that has occurred these days is a lot different than what has occurred over the-- over time. I-- it's-- you know--

DeBOER: In that it's more violent?

DENNIS MARKS: It's more violent, yeah. And, and it's a more difficult youth to deal with.

DeBOER: So, I guess that was my question. So, we have some really good-- I, I agree that there are some really good aspects of our juvenile justice system, but I guess I would, would ask you to reflect for me on whether or not our system, as it's been developed over the years, is still responsive to the types of juveniles that we're seeing and if it can handle what might be more violent and perhaps more repeat offenders at a younger age of juvenile.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

DENNIS MARKS: No, and I, I, I-- again, it's, it's an evolving-- it's an evolving system, but it's also based on adolescent development. You know, so, on the outside looking in, if you haven't had any training in adolescent development-- and, and, and our probation office does, you know, for all our officers, does a significant amount of training and retraining and refresher training. They're, they're excellent at that. And when you look at things as you should in juvenile court matters through the lens of adolescent development, it should inform on how, how-- on how to go forward. There's a certain population, you know, where perhaps that ship has sailed, and then-- but we have procedures in place to handle them on the adult side.

DeBOER: OK.

BOSN: Any other questions? Are you done? Go ahead.

DeBOER: Sorry.

BOSN: Thought you were.

DeBOER: One more question about the RAI, because I was remembering this. That-- what I understand is that while that is a, an instrument that we use as a kind of a guideline, that it's not-- whatever it spits out is what should happen is not being done by probation about 50% of the time. Do you know anything about that? Since you're the one who kind of knows that instrument.

DENNIS MARKS: I, I-- no. In fact, you know, I think the override rate is roughly 20%, you know. So-- and, and that can be part of the problem with validating, is because you need to be-- you need to have fidelity to the model. And if you have too much override, then it skews the validation process.

DeBOER: How, how would I go about finding out what the, the override rate is? Because I know that I've heard over the years different numbers than 20%. And I, I would just really like to know what that number is. Is there--

DENNIS MARKS: Probation's--

DeBOER: Is there a way to ask that question, or find that out?

DENNIS MARKS: Probation's got that.

DeBOER: OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

DENNIS MARKS: They, they keep the statistics. They have, they have that knowledge.

DeBOER: OK.

DENNIS MARKS: They have those numbers.

DeBOER: OK. I will ask them. Thank you. Now I'm done.

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

DENNIS MARKS: Thank you.

BOSN: Next opponent. Welcome.

TAMI ROBINSON SOPER: Thank you. Good evening, Senator Bosn, and members of the committee. It was noon-- afternoon when I started, so. My name is Tami, Dr. Tami Robinson Soper-- that's T-a-m-i R-o-b-i-n-s-o-n S-o-p-e-r-- and I'm the policy advisor for Boys Town. I am here today to obviously testify in opposition, and I want to first just quickly say that Boys Town has served children and families across the country since 1917. And specifically in Nebraska, we serve children both from-- who have been-- do just-- I'm sorry-- involved in the juvenile justice system as well as child welfare system, so we're familiar with both ends of the system. A lot of conversation has been had about the changes that have occurred in the system over time. I will say that during our history as a child caring agency in Nebraska, we've witnessed-- as the responsibility for the intervention of these children, and we've been partners throughout that time-- has been, as Senator Wayne would say, the can has been kicked from agency to agency under the state's purview without-- with exception of-- I, I think there were some major initiatives in 2013 that were very specific to address-- they, they were evidence-based initiatives, but oftentimes it was just a moving of the structure to benefit the structure as opposed to looking at the research and what the research said would really have an impact on the lives of children that are in the system. And I, I think that's something that's missing in, in, in, in, in a lot of the planning that we're looking at right now. The question that has been asked several times is, "are we equipped to address the issues in the system?" One of the things that I will say is a result of the interventions and the, and the real system reform that began-- that we began looking at in 2013 is that we've been very successful at the diversion and early intervention programs. And as a result, yes, some of the acuity levels of the youth that we're seeing have changed. But the reality is we're getting children later in the system because

they're not coming out-of-home as soon; they're staying in homes sooner. We're able to meet parents and families with-- right where they are, and provide services to those children and families and keep them in their homes longer. But unfortunately, that means that those young children who will have a hard time getting the message and end up in out-of-home placement have had a longer period of time to hone their careers, if you will, and their behavior than some of the other kids. So, they're tougher kids. And we may not-- well, I'm not gonna say we may not-- we don't have a system that has the capacity overall to meet the needs and the numbers of young people who hit that acuity level, that, that need to have that higher level support. And that is one of the challenges we're facing. I think it's the major challenge that we're facing, and the reality is that until we get to a place where we as a system function like a, a, a group of people that understand that child welfare and adult corrections are bookends, and that if we don't invest our money and our resources, our energy, our attention, our accountability, all of those things on the front end-- when those children are early in that system-- we're talking abuse/neglect cases before they even hit IIIAs and, and end up, then, in the juvenile justice system and bigger, they're going to continue to graduate to those correctional systems, and we're going to continue to have to address those needs financially there. So, it's, it's addressing those issues on the front end. We oppose this because it's a shift of where the system is located, but it is not a system-- a, a, a shift of how we implement the system. That's the piece that we are concerned that is being missed, and, and we think it's time to take a look at how we address the needs of the children as opposed to just--

BOSN: I'm going to stop you there. Your red light's on, so.

TAMI ROBINSON SOPER: Yes.

BOSN: We're running out of time, and I'm--

TAMI ROBINSON SOPER: Yes. Got it.

BOSN: --losing my committee members here, so I'm going to start--

TAMI ROBINSON SOPER: Yes.

BOSN: --really firmly red light stopping you.

TAMI ROBINSON SOPER: Good for you.

BOSN: Senator Storer.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

STORER: I'm going to be very brief, but you made a comment I just want-- that caught my attention. You said that-- and if I-- I want to be sure I understood you right-- that you tend-- that you have a higher-- that kids are older than they were ten years ago. I don't know that you said a number, but you know. Before they get in the system, they're staying in their homes longer and that you feel that that's a success, because they're older when-- before they really end up in the-- those that do end up in the system. Is that right? Did I understand you right?

TAMI ROBINSON SOPER: So, I'll clarify: It's not their age that's more mature, it's-- it-- it's the level of behaviors; they've, they've had an opportunity to hone their skills. So, we're, we're dealing with children-- their behaviors, we're seeing at earlier ages. But they're intervening in families earlier, keeping them in their family system longer, and wrapping services around them at home. But by the time they get to us, they've already been through the diversion programs; they've already been in many of the programs that offer those front-end level, if you were, those lower-end types of interventions, evidence-based or not--

STORER: So, by the time they get to you,--

TAMI ROBINSON SOPER: They're--

STORER: --they're higher-level--

TAMI ROBINSON SOPER: --they may not be older, but-- yes.

STORER: Right. Their behaviors are more severe.

TAMI ROBINSON SOPER: Mm-hmm.

STORER: In my mind, that tells me that what we're doing is-- that there is a-- we do have a chasm there.

TAMI ROBINSON SOPER: There's a gap. Yes, absolutely. There is a gap in services that we need to invest in, and I think people have mentioned that, that there-- we are missing a, a level of service for children with higher acuity. The highest level of acuity, we used to send them out of state; we don't do that anymore. Rightfully so. Parents can't be a part of fixing this little problem, then. But we do need to look at how we're addressing the higher acuity level of youth.

STORER: All right. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

BOSN: Thank you for being here.

TAMI ROBINSON SOPER: Thank you.

BOSN: Next opponent. Jenn, I'm going to practice the three-minute light on you first.

JENNIFER HOULDEN: I'm good.

BOSN: OK.

JENNIFER HOULDEN: I talk fast.

BOSN: So you can set the stage for the new rule.

JENNIFER HOULDEN: Can I start now?

BOSN: She won't start your time until you finish spelling your name, just so you know.

JENNIFER HOULDEN: My name is Jennifer Houlden, J-e-n-n-i-f-e-r H-o-u-l-d-e-n. I'm the chief deputy of the juvenile division of the Lancaster County Public Defender's Office. So, I supervise the attorneys that represent kids charged with law violations in juvenile court in Lancaster County. I have a lot of answers to some numbers questions that have come up, and so I will provide them. Hopefully someone will ask me. But I want to hit a couple things that I think haven't been adequately addressed thus far. I think this committee needs to keep its eye on the purpose of this bill, and the difference between juvenile justice, our system, and youth committing crimes. It is true that law enforcement have been here sharing their concerns about these serious offenses by youth, but those offenses are not necessarily in the juvenile justice system, and I think it's important to recognize the difference between having an operating juvenile justice system-- which is the Juvenile Code in Nebraska that works to rehabilitate the youth of Nebraska-- as distinct from some minors who may commit crimes that end up in the criminal justice system. Our juvenile justice system needs to serve the entire state's youth; it should not be designed for the six worst examples that have ever happened in the past ten years. There are thousands of other children that deserve evidence-based appropriate interventions. We should not shape our system because of real experiences that are anecdotal outliers. I think that's incredibly important to distinguish, and when people are making assertions and telling personal stories, it's important to know that those are examples. But there is a wealth of data about the thousands of kids, how they have been impacted by the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

ongoing efforts of juvenile probation and the juvenile justice system overall, and I would say that it's working. And that's-- you know, I'm a criminal defense attorney, and I am happy to criticize a lot of different players, but I do really think it's working. I started in juvenile court in Lancaster County in 2007 before this, you know, 2013 thing that we've been talking about. But I do really think that it's important to make sure that this committee looks at juvenile justice for the whole state and doesn't drag the entire juvenile justice system based on concern for its most extreme. I will also specifically highlight the later section of this bill that moves-- it's on pages 35 and 36-- that moves the initial intake decision to the judge. I understand why that sounds good. I understand why that sounds good to law enforcement. I understand why law enforcement thinks that they should be able to decide, but that is an unworkable scheme in a court system.

BOSN: Questions for this testifier? Thank you very much, first of all. Senator McKinney.

McKINNEY: Thank you. Why is it an unwork-- an unworkable scheme?

JENNIFER HOULDEN: Well, it's an unworkable scheme because the judge is the judge. The judge is at the deciding end of the legal process. So, the parties have a right and a duty to present the issues. The initial intake decision right now is made by juvenile probation. That is an immediate, temporary decision that needs to go to the prosecutor. The prosecutor-- it has the role to institute legal actions in a court, and they have a right to decide whether or not they agree with the juvenile probation officer's intake decision and what they want to ask for. That's their right and their role in our legal process; they have a duty to assess whether or not a crime has occurred, because it's their burden to prove that. So, to go from the juvenile intake process-- which is at night, on the street-- to the judge skips the entire legal process. This conversation started a year ago in this committee about, "How does this really work? We're hearing concerns about it." It is simply not true that the judge does not decide the initial detention. The initial decision is made by probation, it goes to the prosecutor, and then the judge enters an order. That happens as fast as possible. But the parties-- who are part of the legal process, specifically the prosecutor-- their role is being skipped by moving that decision from probation to the judge. It's also a little contradictory to their entire idea of the rest of the bill to move that to the executive branch, because then how can juvenile probation directly communicate with the judge with no one else there? That is an ex parte communication, if you move probation into executive. So,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

these two sections don't coordinate, in my opinion. But I, I just think you need to realize that these judges are on the bench all day doing cases all day. They cannot be on call 24/7 to make initial-- those are, those are street-level decisions. They have an entire intake team in Douglas County in juvenile probation. That's all they do. The judges simply couldn't-- can't be responsible to go back into that phase of the process. It cuts out the prosecutor. I think it might be a little bit of a separation of powers issue. It also creates an absurd situation where the attorneys in the case-- is the judge a-- is a judge a witness now, or is-- are we arguing with the judge about their initial decision? It just brings them back earlier in the process in a way that does not match our legal process. It's also, as a practical matter, impossible for our judges to be on call 24/7 and then continue on with all of their work. So, I think that that does need some attention.

McKINNEY: Thank you.

BOSN: I guess I'd push back a little. I assume you were here-- because I know you were here--

JENNIFER HOULDEN: Yeah.

BOSN: --when Mr. Steel testified and said they're aware and planning to implement that portion of this bill?

JENNIFER HOULDEN: Yeah.

BOSN: And county court judges issue warrants 24/7.

JENNIFER HOULDEN: Well, they usually-- and I know that you know, as a prosecutor, that probable, probable cause affidavits are brought to them. It's typically, as I understand to be, after the initial detention has been executed, after the arrest has been executed.

BOSN: Right.

JENNIFER HOULDEN: On a criminal side.

BOSN: So, I think that's what they're implying would be taking place here, is they're detaining them, then the judge makes the decision are we going to continue detaining this youth, or is there a less restrictive placement that's available? Because the concern is that that shouldn't be a decision made by a probation officer who isn't an elected official accountable to the public to the same extent that someone like law enforcement or a judge is. So, I guess that's what I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

heard Mr. Steel to imply with his statement of we know that's coming, we're-- we've been preparing for that for about a year.

JENNIFER HOULDEN: I, I under-- I understand that argument, but I don't believe that that's necessarily what the statute says. It says that the information goes to the judge. It doesn't say, like now, the initial detention is executed by probation. It says they make a recommendation, they forward the information to the judge, the judge has to consult with probation and then determine the need for detention. So, the way this reads to me-- which certainly is debatable-- is that that initial detention decision, which is now being executed by probation at 2 a.m., is being-- that decision is made by the judge at 2 a.m.

BOSN: Yeah, I think that's what judges do in county court and district court, when they have those decisions that have to be made at 2 a.m. I mean-- right?

JENNIFER HOULDEN: Well, I think they're very different, statutorily. I'm aware that the judges sign warrants at 8 a.m. on Saturday. I've never heard about a judge at all hours of the night being called by individual cops.

BOSN: OK.

JENNIFER HOULDEN: So. I mean, those-- I, I get that corollary, but certainly I think that section can be interpreted as requiring that initial decision to go to the judge. It also is problematic, I would suggest, that, that-- I think that this body makes the laws, and I do not think that statutes should be written where laws governing detention are referred to, and then the judges does not have to be bound by the factors. I think that's problematic to include that in a law as well. That's that last section of that, that the judge has to look at it but not follow it. So to me, that's a, that's an inappropriate sort of way to write a law, to say we've set this standard, but you don't have to follow it. So, I think that section is definitely worth looking at in particular. I did provide, just so you know, the-- an RAI as well as the intake documents. We've been talking about them for at least a year now; I wanted everyone to see them. I don't have a question, but if I could just say one thing, that I think that there's a lot of things that can be worked on. The RAA [SIC] can be adjusted; resources can be moved; the law can be changed to facilitate communication. I think the concerns are real, but I think the solution is sort of a heavy-handed one-off, as if all of the answers just reside in the executive branch, and I certainly would ask

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

you to consider that and consider to thoughtfully listen to the critiques. And then, as a body, you could identify what can be done more specifically.

BOSN: Thank you. Thank you for being here.

JENNIFER HOULDEN: OK.

BOSN: Next opponent.

NICK JULIANO: Good evening. I wasn't sure I was going to say that; I was hoping for "good afternoon." Chair Bosn, Judiciary Committee, I will keep my comments brief. You have the details in my testimony. My name is Nick Juliano, N-i-c-k J-u-l-i-a-n-o, and I'm president and CEO of RADIUS. RADIUS is a program specifically designed and has been serving the very young people that we are talking about here today to address a gap in our system and a need for placement. We are not the only solution. We are not a large enough solution for the entire system, but we're a very important solution that gets at the very things that we're talking about today. And in serving higher-risk youth, we take community safety very, very seriously, and have great respect for law enforcement, victims, our judges, and work closely with them. Today has been all about, as I listened, community safety. This bill does not provide a mechanism to increase community safety. It creates an administrative choice to move a branch. It will also create unnecessary disruption to the system. This is my 30th year, so I have been a participant in child welfare reform, LB561. Contracts and vouchers, if we want to have a off-line conversation about those. All of the pieces. When our system changes, there's disruption; youth and families are impacted. Case processing, access to services. More importantly, though, with this proposed change, it would halt a lot of the progress that's been made-- and I've detailed the national models and experts that are operating in Nebraska-- the progress that's being made, RADIUS is a product of that type of visionary leadership by our state and the judicial branch to look at evidence-based practices and how our youth and, and needs and risks and safety is changing, and to bring online new programs. Am I happy with my rates? I am not. Do I like the voucher system? I do not. But we are committed to partnering with probation to work through those things. As been said, our system is not perfect; we are making progress; we need to continue to work on that progress. Simply moving from one branch to another would not accelerate that process, so. Thank you for your time. Glad to take any questions you have.

BOSN: Any questions for this testifier? Senator Storer.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

STORER: Thank you, Chairman Bosn, and thank you for your testimony. Just-- I know we'd visited earlier, a few weeks ago, about your facility and--

NICK JULIANO: Yeah.

STORER: --and I'm intrigued by that. How again-- and you explained it to me, I think, before, but how, how are you funded at RADIUS?

NICK JULIANO: So, we are-- we use the probation vouchers so we have funding for our residential program. It's called restore residential services in the probation service description world. We do intensive family work with the families from day one through their stay until they return home, so we provide vouchers and get reimbursement for that in-home work with probation. And then, we have an interim program school. So, we have Nebraska Department of Education funding because all the youth are Nebraska residents.

STORER: So, you-- part of your-- I did not-- I don't know if I realized that. So, part of your work at RADIUS is in-home, and then part of it is residential?

NICK JULIANO: Correct. It's-- yes. So, they live with us. We work intensively with their families while they're with us and while they're transitioning home. And after their transition, they attend our school, and then we have a unique partnership with Charles Drew Health Center. As we've talked about, all of the mental health and substance use treatment needs and physical health needs-- that's in a separate building on our campus right next door, so the youth and families can, can receive all that.

STORER: And it's not-- if I recall correctly, it's not a secure facility. I mean, it's an open campus.

NICK JULIANO: It is not a secure facility. It has secure features. There is one door with a delayed egress mechanism, and so, youth are actually able to leave, and that has been a conversation in our community about that and community safety. That's an intentional design feature, because if you talk to the youth that live at RADIUS and talk-- ask them about their week, they will spend hours and hours and hours outside the building, going to apply for jobs, going to an appointment, visiting their family, doing community service. On weekends-- in fact, I just got the email this weekend, 6 of our 14 young man will have court-approved home visits, so will-- they'll be home this weekend. And so, while they're with us and we create a, a, a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

safe and as secure as possible location, we're not a locked facility because ultimately, for them to be successful, they have to be able to function back in the community. Part of that is not having more live-- law violations, not having more safety concerns.

STORER: Do they ever run?

NICK JULIANO: Sorry?

STORER: Do they ever run?

NICK JULIANO: Yes, they do. They run from every placement in Omaha, including ours. They run from their parents' home, they run from their schools. In fact, in Omaha, there's a missing youth task force at Project Harmony that looks at all of the non-system-involved youth. So, that running behavior, that elopement, that is, that is a community concern, for sure.

STORER: And, and-- with the experience that you have-- and I know there's not an easy answer to this,--

NICK JULIANO: Yeah.

STORER: --but is there a-- is there an appropriate time or a system that would help address, when it is in the best interest of the youth, that they not be in an open campus?

NICK JULIANO: Absolutely. So, as we talk about our system and our state and our individual communities, there needs to be a continuum of services, as Deb Minardi and others said, as there are new safety risks. Youth needs change, family situations change, that continuum needs to grow and adapt. It never has all the gaps filled. We have gaps in our continuum right now. So, there may be a need for a secure treatment facility, there may be a need for other kinds of programs. The important part of that, though, is that when we explore that, we do all the data and understand the needs of the youth and families, and we understand the community safety issues and the types of crime, and we go to the research then to match, to say we have this group of young people were very concerned about, the existing programs aren't working, they're not safe, here's what the research says you need for that, and that goes back to Doctor Reay's concern about commoditization. You need the, the right program to match the youth; it's not just the one that's available, if that makes sense.

STORER: And one-- and not to-- I don't want to cut you off, but just in the essence of time is-- just so I understand, are you-- is your

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

facility part of that evaluation for their need, or is that-- are they coming to you with that recommendation from probation officers, from the judge? I mean, how-- when you receive them, obviously, somebody has to approve that your facility is an appropriate place--

NICK JULIANO: Yes.

STORER: --for this particular juvenile, right?

NICK JULIANO: Great question. Yes, so they are all on probation in Douglas County, they're all in the juvenile court. Before they even are referred to us, they have been assessed by probation. If needed, other assessors to look at mental health needs, substance use needs; their risk is evaluated, and the judge has determined that they're appropriate to go to a placement like ours, which is not secured in the community. Then, an application is made-- and we do have the ability to, to deny a youth if we feel that we don't have the program to meet their needs.

STORER: Do you have the ability to, after having them there, make a recommendation that's-- that probation is receptive to, if you, if you see behaviors that you believe are putting them at risk-- the juvenile at risk?

NICK JULIANO: They have-- yes, probation is absolutely receptive to that, and we have that ability. We've not had to use that very much because we do a lot of work on the front end to make sure-- send us the referrals that match what our skills and expertise are, and that can help those youth. But there, there is definitely a, a, a close relationship there with probation and with the courts. But to get to us, there's been a lot of eyes on those youth and their needs, including a county attorney and agreement that they're eligible to go to a place like ours. And sometimes they'll say they can't go to a place like yours, they need to be in a locked facility, and, and that could be one of our system gaps right now, because--

STORER: I'm not trying to put you on the spot, but if you-- generally, what percentage of kids that run are re-committing crimes, or committing crimes as part of [INAUDIBLE]

NICK JULIANO: So, that's a great question. I don't have the exact data on that. What I can tell you is--

STORER: Just generally. Like, a-- 10%, 20%, 50%?

NICK JULIANO: I don't know the exact number. Here's what I will tell you. There are youth who have run from RADIUS, and they have serious law violations, and they have been detained; there are youth who have run from RADIUS, which in itself is a violation of a court order and not had those serious violations. In terms of those specific percentages, I don't have those because I don't always know what happens when they leave us, if that makes sense.

STORER: So, once they run-- and I'm just trying to get my head wrapped around sort of-- and, and, and I can understand, generally, your system, because I taught in some [INAUDIBLE]

NICK JULIANO: Yes.

STORER: So, once they run, is that-- are they-- how often are they allowed to come back and try again? I mean, is, is running sort of a violation of probation that means they are now subject to a new court order?

NICK JULIANO: Great question. So, the second they walk out the door, that is a violation of their court order,--

STORER: Right.

NICK JULIANO: --because they are court-ordered to stay there, and only to be out in the community supervised by us or on approved home visits. So, when that happens, we immediately notify law enforcement, and we notify probation, and all of the parties are immediately looking for them to get them to a safe place, find out where they are, of course, make sure they're not engaging in, in other safety concerns in the community.

STORER: But do they-- is coming back to your facility an option? It's that--

NICK JULIANO: It is. It's on a case-by-case basis. So, we'll consider how long you've been gone and what you've done when you're out. So, back to your other example, if you run from RADIUS and you have an immediate serious law violation, you're doing harm in the community, you're carrying a weapon, you will not come back to RADIUS. If you leave RADIUS and you go home, you hang out in the neighborhood, you're, you're unsupervised in those things, and then picked up by law enforcement, we gather that information, understand what was the nature of, of their activities while they were gone, and then we would say to probation they would be eligible to come back or not. Ultimately, the decision in those cases, though, is the judge's.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

STORER: But you can deny them as well?

NICK JULIANO: Yes, we can say, "You know what? They're not eligible to come back." There's a little wrinkle in there, because we have to give a 14-day notice if we terminate a youth. So, there are some times that a youth is picked up and we say they're not eligible to come back. They do come back to our facility for up to 14 days, because the court and probation need time to figure out the next placement. And so, that's part of our provider agreement which, which we follow. So, in that case, we have specialized supervision in the facility to make sure that they're safe. We can do what we need to do for that week or two weeks until the, the court has another placement or decides what they're going to do.

STORER: OK. Thank you.

NICK JULIANO: Yes.

DeBOER: Thank you, Senator Storer. Are there other questions for this testifier? Thank you for being here.

NICK JULIANO: Thank you.

DeBOER: Take our next opponent. Welcome.

TIM HRUZA: Good evening, Vice Chair DeBoer, and members of the Judiciary Committee. My name is Tim Hruza, last name's spelled H-r-u-z-a, appearing today on behalf of the Nebraska State Bar Association in opposition to LB684. I have abbreviated my comments here for you tonight, but you have a copy of our full letter. LB684 brings to light an important discussion about the best structure for management of the rehabilitation services provided to juveniles of our juvenile justice system. And although there are undoubtedly issues that arise in any administrative endeavor, juvenile probation and its operation and outcomes with respect to the juveniles rehabilitated through the system have improved as a result of the transition from the executive to the judicial branch in 2013. It is our belief that concerns about the current system would be best addressed with legislation more narrowly tailored toward those items rather than through the approach taken in LB684 to completely rebuild it. It has been just over ten years since the Legislature decided to transition management of juvenile probation from the executive branch to the judicial branch, and in that time, the administrative arm of Nebraska's judicial system has worked to ensure that juvenile services aimed toward rehabilitation and beneficial outcomes sit at the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

forefront of everything that it does. A hasty change in the system now runs the risk of causing ripple effects throughout the juvenile justice system that may lead to worse outcomes for the kids and families who find themselves navigating it. It is for that reason, with an eye toward the impact on outcomes, if drastic changes are made without due consideration, that the NSBA opposes this legislation. My letter continues to highlight a couple of things that we believe are strengths. One, numbers that you have heard from other testifiers today about reductions in recidivism and those sorts of things, along with the stability in the system and direction that we did not see prior to the transition from OJS to the courts. With that, I'll close my comments in this late hour, and I'll be happy to answer any questions you might have. Let me also say we have spoken to Senator Bostar; I've had good conversations with him, and I, I thank him for his back-and-forth over the last week or so. Thank you.

DeBOER: All right. Are there questions from-- Senator Holdcroft.

HOLDCROFT: Thank you, Vice Chair DeBoer. So, why is the bar taking the position on this at all? I mean, are you going to-- are you not going to continue to do the same job you're doing now, if it goes to the executive?

TIM HRUZA: I think that's a good question, Senator. I've, I've had several discussions with tons of attorneys across the board. I, I think it's fair to say we did not take a position on the transition in 2013, the bar association did not appear in anything, and you can-- I went back and read that record the other day, just to make clear. I think that as I've talked to lawyers and judges over the last ten years, we have found that there are benefits to having probation in-- on the court side. Some of that, you've heard other testifiers talk about today, in terms of the probation officers and the work with judges and the value that judges see in it. But I think, too, what you hear from lawyers, particularly when I talk to them, is that certain outcomes-- and, and again, I don't want to say that the system's without faults, and I think that's what I want to highlight in the, the opening portion of our comments today-- is that there are probably some gaps and some things that we should address from a policy standpoint, but from a management and administrative standpoint, we think that there are certain strengths and benefits that have been seen since the transition took place. Instability or upending the system is the biggest concern; starting anew rather than making changes to the benefit is our concern.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

HOLDCROFT: So, walk me through this again. I mean, how does the bar decide that they wanted to take a position on this particular bill? And then how did they decide that they were going to come in opposition?

TIM HRUZA: So, we, we have a legislative committee that is comprised of about 50 attorneys that review all of the bills that, that we flag that are introduced. This particular one dealing with the court system and the juvenile justice system probably-- we-- our firm selects, identifies those bills, and then submits them or circulates them to that committee. That committee has several meetings. I think we met for-- probably in total, discussing all bills-- well over 10 to 12 hours where that committee discussed those bills. This bill was one that that committee recommends a position; that position, then, is taken to the next step, which is the Executive Council or the leadership of the bar, discusses all the recommended positions. The position on this bill was opposition from the beginning. That discussion was had at the Executive Council level. The Executive Council agreed with that position from the legislative committee, and then that position is forwarded to what we call our House of Delegates, which is, is an elected body of attorneys; it's elected-- they run for to represent different districts. That body meets and discusses all of the bills that a position is recommended on, and a position is taken after a vote of the House.

HOLDCROFT: So, you can assure me that the bar didn't take a position here just because it would be against the, the courts.

TIM HRUZA: I can assure you that, that we had several levels of votes in discussion, with a total of well over 100 different attorneys before coming to a position, yeah.

HOLDCROFT: OK. Thank you.

DeBOER: Thank you, Senator Holdcroft. Other questions for this testifier? Thank you for being here.

TIM HRUZA: Thank you.

DeBOER: Next opponent. Anyone else like to testify against this bill? Going once, twice. Neutral testifiers.

HOLDCROFT: Aaron, what is that on your face, man?

AARON HANSON: Madam Vice Chair and members of the committee, thank you very much. My name is Aaron Hanson. I'm the Sheriff of Douglas County,

and although I'm the last speaker, I promise I'll be the first speaker to respect your red light. I'm here today to testify in a neutral capacity, and there's a very intentional reason why. I'm committed to staying at the table with the leadership of probation. It was about a year ago, as things were becoming very dire, the former probation administrator, Deb Minardi, approached me, and we started to have productive dialogue. Since that time, we've had a new Chief Justice appointed. We have a new probation administrator. The dialogue is continuing, and the dialogue is becoming more and more honest. Because the honest answer is two things can be true at one time. Juvenile justice reform has been good for that 80% of kids that are low-risk. It's true. It has been an ultimate disaster for high-risk kids. Disastrous in so many ways-- the duration that they can be supervised; the means that they can be supervised; the fact that we have no secure placement options-- disastrous for high-risk kids. And anyone in the industry-- and you've heard a lot of truth, more truth than we've heard in a long time-- will tell you that it is not working for high-risk kids. How do I know? I was in the gang unit in 2015. That was my first assignment in the gang unit. We had a fantastic relationship with probation at that time. Hand-in-glove. Great outcomes. Taking high-risk kids off the street, keeping them off the street, trying to give them the services they need. Sometime around 2017, things changed radically. A lot of external forces, well-funded, came into play; put a lot of pressure, both publicly and privately, on our partners. And the relationship turned toxic because it lacked trust, transparency, teamwork, and truth. And we're getting back to those things now. And why is truth so important? Because the judicial branch can only administer what the legislative branch tells them to administer. But if you don't know if it's not working, if they sit like the watcher and don't say anything, if they don't communicate it back, then you don't know how to fix it for the high-risk kids. That's why I'm committed to staying at the table with my partners in probation, regardless of which direction this goes, because we have to fix it. Because again, we've talked a lot about crime stats, juvenile crime stats-- I'm on the crime commission; trust me, I'm going to do the deep dive. I wouldn't be surprised if juvenile crime has declined, but I can tell you this: in 2017, we had two kids in Douglas County that committed five or more unique felony offenses. In 2023, it was 52. And that's only in Douglas County, and that doesn't count the kids who committed four and three and two. I'll answer any questions that you might have, but I'm proud to partner with probation to fix this, because we have to fix it for these high-risk kids.

BOSN: Senator McKinney.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

McKINNEY: Thank you. Thank you, Sheriff Hanson. What external forces messed up the system?

AARON HANSON: Well-funded nonprofit groups that were well-intended but naive that this was not going to be a one-size-fits-all approach to fixing juvenile justice. They were right when it came to low-risk kids and need-- the need to not lock up low-risk kids, but they were completely off the mark when it came to the new Nebraska policy of catch-and-release and revolving door on high-risk kids, which sent them out to become more traumatized, traumatize more people, hurt innocent people, and engage in more serious crimes that in many cases cost them the rest of their adult lives in a, in an adult prison. Or maybe their life, in terms of a homicide.

McKINNEY: Oh. Thank you. Besides locking them up, what other interventions or services do you think the high-risk kids-- kids need?

AARON HANSON: We need a psychiatric residential treatment facility in Nebraska specifically for the system-involved teens. Period. Boys Town has one; it's great. Immanuel has one; it's great. But they're for kids with insurance or kids in their really low teens. And ask them, and they'll tell you we need infrastructure specifically for these traumatized, system-involved youth that is secure, that will help, help give them the psychiatric and therapeutic needs that they need to start to even get close to being on the road to healthy and productive. And secondly, we do need secure placement options. We are so behind the ball in Nebraska. I just had a conference call with someone that operates on the national level in juvenile placement. We're not the only ones struggling with these high-risk kids, but we are very much behind the curve in that our state laws and our administrative rules do not allow for secure placement in Nebraska beyond detention and a PRTF. And that's wrong, and it's costing kids their future, innocent people their lives, and it is making our community less safe.

McKINNEY: What is UNMC building? I saw they were building, like, a mental health facility for youth. What is that?

AARON HANSON: I believe that's Children's--

McKINNEY: OK.

AARON HANSON: --and that's great. And I, I think-- I hope-- if my memory's correct, it's about an 85-bed capacity. But I'll tell you, Senator, as soon as that opens, it's going to be full to the brim,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

because I'm assuming they're going to accommodate-- I mean, I don't think a day goes by in my overnight briefings in my agency that I don't hear about a mental crisis occurring to an adult or a juvenile. And so, as soon as that 85-bed facility opens up at Children's, I guarantee you it's, it's going to be full. And most of those kids are going to be kids with insurance. We specifically need a PRTF for system-involved teens. One of the mothers that testified here today, I know her story. The court ordered her daughter to a PRTF to Boys Town because she needed the psychiatric care. But because she had insurance, they charged her insurance, and she walked away with a \$300,000 bill.

BOSN: Oh.

AARON HANSON: For a 45-day stay.

McKINNEY: Well. I guess-- my last question. Douglas County did build a facility that's not being utilized. Has there been, been conversations about what to do with that?

AARON HANSON: The conundrum with the new Juvenile Justice Center goes back to the well-funded, well-intended-but-naive external forces. The intent was to reduce juvenile detention by reducing juvenile detention capabilities. And so, if we opened it without closing the existing DCYC, I believe the cost-- the estimates were it'd be anywhere from \$5-7 million an additional year in additional operating costs to run two facilities. But if we closed DCYC and opened up the, the, the new facility, we've had a, an average capacity in Douglas County Youth Center lately in the low to mid 90s. Day one, it would be too small. The constant theme I hear from judges, service providers-- they don't know where to put these high-risk kids. They get grief for keeping them in detention, but they're terrified to put them out in the community because we don't have secure placement options where they can't just run and re-offend, and hopefully get their head on straight so they can go to RADIUS and have a chance of actually straightening out and transitioning out into a regular life.

McKINNEY: Thank you.

BOSN: Senator DeBoer.

DeBOER: Thank you. I really only have one question for you. You said that the, the changes that we've made to juvenile justice have worked great for-- I can't remember percentage--

AARON HANSON: Low-risk kids. The majority.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

DeBOER: But-- some, some big percentage of low-risk kids. But it's really bad for the high-risk kids, is I think what you said.

AARON HANSON: Catastrophic.

DeBOER: OK. Couldn't remember the exact word.

AARON HANSON: Yeah.

DeBOER: How do we separate those two populations? What is the-- what is the-- is there a mechanism to do that?

AARON HANSON: That will require, as I said earlier-- we have to engage all the subject-matter experts. One of the most important players are my teammates sitting behind me. My peers in the judicial branch. But they need to be empowered to speak on all of these issues; policy issues, their experience. We need their input to solve this.

DeBOER: So, let me ask you. I didn't hear what you said. You said who, sitting behind you?

AARON HANSON: The judicial branch. Probation administration.

DeBOER: OK.

AARON HANSON: We've heard a lot of uncomfortable truths today. There's a lot more to be told. The challenge is, is-- although it is small in numbers, it is huge in scope. Because I know we'd heard someone saying earlier, well, 95% of these kids are fine, it's the 5%. That 5% is terrifying. That 5% is killing our loved ones and killing themselves.

DeBOER: So, how-- so, you think that as the Legislature, we're tasked with figuring out how to separate those two populations?

AARON HANSON: Correct.

DeBOER: Or else we're going to have a one-size-fits-all kind of a situation.

AARON HANSON: Correct.

DeBOER: So, I know that there's that instrument, the RAI, that they use to figure out whether to [INAUDIBLE] people, and they, they assess them as high-risk or low-risk. Do you think that that is the same high-risk/ low-risk that you're mapping, or is there a difference?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

AARON HANSON: I, I don't trust-- look, I think instruments are OK, as a, as a guide. OK? But let me give an example of how the instrument royally messed up here recently. We had a carjacking in unincorporated Douglas County. A group of juveniles carjacked an innocent woman. Omaha police found them, got in a short chase, arrested the occupants in the vehicle. But because we couldn't prove which one of the kids carjacked the lady, all we had was a felony theft by receiving charge.

DeBOER: A--

AARON HANSON: Theft by receiving. The instrument looked at it and said "property crime," and intake released them within hours. The instrument is fallible. The human element is what we need. We need everybody engaged and thinking clearly.

DeBOER: Wouldn't the instrument provide that information, but then that would be a pretty good example of when an override might come into play? Because obviously, there's extenuating circumstances to the classification of a, a property crime in that instance.

AARON HANSON: I would agree, and I would hope an override would happen in that case. In the example I gave, it did not. And so, we need to bulletproof against those scenarios the best we can.

DeBOER: And so, does that look like-- it sounds like the instrument didn't fail because the-- it should have been an override in that situation. So, does that look like better training for those officers who are doing the evaluation of the instrument? Or what-- or was there not a place to send those kids? Let's say they had said, OK, we're going to override and we're going to keep the kids, where do they send the kids? Is there a place that could receive them?

AARON HANSON: We had a place to receive them. DCYC is 134, capacity 144 if you, if you use additional bunk space and cell space that we have. We had more than enough capacity to keep them.

DeBOER: So, that wasn't the--

AARON HANSON: It wasn't an issue of capacity in DCYC.

DeBOER: It was--

AARON HANSON: In my opinion, it was a failure of the intake system.

DeBOER: So, whoever was evaluating the results of the instrument should have overridden it in that case, because of--

AARON HANSON: It-- in my opinion, yes, but that goes back to what Mr. Steel talked about. Having that problem-solving, that multiple-eyes approach when it comes to these high-risk kids. I don't care about a kid that steals a Snickers from Target. I'm less concerned about a kid who commits a low-level crime.

DeBOER: So, does that mean-- the multiple-eyes, is that more probation officers? Is that more--

AARON HANSON: More collaboration, more communication, more trust. And I, and I feel like we're, we're trending back in that direction. 6 to 8 months ago, I'd have been here testifying as a proponent for this bill, probably first in line. Today, I'm testifying neutral because I want to give my peers a chance to continue to work through this process with me and others to adjust what they can control, number one. And number two, champion what they can't to you, so that you can fix what you can control.

DeBOER: Well, and that's kind of what I'm trying to get at right now, is because obviously, we can only-- you know, a legislative body can only put bills through at certain times of the year. We have to-- we have a lag effect.

AARON HANSON: Yep.

DeBOER: And I've heard a lot about this for a long time. So, that's what I'm trying to get out. If, if what the issue is-- it's not the 80% or whatever, the kids that are low-risk or even maybe medium-risk; it's that remainder that is the high-risk. And we don't seem to be sorting those well right now. Would you agree with that statement?

AARON HANSON: The system is designed for the low-risk kids right now.

DeBOER: And it doesn't seem to be sorting out or, or showing who is the high-risk kids? Or is that not true?

AARON HANSON: I think the system knows the high--risk kids, but we have no infrastructure, capability, or statutes to effectively manage, control, and rehabilitate the high-risk kids.

DeBOER: So, it's not that we can't sort them out. We can identify who those kids are.

AARON HANSON: Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

DeBOER: It's that we don't have the statutes in place to allow probation to effectuate that sorting.

AARON HANSON: Or the infrastructure, or the administrative rules and state laws that allow for third parties to maintain infrastructure that is appropriate for high-risk kids if they're not going to be in detention, i.e., secure.

DeBOER: OK.

AARON HANSON: There are still people that hear the words "secure placement" and immediately go into emotional mode and say, well, that means detention. No, it doesn't. And that is the progression around the country. If you don't want high-risk kids in detention, and if you know they're too unsafe to go home, you have to find that connector piece that is a secure therapeutic placement option--

DeBOER: And--

AARON HANSON: --until you can get them to a RADIUS.

DeBOER: So, when you're saying "secure"-- because we've talked about this before as a committee-- do you mean staff secure?

AARON HANSON: Nope.

DeBOER: You mean locked.

AARON HANSON: Locked. Correct.

DeBOER: OK. I think I know your position now. Thank you.

BOSN: Thank you for being here.

AARON HANSON: Thank you.

BOSN: Next neutral testifier.

PATRICK CONDON: And hopefully, maybe I will be the last one for, for you on this one. Good aft--

BOSN: Welcome.

PATRICK CONDON: Good afternoon, Chairman Bosn, members of the Judiciary Committee. My name is Patrick Condon, P-a-t-r-i-c-k C-o-n-d-o-n. I have been the Lancaster County Attorney for the past seven years, and a prosecutor in that office for over 30 years. I'm

here today testifying in a neutral capacity on LB684. As Lancaster County Attorney, I've worked to ensure the best outcomes for juveniles involved in the justice system, balancing their needs, the impact on crime victims, and community safety. My office collaborates with the Lancaster County Human Service Office to use validated risk assessment in screening juveniles, tailoring interventions to reduce recidivisms; options include warning letters, diversion programs, or involvement with the juvenile court and juvenile probation. For more than five years, my office, the Lincoln Police Department, the Lancaster County Sheriff's Office, juvenile diversion, and our detention center have partnered with the University of Nebraska on groundbreaking research to track the experience of youths involved in our juvenile justice system. But one major stakeholder not at the table throughout this project has been the juvenile probation office. Our request to partner on research into the efficacy of our court-involved use intervention have been declined. If we were able to work with the juvenile probation and combine their data into our jurisdiction's research, it could provide powerful insight on the most effective interventions; when to utilize in-home services versus out-of-home placement, and appropriate utilization of detention. What we have heard from probation is that is information that is the judges', and the judges have to give permission to have that released, and they don't give that permission. So, perhaps that's something that this-- with this bill or in collaboration or conjunction with this bill to direct the probation to share that information, to have the judges share that information and release that information. I think that would be helpful. In regards to what we've heard as a risk-assessment tool that is being used, I think, Vice Chair DeBoer, you are correct; I think it has been an ongoing issue, and we have seen where that is probably about 50% overridden. And last, since my time is short here, the stakehold-- I had a stakeholder meeting with the judges and stakeholders in our program. The judges told us they would not share the data from GPS and other things because they felt a search warrant was necessary, and one judge even told probation they were not to give law enforcement any of that information. So, I think there, there, there has to be some look at this from everyone's view. The judicial-- to, to share that information-- I think that information can be shared in a safe manner. It is not-- it is an ongoing-- because we do not think it, it should be just a snapshot in time, but a, a continuing look at this information for the, for the juvenile and the best programming for them.

BOSN: Questions for this testifier? I, I guess I just-- while Senator DeBoer's trying to think of her question-- so, you heard the questions

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

I was asking of Ms. Minardi and also Judge Heideman about the GPS monitor. So, if I understood you correctly, you were basically told "You can ask; the answer is going to be no, so you didn't ask."

PATRICK CONDON: Correct.

BOSN: Are you willing to pick some good cases to ask and then report back to us on whether or not that's granted?

PATRICK CONDON: Absolutely.

BOSN: Because I'd like to know the answer.

PATRICK CONDON: Absolutely. And one of the cases in particular that I was going to share was a victim of a rape who was also on probation at the time. And we tried to get that information, and they would not turn that information over to us. And that was the victim of the rape-- not the perpetrator, but the victim of the rape-- and they would not turn over the GPS information to us or to law enforcement.

BOSN: Well, I look forward to hearing from you on that. Did you think of your question?

DeBOER: My question was her question, so I have no question.

BOSN: Senator Storer.

STORER: So, I'm going to-- my question is going to come from, you know-- probably make it obvious that I've only been here a few months. But on that note, so if our, if our statute is clear that that's-- so the statute is clear that it is an option that, that can be requested and the judge can grant that.

PATRICK CONDON: Correct.

STORER: They're just not. Is that what I'm understanding?

PATRICK CONDON: At least in Lancaster County, I can speak for Lancaster County. At a stakeholder meeting, the judges said they thought a search warrant was necessary to obtain that information. They didn't say the-- you know, that a search warrant wouldn't get it, but that's-- they would not give that information up without a search warrant.

STORER: So they're interpreting the statute differently.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

PATRICK CONDON: I think they're, they're interpreting the statute as "this is our information and we decide what happens with it."

STORER: OK.

PATRICK CONDON: Regardless if we ask or not. But if another court tells them via a search warrant-- which is a court order-- saying "You need to turn this over," they would turn it over. But a search warrant generally is used when you are looking for evidence of a crime and not running a study which-- what we're trying to do in our, in our collaboration with UNL and the other partners.

STORER: And I don't know that anybody in, in this committee today was part of the decision on that language in LB50, but I-- it's my understanding that the intent was not that it require a search warrant, but that it just be information that a judge could decide to give law enforcement.

PATRICK CONDON: I believe that's-- that was the intent.

STORER: OK. Thank you.

BOSN: Thank you for being here.

PATRICK CONDON: Thank you.

BOSN: Any other neutral testifiers? Welcome.

KATIE NUNGESSER: Welcome. Do not let my paper scare you, I'm going to be the shortest person today, hopefully. Thank you, Chairperson Bosn and members of the Judiciary Committee. I'm Katie Nungesser, spelled K-a-t-i-e N-u-n-g-e-s-s-e-r, and I'm here today representing Voices for Children in Nebraska. I'd have to say I rewrote my testimony five times in these five hours, but I am just going to stick to that we are going to do follow-up. There's some really-- this was a heavy day. There's some heavy bills headed your way with juveniles, and we just-- we don't want to invalidate experiences of the proponents, but we want to get back to being grounded in some of that policy. And so, we'll be having some conversations, and our-- Senator Bostar kindly mentioned our Kids Count Report; there's new-- newer data from whatever-- what even he presented. That is being released here shortly, so you will all get an invitation to that release and we'll make sure to get that in your hands. And that is all I have to say tonight.

BOSN: Thank you very much for being here. Any questions? Thank-- ope. Senator Storm.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

STORM: I got one question for you. Thank you. So, Voices for Children, is-- that's a nonprofit?

KATIE NUNGESSER: Yes.

STORM: OK. Where do you get your funding at?

KATIE NUNGESSER: Our funding is a mix of grants and philan-- I can't say the words. Grants and then donors.

STORM: OK.

KATIE NUNGESSER: Yes. But we're a nonpartisan group that really tries to stay grounded in the data, the research, and community engagement.

STORM: So, are you based out of Nebraska?

KATIE NUNGESSER: Yes, we are in Nebraska. We are all Nebraska. We are not part of a national group.

STORM: OK. Thanks.

BOSN: Thank you for being here. Any-- last call for neutral testifiers. All right, while Senator Bostar is making his way back up--

HOLDCROFT: Thank you for bringing this bill, Senator Bostar
[LAUGHTER].

BOSN: Well, let me just note for the record there were 5 proponent, 4 proponent, and no neutral comments submitted. You may begin.

BOSTAR: Well, madam Chair. It's clear that if I had a mistake in this, it was that I should have just waived my close at the beginning and gone home. But I didn't, and I told you that I would be here. And honestly, what, what better place to spend a Friday evening, huh? So, I-- there's, there's a lot of things that I want to say on this; I won't say all of them, but there are some things that I need to sort of respond to, to some extent. We had a defense attorney testify in opposition that the data supported that everything was fine and that the information from the proponents was made up of personal stories and anecdotes. I want to be really clear: those personal stories about people dying, people getting murdered, people's kids dying-- and while it's-- those are personal stories. If you get to a point where you can be dismissive of people getting murdered, I think it's probably time to do something else. Friendly advice for any of us that get to the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

point where we're that cynical. Another testifier talked about-- a service provider talked about that they had design-- they had specific design decisions related to not having a locked facility, and that some who ran away had committed serious law violations. I want to be real clear about what that euphemism is for: murder. Murder. From that facility. Murder. We heard a lot about how everything's fine; there's no problem, look at the data; recidivism is doing great, crime is down. Sure. Yeah, overall. Crime is down. Murder is up. Rape is up. Violent felonies are up. Gun crimes are up. So, yeah, petty crime is down. And since, I guess, thankfully, there's more of that that happens than murder, overall crime is down. But if we're weighing petty theft and murder as equivalents, I'm going to go back to being too cynical. You heard the data that I think is important for what we're talking about here in the opening, and you've heard it along the way. The number of juveniles who have multiple felony arrests, multiple violent felony arrests, multiple gun felony arrests, is skyrocketing. The way you get multiple, and why that in particular matters, is the way you get multiple is if our system doesn't work. I agree with some of the testifiers that say, you know what, there's, there's, there's, there's crime and then there's the, the juvenile justice system. And, you know, we can't prevent all crime before it happens, right? It'd be great if we could, but we, we can't. We, we can try, and there's programs and things we can do. But if you're already committing violent crimes and we let you keep doing it upwards of five-plus times, that's on us. That's our fault. I appreciate Senator Wayne coming and, and testifying. He talked about how he brought the bill to start a conversation. That was years ago, and by then, the problem had already been going for years. I don't want to continue the conversation. That is not the purpose of this bill. That may have been his; that is not mine. I want you to do something. We have to do something, and we have to do something real. We cannot let this continue. I don't want to be responsible for the next murder. Happy to take any questions.

BOSN: Questions from the committee? Senator Storer [SIC].

STORM: Thank you, Madam Chair. Thank you, Senator Bostar. So, on the fiscal note side of this, it's just a shift from what I read.

BOSTAR: Yes, sir.

STORM: So, there's no cost-- added cost if it goes--

BOSTAR: Well, that's the idea, to take the budget line and move it over. OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

STORM: That's all I had. Thank you.

BOSN: Senator McKinney.

McKINNEY: Thank you. Thank you, Senator Bostar. How is this something real? Because-- how does this solve the problem?

BOSTAR: Again, Senator-- and, and I understand where you're coming from. I think right now we can't solve it; we can't see in, we can't engage. And, and you heard about it a bunch of times. And now, granted, you heard a lot of folks who either work for the court system, are the court system, or their livelihoods depend on being paid by the court system, and they think things are fine, and I understand that. But it, it doesn't seem like it to me, and if we don't-- if we don't do this-- I mean, I'm all ears. Like what-- then what? What do we-- what do we want to do? What are we going to do? Because I-- we-- I don't think we could do nothing.

McKINNEY: I don't-- like, for me, I don't think the system is helping the kids at all. But from my perspective, I don't even think this would help the kids or stop what you think you're trying to prevent.

BOSTAR: Yeah. I understand that.

McKINNEY: And so-- I guess what, what-- I don't-- because going back to my issue of putting this under the executive branch, having factual information that an agency under the, the-- under the executive branch is horrible-- horribly failing. How can you have faith that that won't happen?

BOSTAR: Well, I, I think it's twofold. One-- I suppose it's not necessarily about faith. It's-- there, there--

McKINNEY: But it is, though, because-- it is about failing, because you're trying to prevent murders, another murder, like you just said.

BOSTAR: Yeah.

McKINNEY: So, it is about failing. How can you have faith, considering the historical context of agencies under the executive branch failing kids, losing kids, all those things, and having that faith that if this goes under the executive branch, things are going to get improved?

BOSTAR: Because we have to hold them accountable, and we can't. And, and this is-- and, and I understand--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

McKINNEY: That's my-- oh--

BOSTAR: And, and-- but we can't in the judicial branch. We, we just can't. We don't, we don't have the ability, constitutionally.

McKINNEY: Can we be real, though? Holding the executive branch accountable in this Legislature-- let's be real. How many people in the Legislature is going to buck against the governor if he comes up to the body, comes to the floor, has PRO in the lobby saying, "Don't vote for this bill," if we try to hold him accountable. Let's be honest.

BOSTAR: I, I think that-- look, I understand, and I'm not saying it would be easy. I'm really not.

McKINNEY: It's impossible.

BOSTAR: I hope you're wrong.

McKINNEY: I, I, I wish I was wrong.

BOSTAR: I hope you're wrong. I know.

McKINNEY: Thank you.

BOSTAR: Thank you.

BOSN: I have a question. We heard a lot today from Omaha and Lincoln. In your bringing this bill, have you been made aware of the fact whether or not this is an issue across the state, or is it just a populated Lincoln and Omaha problem?

BOSTAR: It is across the state. There are, there are a number of examples. And honestly, I wanted actually to, to talk about some-- go through a list of specific cases here in the close, to talk about across the state. Now, that's-- let's not do that now.

BOSN: Thank you.

BOSTAR: However, we can do that, and I'd be happy to talk to any of you about it. There are a lot of examples, and this is a statewide issue.

BOSN: Thank you very much.

BOSTAR: If I may--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

BOSN: You may.

BOSTAR: I appreciate all of your time. I appreciate all of the folks who came in on this bill, on both sides. I think it's a necessary conversation that needs to happen, and I appreciate all the folks who came in on the bills after this. And I know-- and I know a lot of them had to leave, and I guess my ask of this committee who doesn't get to go home yet would be just, you know, keep in mind that there are, there are probably great bills behind this one, and they probably aren't getting the, the amount of testifiers that they would have otherwise, if it hadn't been so late. And so, I just-- I appreciate them.

BOSN: Thank you. I appreciate that. That will conclude--

BOSTAR: Thank you.

BOSN: --our hearing on LB684. Next, we will take up Senator Juarez and LB519. Can I see a show of hands of how many individuals are here to testify in some capacity for LB519? Higher than your head.

HOLDCROFT: One?

BOSN: Just one. All right.

HOLDCROFT: All right.

JASON WITMER: Promise not to take more than 30 minutes.

HOLDCROFT: 3 minutes.

STORER: You look cold, Senator Juarez.

JUAREZ: I am.

BOSN: Welcome.

JUAREZ: Well, it's nice to see you guys again.

STORER: We've been right here.

STORM: Yeah, we never leave.

BOSN: You can begin whenever you're ready.

JUAREZ: OK. Thank you. Good evening, Chair Bosn, and members of the Judiciary Committee. My name is Margo Juarez, M-a-r-g-o J-u-a-r-e-z,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

and I represent District 5 in south Omaha. Today, I'm excited to introduce LB519, which would allow for a confirmatory testing of drug contraband in Nebraska's prisons. This bill was inspired by a 2024 report by the inspector general of Corrections-- which you should all have in front of you-- that raised concerns about the current process by which suspected drug contraband is tested. Prior to 2018, NDCS policy allowed for a confirmatory testing of drug contraband through the state crime lab. However, the emergence of synthetic cannabinoids-- hope I said that right-- and other designer drugs made the process too cumbersome to lab test samples in every case. This led to the NDCS relying solely on presumptive field tests for disciplinary cases. These field tests are a useful too-- tool for preliminary screenings, but are too unreliable to decide in inmates' disciplinary cases. The IG report found multiple, multiple clear cases where the field tests returned false positives, leading to inmates incorrectly facing disciplinary action. The disclaimers on these field tests explicitly state: this product has inherent limitations in both accuracy and longevity; it is not to be used as a sole means of detection. Yet NDCS continues to use these results as cause to rescind work releases, move inmates to more restrictive facilities, and lose good time. One inmate's parole was delayed an entire year on the basis of a positive field test that was later found to be incorrect. LB519 provides a simple cost-saving fix to this issue by allowing inmates to request independent confirmatory testing of positive results, but requiring the inmate to pay for the additional testing if the results remain positive. Instead of wasting time and money by appealing these cases through NDCS and district courts under the Administrative Appeals Act, a single lab test could clear up any issues quickly and cheaply. Inmates would be treated more fairly, and NDCS would avoid further headaches from appeals and OIG complaints. With that, I am happy to answer any questions you might have. Not too technical, but I can help.

BOSN: Go easy on you; it is almost 7:00. All right. Any questions for Senator Juarez? Are you saying to close?

JUAREZ: Yes.

BOSN: Awesome. Thank you.

JUAREZ: I'm staying with you guys.

BOSN: All right. First proponent. Anyone wishing to testify in support. Welcome.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

JASON WITMER: Thank you. I commend you on y'all resilience. Hi, I'm Jason Wit-- thank you, Chair Bosn, and members of the Judiciary Committee. I am Jason Witmer with the ACLU, J-a-s-o-n W-i-t-m-e-r. I'm with the ACLU here in support of LB15-- LB519. I think, having heard some of the stuff today in this, in my position and my role, what I advocate, I should-- I want to elaborate and just say that you've heard my story about my, my life and how I've become part of the system and how I've gotten out of the system, but also when we advocate for people in these spaces, know that we also recognize those who have been harmed, and the person who killed my mother is in there doing life, and that is also who I'm advocating for, because I know about change. So, it's not always about forgiving the person; is about what is rational and what is humane, and what is what is best for everybody, so. I'm sorry, Senator Juarez, for putting that in your bill, but I just want you to know that I have the best intentions when I do that, and those who support me in this effort. All right. Currently, Nebraska's Department of Corrections [SIC] Services relies on field tests to detect contraband substance inside the facilities. As with many screening tools, field tests are not perfect, and spot tests are often unreliable. In reports on this issue, the Inspector General of Corrections, their resp-- in their research they have shown this, and they had repeatedly asked that changes be made, and those were not made, which is why we're here before you today. The consequences of positive drug tests can literally mean the difference between freedom and remaining incarcerated. Disciplinary actions range from loss of good time, removal from work programs, changes in custody, and permanent records that the parole board can and will use to deny a persons the chance to return home, as was said about somebody for over a year. LB1-- LB519 simply ensures that before the incarcerated individual, individual faces serious consequences for a drug violation, they have the ability to request an independent confere-- "confirmationtory"-- confor-- confirmatory-- sorry-- test to validate the results. This is consistent with longstanding principles of due process. Senator Juarez's approach balances this with her bill: if this test comes back to show that it was a positive test, the individual who requested it has to pay for it, so the department does not bear the cost of all these tests unless it's faulty. LB519 is not a challenge of the need for discipline-- disciplinary or security; it's about ensuring accuracy in decisions that can have lasting consequences on a person's rehabilitation and release. LB519 does not prevent discipline when a drug use or possession is proven to be true. Again, it's just for the, the test to confirm this, if a person requests it. So, with that being said, I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

think this is very fair and rational ask, and I ask for the ACLU and myself that this bill be advanced.

BOSN: Thank you. Senator DeBoer.

DeBOER: How long does it take to complete one of these tests?

JASON WITMER: There-- so, that's a great question because, as you know, I've worked in different spaces and I have a lot of community context, and this spot test that is happening has-- there's been a lot of feedback about it, for instance, individuals and-- it happens to everybody, but I'm-- the most concern I have is with individuals who've been trained and are actually active in the community inside that are doing peer support in other areas have been reporting that they felt targeted, and the spot test is used to-- whatever it-- would have ever it's used on-- legal work, personal property, pictures-- is also destroyed, and they not getting the proof that this is true, and they can't counter it.

DeBOER: OK, so that, that's a different issue. But how long do the-- like, so the--

JASON WITMER: It's almost in the moment. You're asking for a time span? So, these spot--

DeBOER: I'm talking about the, the one that the, the inmate can request. The--

JASON WITMER: Oh, OK. I don't, I don't-- I can go get that answer for you. You're saying for that test to confirm whether it's of true--

DeBOER: Yes, that's what I want to know.

JASON WITMER: -- or false test. OK. I think that'd be-- I'll have to look into how long the lab takes to send out.

DeBOER: OK. Thank you.

BOSN: Thank you for being here. Next proponent.

JASON WITMER: Thank you.

BOSN: Opponents. Anyone here to testify in opposition to LB519? Neutral testifiers. I knew you were getting up, I just wasn't sure when. Welcome.

DOUG KOEBERNICK: Thank you, Senator Bosn, and members of the Judiciary Committee. My name is Doug Koebernick, spelled D-o-u-g K-o-e-b-e-r-n-i-c-k, and I work for the Legislature as the inspector general of corrections. I'm here today to testify in a neutral capacity on LB519. I'm having my written testimony handed out, and I crossed out a lot of things already. And I think the senator's testimony was better than mine, too, so I crossed out some more when I was sitting there. But basically, I just want to touch on a few points. First, in 2024, as the Senator said, my office released a report regarding the use of drug testing in the Nebraska correctional system. That was the result of an investigation which was initiated after my office received multiple complaints, which were allegations-- which were primarily allegations that the field tests that the Department of Corrections was using was inaccurate, and that they were being disciplined based on this inaccurate test result. Our report made many findings, including that the drug test, which can be a useful screening tool, do sometimes yield inaccurate results. A recommendation made in the report is that the department should consider revising the rules and regulations to provide access to confirmatory testing of suspected drug contraband, similar to what is permitted under law for urine tests. Right now, under the law, if a urine test is done on somebody, they do have the ability to ask for a secondary test. And if it comes back positive, then they do pay for it; if it comes back negative, then they, they do not. So, this would make that similar to that. With all that shared, which isn't very much, it's important to note that this is a-- it is vital that the department have tools at their disposal to counter the flow and impact of illegal drugs in the, in the corrections system, but I think having a secondary test requirement is not intended to keep them from addressing this issue. In fact, many times there's a lot of evidence around somebody that shows that they were using illegal drugs, or were in possession of illegal drugs, and this can still result in their being guilty of a misconduct, so. My office continues to receive multiple contacts from people who believe that they're-- this test is inaccurate, they're upset about this, and they-- many have received disciplinary action. At list-- at this point, we just let them know that we conducted the investigation, but any action on this issue is really up to the department. This is a challenge for the department and for its population, but I do want to thank the Senator for introducing the bill so the conversation could get started, and I want to thank my team for their work on this really good report. And with that, I'd be happy to answer any questions you may have.

BOSN: Senator DeBoer.

DeBOER: I'll ask. Do you know how long the confirmatory tests take?

DOUG KOEBERNICK: The second ones? It would depend on the lab that you have a contract with. I know the cost can range from, like, \$160 to maybe \$500 for the test. If you have a good arrangement, I would think that it could be back within, you know, 3 or 4 weeks; it might take a little bit longer. Just depends. I know-- I talked to Sheriff Hanson, actually, about doing-- they have testing capabilities up there, too, so. I don't know the-- it might be quicker. It just depends.

DeBOER: So, is there a concern that the amount of time that would take place between when the confirmatory test was submitted and, ostensibly, the act occurred, and when the results came back, would sort of be enough of a lag that it would cause problems in terms of making sure that disciplinary actions or whatever--

DOUG KOEBERNICK: Yeah.

DeBOER: --were, were close enough in time to the act occurring?

DOUG KOEBERNICK: Currently, with the urine test, that's-- that issue does take place, where you have that leg [SIC]. And as far as I know, it's-- hasn't been a problem. I haven't talked to the department about it or anything, but I can imagine at some point it could be. One of the things I think we put in the report was, you know, somebody could try to play the-- game the system a little bit. Like, let's say they're really close to their release date, they're in community corrections, and they have a, a, a positive test result, and they can do that, and maybe they'd get released. But there also is the possibility that if they did challenge that, they've admitted that that is their item, and, and if it has-- it's-- tests positive for drugs, they could get new charges. So then, they would probably be right back.

DeBOER: OK. That was my question.

BOSN: Is there an airplane flying by? OK. I just have a quick question. I was under the impression that now, with the tablets, the introduction of the tablets, that this problem was substantially mitigated due to all things being scanned, and then the individuals being able to review them on their tablets.

DOUG KOEBERNICK: As far as like paper--

BOSN: Mail and pictures, and things like that.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

DOUG KOEBERNICK: --and having the drugs come through the mail and everything? Well, where there's a will, there's a way.

BOSN: OK.

DOUG KOEBERNICK: I'll just say it like that.

BOSN: OK. Thank you. All right. Thanks for being here.

DOUG KOEBERNICK: You're welcome.

BOSN: Next neutral testifier. Seeing none. While Senator Juarez makes her way up, I will note-- I'm on the wrong bill. There were 3 proponent, 1 opponent, and no neutral comments submitted for the record. Welcome back, Senator Juarez.

JUAREZ: Thank you. So, I wanted to say in this report, on page 22, it says generally speaking, turnaround times for tests from private labs are about 30 days. That's what it says in this report that I provided. And of course, I did get a letter from someone who's very interested in providing the service, of course.

STORM: I'll bet.

JUAREZ: OK. Where there, there are dozens of cases of incorrect drug screens or just a single one, every inmate deserves a fair disciplinary process that is applied consistently, just not when the inspector general opens an investigation. With the nation leading prison overcrowding, we need to take every opportunity to ensure that well-behaving inmates are not being held back on the basis of unreliable equipment. Moreover, this bill would save the state money by avoiding costly, time-consuming appeals and investigations while providing a safety mechanism against frivolous challenges by requiring inmates to pay for further testing if the result remains positive. Finally, I want to clarify that this confirmatory testing process already exists for toxicology screens. This means that an inmate suspected of being under the influence of drugs can get further testing, but not an inmate who is suspected to be in possession of drugs. I sim-- I simply don't see how that is fair or sensible. With that, thank you for your time and the testifiers' time, and I'm happy to answer any other questions you may have.

BOSN: Thank you. Any questions? Seeing none. Thank you for being here and waiting.

JUAREZ: Thanks, you guys.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

BOSN: That will conclude our hearings for LB519. Next up, we have LB530 with Senator Kauth.

HOLDCROFT: Spike, are you leaving?

SPIKE EICKHOLT: Oh, no. I'm getting a green sheet.

STORM: [INAUDIBLE] thanks.

BOSN: Welcome.

KAUTH: Good evening to what is possibly the hardest-working committee in the Legislature.

HOLDCROFT: That doesn't work.

KAUTH: That doesn't work? Sucking up doesn't work? OK.

HOLDCROFT: Nope. Flattery is-- will not do you no good here.

KAUTH: I was going to bring food, but I was told you already had food. OK. Do you want me to get started? Can I go?

BOSN: Go ahead.

KAUTH: OK. Thank you, Chairman Bosn and the Judiciary Committee. My name is Kathleen Kauth, K-a-t-h-l-e-e-n K-a-u-t-h. I represent LD31, the Millard area of Omaha. LB530 is about public safety. There are several reasons this bill is being introduced. As a society, we have all become more and more distracted. No matter what the cause of our distractions, when we get behind the wheel of a car, we have to be able and willing to focus on what we are doing. It also seems that we are more impatient and less kind on the road. Rather than being willing to follow the rules of the road, we are making decisions that can seriously impact others around us. We literally take our lives and the lives of those around us in our hands every time we get behind the wheel. According to a 2022 study from the Environmental Protection Agency, the average weight of a car is 4,094 pounds. That is roughly two tons of metal that we are accelerating and guiding on our roads amongst our neighbors. At 55mph, a vehicle will travel approximately 320 feet before coming to a complete stop. This distance includes both reaction time and the actual braking distance. The faster you go, the longer it takes to stop; this is simple physics. A distracted driver has a much less likely chance of recognizing the need to stop in time to be effective. For a deterrent to be effective, there has to be an element of pain. In the Omaha area, we've been having a significant

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

problem with speeders who are going more than 35mph over the speed limit. For example, on 204th Street through Elkhorn, a driver was stopped going 100-plus miles per hour. The speed limit there is 55 miles per hour at the highest point on that road, and I will tell you that there are stop signs, stoplights, kids, schools, everything along that road. By raising the penalties for speeding, we hope to provide extra incentive to focus on the task at hand: driving safely and attentively. These fees were set decades ago, and they have not kept up with inflation, and, as such, hold much less power to influence a driver's decision-making. It costs less to go out-- the ticket-- a speeding ticket to-- than to go out to dinner. The changes in this bill now also modify the definition of reckless driving. Evidence that such person was driving a motor vehicle in excess of double the maximum lawful speed limit shall be prima facie evidence that the motor vehicle was being driven in a manner as to indicate an indifferent or wanton disregard for the safety of persons or property. So, again, that 55 mile per hour speed limit in-- on 204th Street in Elkhorn; if someone is driving a 111mph, that would be declared reckless driving. The big thing that we've done here is add the term "vulnerable road user." Working with Bike Walk Nebraska, a nonprofit that focus on-- focuses on making Nebraska a more pedestrian- and bicycle-friendly state, we have added this definition to Nebraska law. A vulnerable road user means: any pedestrian who is on a highway and constructing or repairing such highway; working on utility facilities along a highway; providing emergency services on or along a highway; in a crosswalk; on the shoulder; any individual operating any of the following on or along highway: bicycle; an electric bicycle; any motorcycle other than an auto cycle; any moped; or any vehicle or device similar to any vehicle or device listed in (2) (a) through (2) (d); any individual who is riding any animal or driving any drawn vehicle on or along a highway; an individual operating an implement of husbandry, including a farm tractor that is on or along highway; any individual who is in a crosswalk, on a shoulder, or who is on any: coaster; skate; sled; ski; board; or toy vehicle; electric personal assistance [SIC] mobility vehicle; or wheelchair. And I want it to be recognized-- I know that's a lot of things. Wendy's eyes are huge. I want it to be recognized that you still have to be using the road legally-- you can't take a little teeny tiny Barbie car onto the highway, that's illegal-- but this just gives coverage, so if you're using the, the road legally, as a vulnerable road user, you're given extra protections. Finally, in the final two sections of the bill, passing a vulnerable road user in controlled-access highway, general instructions that drivers must proceed with due care and caution when approaching or passing a vulnerable road user. So, this makes it if

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

there are two adjacent lanes going in the same direction available, that you move over fully to the other lane if it's possible. Right now, you're supposed to give three feet distance from someone who's on the side of the road; I think that's hard in any circumstance to judge what three feet is. If you are able to move over, this asks you to move over. If moving into the next lane is not possible, you must reduce speed, maintain the safe speed considering location of the vulnerable road user, the weather, the road conditions and traffic, and proceed with due care and caution as directed by authorized personnel. This bill will be known as "Latacha's Law" after Dr. Matthew Latacha, who was killed by a distracted driver going 55mph when he collided with Dr. Latacha's bike in September of 2023. This bill is looking towards the future. We know nothing can bring back the people who we've lost, but we would like to make it so that people think twice when they get in their car and understand the need to focus and pay attention to who else is sharing the road. I have a number of people who came from Bike Walk Nebraska who've been here all day. I'm so grateful for them and everybody else who showed up to testify for this bill. And they have some very tragic stories to tell, so I appreciate everyone's attention to them, and I'm open for any questions.

BOSN: Questions for Senator Kauth? Seeing none, thank you for being here. We'll take our first proponent. Welcome back.

AARON HANSON: Thank you. Aaron Hanson, sheriff of Douglas County.

BOSN: Can you spell it?

AARON HANSON: A-a-r-o-n H-a-n-s-o-n. You know, I got to tell you, as, as a law enforcement professional who spent the first 26.5 years of my career with Omaha chasing fugitives, armed gang members, intercepting drug cartel drug money and, and gun loads, I, I-- you'd have knocked me over with a feather if you told me that, as sheriff, that one of my priorities would be aggressive driving and speeding. But it makes a lot of sense. That's what my constituents are most concerned about, quite frankly, all across the county. And for good reason. You know, we, we, we do surveys of our constituents in the Douglas County Sheriff's Office through UNO. The top concern, number one, far and away from every other public safety concern, is dangerous and reckless driving. Why? It's the crime people see in front of them every day. And not only is it the crime they see, statistically, when you leave your house, when your, your significant other, your kid, your mom, dad, your sibling leaves the house, you have a higher likelihood of losing your life in a traffic fatality at the hands of a neglectful,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

reckless, or a distracted driver than you do an armed criminal. That's a fact. Anywhere from 2 to 3 times the likelihood. I passed out some statistics-- I had my staff do some research to find out what the penalties have been in 2024 for every willful reckless driver and reckless driver that the Douglas County Sheriff's Office arrested, as well as four months of reckless drivers-- willful reckless drivers in the rest of the county and Ralston. Let me tell you folks, pretty disappointing. Average \$200 fine for willful reckless and reckless driving convictions. Average \$200 fine. Rarely jail, rarely probation. And we're talking about offenses-- first offense is a Class III misdemeanor, maximum three months in jail, \$500 fine, probably too small. Second offense, six months in jail, \$1,000 fine for a second offense conviction. Think about what happened in Omaha recently. Dr. Mark Carlson drag racing down Dodge Street by UNO, over a hundred miles an hour; loses control, crashes into a car containing 22-year-old Anna Bosma, my boss, my constituent [SIC], an innocent person; killed her instantly. Had we arrested him for that willful reckless driving and interrupted that fatal crash, he very likely would have got a \$200 fine. Ridiculous. I appreciate Senator Kauth bringing this bill, because we have to increase the penalties on the offenses that are killing more of my constituents, your constituents, than anything else in this state. Thank you.

BOSN: Thank you very much for your testimony. Any questions for Sheriff Hanson? Seeing none. Thank you very much for being here.

AARON HANSON: Thank you.

BOSN: Next proponent. Welcome.

JULIE HARRIS: Thank you. Thank you, Chairman-- or, Chairwoman Bosn. I'm Julie Harris, J-u-l-i-e H-a-r-r-i-s. I'm the executive director of Bike Walk Nebraska, the nonprofit bicycle pedestrian advocacy organization for the state. I wanted to start by thanking Senator Kauth for bringing this bill. I want to thank you all for your very long day and attention to this important matter. There are people behind me who have traveled great distances at their own expense to be here to tell you their story, so I hope you can hang on for a few more minutes here and, and give them your full attention. This bill does a lot of things, but we are here because there is a problem to solve; a gap in safety and in the judicial system when it comes to victims of vehicle crashes. Specifically, victims that were biking, walking, or otherwise more vulnerable on the road at the time of the crash. LB530 provides common-sense solutions that will make our roads safer and provide judges, county attorneys, and law enforcement officers a

broader spectrum of options when dealing with crashes involving vulnerable road users. We should note here that the term "vulnerable road user" does not just refer to a bicyclist or pedestrian; Senator Kauth outlined that very well. And while you might not personally choose to ride a bicycle on the road for transportation, there are many Nebraskans who do make this choice, and many who do not have a choice but to use their bicycle or to walk for transportation, and they deserve the same safety and considerations of our judicial system as those who choose to drive. We track crashes involving bicyclists and pedestrians closely. In our crash report that we published in 2024-- and I handed out one page of it, there-- you'll see that from-- in last year, we saw an increase in pedestrian crashes by 4%, and crashes involving bicyclists increased 105%. Further, many news reports from Nebraska law enforcement indicate that speeding is becoming a bigger problem. A news report from November of last year reported the Nebraska State Patrol had written 1,000 tickets for speeding of 100 miles per hour or over. With the size of vehicles drastically increasing, combined with the growing speeding epidemic, vulnerable road users are at an even greater risk. Unfortunately, as you'll hear from people behind me, there are too many stories of bicyclists and pedestrians being hit, killed, or forced off the road by drivers, and then, in addition to dealing with their serious injuries or family's grief when it involves a fatality, the justice system lets these folks down. And while not every example you'll hear about now will have-- could have been affected by this particular bill, we just need you to understand the breadth and the context around this problem. If there is a crash involving a hit and run or an impaired driver, we're more likely to get justice outcomes that are appropriate. But short of those circumstances, judge and the counties-- county attorneys are left with careless driving, failure to yield, or such charges, even if any charges get filed at all. I could be here all night telling you about stories of people who have been involved in crashes that have had no charges filed against the driver. Bicyclists who are doing everything right-- multiple blinky lights on their bikes, reflective vests-- getting hit while riding legally; literally no charges filed. We, we just need better options and better justice for these vulnerable road users, and I appreciate your time on this matter, and happy to answer any questions you have.

BOSN: Thank you. Questions for this testifier? Thank you for this. We can-- I can-- you know, we can follow up, too, as well, afterwards. Thank you very much.

JULIE HARRIS: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

BOSN: Next proponent. Welcome.

YUN SAKSENA: Good evening. Thank you. Good evening, Chairman Bosn and committee members. Thank you so much for staying this evening. We are all giving up something to be here. I missed a medical appointment. My name is Yun Saksena, spelled Y-u-n S-a-k-s-e-n-a. I'm testifying in my personal capacity as a concerned citizen, year-round bike commuter, and president of the nonprofit BicycLincoln in support of LB530, which seeks to protect vulnerable road users across Nebraska. On January 9-- January 9, 2021, whilst I was biking in Lincoln, I was hit and run over by a man driving a minivan. It was terrifying and painful, and I thought I was going to die. Years later, having paid thousands of dollars in medical bills., I have chronic pain and continue doing physical therapist-prescribed exercises. The man who caused the crash received a citation, pleaded guilty, and paid a \$100 fine. It was not his first citation. A problem with slap-on-the-wrist punishments is people not taking things seriously, and a greater chance of repeat behavior; behavior that can hurt, disable, or kill vulnerable road users or motorists. Many of us cyclists have lost a friend, or know someone who knew someone who died after being hit by a person driving a motor vehicle. We believe proactive safety laws and stiffer penalties for violations would help prevent death and disability. Sometimes cyclists have mechanical issues, like flat tires, when we need to pull through the side of the road. It's much safer for us when motor vehicle drivers slow down when passing, or better yet, move into a lane farther away. LB530 helps motorists, too; so, if you're driving and you have a flat-- I mean a flat tire, and you need to fix it, you become a vulnerable road user. LB530 would make our roads safer for cyclists, other vulnerable road users, and motorists. This legislation is about fostering a culture of safety, awareness, and accountability. I urge you to support LB530 so all Nebraskan road users, regardless of their mode of transportation, can, can travel safely. Thank you.

BOSN: Thank you very much. Thank you for sharing your story. Any questions for this testifier? Seeing none. Thank you for being here.

YUN SAKSENA: Thank you for your time.

BOSN: Yes. Welcome.

ERIC ANDERSON: Thank you. Eric Anderson, E-r-i-c A-n-d-e-r-s-o-n. Thank you for the opportunity to share the story of how we lost my dad. Merlin Anderson was more than just the average bike rider. Dad was a well-trained, overly safe, super cautious sharer of the road. His love of riding had him constantly training for one race that he

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

loved more than any other known as the Triple Bypass in Colorado, a treacherous 118-mile ride covering Juniper, Loveland and Vail Pass, and over 10,800 feet of elevation gains. To train for this, dad would often be seen riding from Gering to Kimball for a cheeseburger, Gering to Bridgeport for Taco John's burritos, or one of many other places around different highways in the Panhandle. Everyone knew dad, as he was not the most aerodynamic old guy with a bad back, and was more a straight up rider, but waved when you went by. Between bike rides all summer, training at the YMCA all winter-- excuse me-- riding and training-- a trainer at home, I would venture to say he put more miles on a year than some of us even drive. That brings us to the event of why I'm here to speak for all of you. And forgive me if I get emotional, as losing someone quickly causes a lot of regret of oneself. June 7, 2023 started like any other day. Headed to work a bit before 7:00, windows down, prepared for the day. Hearing some sirens in the distance made me think of a previous job and how most early morning ambulance calls were pretty intense and urgent, and just hoped that everyone was OK. Not thinking much of it after that, I got a call from mom, which was not out of the normal. However, she was crying and said "he's gone." Confused and not knowing what she was talking about, I just jumped in the car and headed over to the home. As I pulled up, I instantly knew. Officer Eads grabbed me and he told me dad had been hit and did not make it. So many emotions, so much horror, and so many questions all hit at the same moment, and little did we know at that worst part of the whole situation would only be starting, as the grieving and legal side of dad's murder was uncovered. Dad always used an app called Strava to track his why-- rides. Bikers, walkers, runners evidently like to track each other and try to compete often, but with this app also has GPS tracking, so he could see-- we could see exactly where dad's last ride was. Attached below is a screenshot of his last section, and to scale, dad would have been within 12 inches of the grass the whole way down the highway to give plenty of space to folks driving by. Initially, we were told from the county attorney that we were assigned the person that killed dad was drunk, and the case would run its course. We did not hear from the county attorney-- or anyone, for that matter-- until the week of the arraignment, and that's when I got a call to go meet at the county attorney office. We walked in, and immediately knew that something was wrong. The assigned county attorney walked in and let us know that the state trooper that worked the scene forgot to mark one little box on an eight-page report that said whether you thought alcohol could or could not have been a factor, and that the DUI had been thrown out. Also, that the scene reconstruction showed that dad was riding the rumble bars with a fiberglass street bike. Several times, we attempted

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

to offer the use of the Strava evidence to show exactly where dad was when the accident occurred. The attorney was not trying to figure out how to get-- excuse me, the attorney was now trying to figure out how to get the case to be an assault with a deadly weapon charge. Six more months go by, and we called back to the county attorney office with more bad news. The new charge he was trying to hit was not going to work. All he could get was a three-foot right-of-way charge with no trial by jury, and a sentence up to a year in jail; if time served well, out in six months. The biggest question that my family has since this tragedy has happened is if the Nebraska Department of Transportation finds it important enough to know all contributing factors to causing death on a Nebraska Highway, why is it optional for a trooper, a deputy, or any other officer to decide whether or not to make that decision optional? Why not take the human chance of error out of the equation, and remove all doubt? The person that took dad's life was more than the legal-- double legal limits three hours after the initial accident, and, and that was taken-- the BAC test taken at the hospital. In conclusion to all of this, I've lost faith in a judicial system that's set up to protect the innocent. And I-- I'm sorry I got three, three more sentences.

BOSN: You're just fine.

ERIC ANDERSON: All right. I question the procedures that we--

BOSN: You don't even have to speed-read. You're fine.

ERIC ANDERSON: I question the procedures that were done on the scene on the accident where dad's life was taken, and what kind of training needs to be done for the folks that work these cases. Technology has come a long way, and just to ignore all this, that fills in shame. With over 100% increase in biker fatalities in Nebraska in 2024, we need to act now to help keep our biker friends safer, with stricter and swifter punishments to those that cause harm and injuries, and even death. Thank you, Senators, for listening to my dad's story, and if I can answer any questions, feel free to ask.

BOSN: I just want to start by saying I'm very sorry for your loss.

ERIC ANDERSON: Thank you.

BOSN: Any questions? Senator Storm.

STORM: Thank you. Where are you from?

ERIC ANDERSON: Gering.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

STORM: Gering?

ERIC ANDERSON: Yes, sir.

STORM: OK. That's a long ways out there.

ERIC ANDERSON: It's a little rise.

STORM: Yep.

ERIC ANDERSON: A little ways, yep.

STORM: Yep. OK. Thanks.

BOSN: Thank you for being here.

ERIC ANDERSON: Yup. Thank you.

BOSN: Welcome.

BRIAN ORTNER: Good evening, Senators.

BOSN: Yes.

BRIAN ORTNER: Chair Bosn and members of the dishy-- Judiciary Committee. My name is Brian Ortner. I am the public affairs specialist for AAA Nebraska. On behalf of AAA and its more than 224,000 members in Nebraska, thank you for the opportunity to speak today in support of LB530, and thank you, Senator Kauth, for introduction of this bill. As a state, we must continue to prioritize the safety of our residents on the roadways. Implementing laws that benefit and protect our vulnerable road users is crucial, just as equal as the enforcement and increase in severity of consequences for those who fail to follow basic rules of the road and Nebraska law. Severe injury or loss of life is not and should not be acceptable when preventable measures are available. And I'll rephrase that as a question: when did our mentality change that a motor vehicle crash that caused serious injury or death is acceptable? Think about that. Someone lost their life. The proposal to increase speeding fines-- particularly for drivers who exceed posted speed limits by significant margins-- is an important step in creating a safer environment for all Nebraskans. Research consistently demonstrates that higher fines can serve as a deterrent for dangerous driving behavior, thereby reducing the number of accidents caused by speeding. The National Highway Traffic Safety Administration has found that speeding is one of the leading contributors to crashes, injuries, and fatalities on roads, accounting

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

for nearly one third of all motor vehicle crash fatalities nationwide. In Nebraska specifically, the increase in fines will act as an important deterrent to reckless and unsafe driving. According to data from the Nebraska Department of Transportation, speed-related crashes in Nebraska have been a persistent issue, contributing to the state's overall traffic fatality rate. By instituting higher fines, we can create an economic disincentive for drivers who might otherwise disregard the posted speed limits, especially in areas where road conditions or high traffic volume warrant a more cautious approach. The provisions in LB530 also, also hope to strengthen this current "slow down, move over" law in Nebraska, and they are equally critical. This updating the law would mandate that drivers slow down and, when safe to do so, change lanes to provide additional safety for anyone working or stranded on the roadside. Despite existing laws, numerous incidents have occurred in which first responders and workers are struck by passing vehicles, often with devastating consequences. Including individuals and private vehicles to this current law enhances safety for all who use our roadways. According to AAA, on average, a tow truck driver or roadside service worker is killed on the roadside every other week. Adding to the information contained in a 2020 report by the National Safety Council, that revealed around 200 workers are killed every year in crashes related to roadside incidents. The implementation of this bill's provisions will enhance public awareness of these risks and enforce stricter penalties for those who fail to adhere to this critical safety measure. The ability to slow down or move over is not just a courtesy, but a life-saving maneuver. Studies from AAA show that education and stricter enforcement of move-over laws help reduce fatalities in these high-risk situations. The enactment of LB530 would ensure that Nebraska stays aligned with national safety trends, and prioritizes the well-being of drivers and those who work to protect and serve us on the roadside. In conclusion, LB530 is an essential legislative measure that seeks to enhance traffic safety, and I urge the committee and Nebraska legislator [SIC] to support this bill and take decisive action towards safer roads for all. Thank you, and I'm open to any questions.

BOSN: Thank you very much. Any questions for this testifier? Thank you for being here.

BRIAN ORTNER: Thank you for the opportunity.

BOSN: Yes. You bet. Next proponent. Welcome.

KRISTI COVALCIUC: Thank you. My name is Kristi, K-r-i-s-t-i; last name Covalciuc, C-o-v-a-l-c-i-u-c. Thank you, Senators, for allowing us to testify today. I really appreciate it. It's very admirable what you all are doing for your constituents. I'm here today to speak here on behalf of my father, but before I start that, I want to say that we are all vulnerable road users. We all leave our car; you probably walked across the street to come into the Capitol today. We're all vulnerable road users, not just cyclists. Think about that, and your family members, your children, brothers, sisters; any time we're stepping outside of our car and walking on a roadway, we're vulnerable. I'm speaking today on behalf of my father, who's unable to speak for himself. He was brutally killed by a serially reckless driver in a company truck near Valentine, Nebraska, while riding his bicycle. He loved photography, being outdoors in nature, and was really enjoying the beautiful landscapes of Valentine, Nebraska, and was heading towards some of the picturesque bridges that are in that area. I'm here representing him because he did not deserve to be slaughtered by a driver with a history of reckless driving and DUIs in the state of Nebraska and all sorts of counties across Nebraska, and other states as well; someone who not only hit my father while he was riding legally on the road, but also decided to leave my father lying in a ditch approximately 40 feet from where he was hit, did not render aid, or call 9-1-1. My father's case is still pending almost nine months later. Each minute, we're left wondering what will happen to the person that did this to him. From listening to other families and other stories, hearing that some drivers that kill vulnerable road users only get a mere ticket or a fine that is less than the cost of a fast food meal, it's absolutely unbelievable. And whether someone is riding a bike on the road, a pedestrian is walking to work, school or home, or a construction worker, a deputy, they're just trying to do their job. What they're doing on the road should not matter. We're all vulnerable road users that should be protected, and although there's no-- simply no justice that can bring back our family members and the productive, fulfilling lives they once led, county attorneys and judges should have laws at their disposal that can be properly used to ensure that this does not continue to happen over and over again, with little happening to the individuals that commit these horrific crimes. Our family will never be the same. Knowing that a driver can hit and propel my father nearly half as far as the Nebraska Cornhusker football field, leave the scene, flee, get arrested, be out on bail, still have his driver's license-- it's a horror that we will never recover from. I hope and urge you to push this bill forward so that we can continue to keep Nebraska constituents safe. I'm from Colorado, but I grew up in Omaha and was raised here, and my father was a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

business owner for over 50 years in both Lincoln and Nebraska, so. He loved this state and would be very proud of everybody here that's, that's taking the time to listen to this bill today. So, thank you. Appreciate it.

DeBOER: Thank you. Are there questions for this testifier? I don't see any today, but thank you so much. Oh, Senator Storer does have one.

STORER: Not really a question, I just-- a, a comment. And for, for all of those of-- those of you who have waited so patiently, but thank you for taking the time and being patient throughout the day, and your-- sharing your story with us.

KRISTI COVALCIUC: I appreciate that, and I did just want to say on the record really quickly that all the deputies involved in over four counties on my dad's case are the reason that they know who did this, and so I just wanted to publicly thank the sheriffs and deputy officers in the State Patrol for, for finding this individual. So, thank you.

DeBOER: Thank you so much for being here, and for sharing your story with us. And as Senator Storer said, we appreciate-- we know this is a long day for all of you, and you've traveled from distance. So, thank you for doing that.

KRISTI COVALCIUC: I appreciate you all listening.

DeBOER: Next proponent.

JARED HAYNES: Hello, I'm Jared Haynes, J-a-r-e-d H-a-y-n-e-s. I'm a member of Strong Towns Omaha, and I'm here today as both a vulnerable road user and a driver to express my support for LB530. Our transportation system is a failed system, one that places an overwhelming emphasis on education and enforcement while neglecting the fundamental issue: engineering that prioritizes the safety of all road users. LB530 strengthens enforcement at a time when we still-- or, when we're still working toward a transportation system that reflects the needs of our communities. Right now, our streets create not only victims, but also a growing number of perpetrators; people who, often unintentionally, endanger others every time they get behind the wheel. It's time for those responsible to face consequences that match the reality of their actions. I'll be the first to admit that every time I drive, I break a traffic law, and I will wager that every person in the-- this room does the same. This is not an excuse for actions, but an indictment of the system. As "Wesh"-- Wes Marshall

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

outlines in "Killed By a Traffic Engineer," our roads are designed in ways that encourage reckless behavior and put the most vulnerable among us-- pedestrians, cyclists and transit users-- at the greatest risk. The consequences of our broken, broken system do not fall equally. People with financial and/or so-- without financial and/or social capital are disproportionately affected by these actions, yet crimes committed on our roadways are rare-- rarely treated with the same seriousness as those committed elsewhere. Vulnerable road users in Nebraska deserve safe spaces and experiences. They also deserve justice. LB530 is a step toward account accountability, and I urge you to support it. Thank you for your time and consideration. Any questions?

DeBOER: Thank you. Are there any questions for this testifier? I don't see any, but thank you so much for being here.

JARED HAYNES: Thank you.

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

ROBERT M. BELL: Good evening, Chairwoman Bosn, and members of the Judiciary Committee. My name is Robert M. Bell, last name is spelled B-e-l-l. I am the executive director and registered lobbyist for the Nebraska Insurance Federation. I'm here today in support of LB530. As you have heard numerous times this session already, the Nebraska Insurance Federation is the primary trade association of insurance companies in Nebraska. We consist of 49 member companies. Members write all lines of insurance. One of the goals of the Federation is to promote the concepts and importance of insurance products to the public. Nebraska insurers provide high-value, quality insurance products to Nebraskans that help protect Nebraskans during difficult times. You've already heard the details of LB530, which makes a number of changes to the rules of the road to encourage more personal accountability for highway safety, and to make the road safer for all users, whether or not they're in a motor vehicle. Much of these changes are associated with excessive speed and failure to move over for vulnerable road users. The insurance industry is always supportive of highway safety improvements. I think Sheriff Hanson mentioned-- but driving is the most dangerous thing that Nebraskans do on a daily basis. We believe the increased penalties for speeding and additions to the move over laws should make Nebraskans think twice before speeding, or other behavior that cause accidents. Hopefully, the provisions of LB3-- LB530, if passed, will lead to fewer and less-severe accidents, and fewer insurance claims, positively impacting both the lives and the pocketbooks of Nebraskans. For these

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

reasons, the Nebraska Insurance Federation supports the passage of LB530. I appreciate the opportunity to provide this testimony.

BOSN: Thank you. Senator DeBoer.

DeBOER: Thank you. Do you all see if we raise-- and I don't know the last time we did this. If we raise the cost of speeding tickets, the, the fees for those, do you all see fewer cases coming through?

ROBERT M. BELL: Well-- OK, so that's, that's really interesting. I was researching a little bit from the-- and I took this out of my testimony to time-- Insurance Institute for Highway Safety. If-- when you increase speed limits, there's an increase in the severity and the number of accidents, right? So, any, any policy that pushes back on that, we see less accidents. And by less accidents, we should see, you know, a reduction in claims, so. It-- I'm, I'm extrapolating a little bit, so--

DeBOER: No, but-- it's your-- you're sort of extrapolating that we're going-- if we, if we have less people speeding--

ROBERT M. BELL: Right.

DeBOER: The-- that, I think, follows logically.

ROBERT M. BELL: Right.

DeBOER: The question is whether more severe penalties will lead to less people speeding,

ROBERT M. BELL: Oh.

DeBOER: --which you may not have any information on, and I-- I'm sure that's--

ROBERT M. BELL: I, I, I don't. I don't have any stats.

DeBOER: --the sheriff. But, but you asked the other-- you answered the other part of that question for me. So, I'm going to assume we're going to have some effect with fewer people speeding, and so we would hope that--

ROBERT M. BELL: Right. I, I mean, I mean-- you would assume that if penalties go up, the acts will go down. Right? I don't know if there's-- there's probably good criminal justice science out there that says that one way or another--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

DeBOER: [INAUDIBLE]--

ROBERT M. BELL: I, I, I don't have that information in front of me. On the vulnerable road user, though, I think you would modify, without a doubt, behavior of, of Nebraskans. I can remember when the move over law passed for emergency vehicles 15 years ago, and I think Nebraska was one of the last states to adopt that. And it, it-- it's noticeable. I, I'm-- driving down today at whatever time, 7:30 this morning, it was Talladega out there on I-80 from, from Omaha, right? It was three lanes, we were going fast-- we-- and there were a lot of stalled vehicles and people, people were moving over. And so-- and, you know, I, I think that's an effect of the law.

DeBOER: OK. Thank you.

BOSN: Seeing no other questions, thank you for being here.

ROBERT M. BELL: You're welcome.

BOSN: Next proponent. Good evening.

LUKE RILEY: Good evening. My name is Luke Riley, L-u-k-e R-i-l-e-y. Chairman and members of the committee, thank you so much for your time. It's a late evening, and my wife and children are waiting for me to do supper, and missed some appointments today and meetings to be here, and I'm thankful for your time, that you still made this happen. I'm here in support of LB530 as a parent, a husband, and concerned Nebraskan, and with my friends and fellow cyclists at Strong Towns Lincoln. I'm here to speak about my personal experiences that have made this bill very important to me. On countless occasions, when crossing at designated crosswalks with my wife and our four children who are six and under, we've had close calls with drivers who failed to yield, despite us having the right, right of way at the walk signal. We almost collided-- someone almost collided with us and proceeded to swear at us for delaying them when we have taken the time to wait for our right of way. And these moments are terrifying as a parent. I've gotten calls from my wife that-- who've had close calls. We live near downtown, and walk to the Children's Museum-- that of derailed my day, and only God's hand has prevented those close calls from becoming tragic. When biking with my children-- which is one of the few exercises I can still enjoy after two hip surgeries-- I've experienced drivers passing dangerously close, failing to stop when we have right of way at crossings, and each time, I wonder what the consequences these drivers would face if they had hit us. Under a current law, there's a troubling gap in accountability. If someone's

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

careless driving endangers a vulnerable road user, in some cases causing severe injury or death, as we've heard from others, the consequences are minimal, and often just a small fine. The current system essentially offers two extremes: either a felony charge if they've been under the influence, and-- or practically nothing for dangerous behavior. My brother and aunt ride motorcycles, and they regularly share stories of their friends who have been in tragic accidents, or themselves about cars cutting them off or failing to see them. Their experiences highlight that vulnerable road users face these dangers across all types of transportations, not just cycling and walking. This isn't-- oh. Red. [INAUDIBLE] sorry.

BOSN: You're fine. Go ahead, you're OK.

LUKE RILEY: OK. This isn't just an issue affecting urban people in Lincoln and Omaha; throughout rural Nebraska, farmers regularly drive farm equipment, ATVs, for daily work on or around their properties. Small town residents often use golf carts and ATVs to get around their communities efficiently. These Nebraskans navigate both gravel roads and small town streets where they're especially vulnerable to larger vehicles. Their safety matters. In communities throughout the state, children walk and bike to school every day; people walk their dogs along neighborhood streets or roads without shock with barely a shoulder; residents cross roads to support local businesses on Main Street; and road construction crews, first responders, tow truck operators and those changing a flat tire on the side of the road-- these Nebraskans deserve protection, regardless of where they live, both rural and urban. LB530 creates a reasonable framework for accountability. It doesn't criminalize every incident, but it ensures meaningful consequences that serve as both deterrence and for justice. The recommended gray-- "graduated" penalties recognize that different situations warrant different responses, and my wife and I excited for the future of our children, and we many-- have many hopes and dreams for them. I'm here today because of stories like the people who have shared earlier. Should something to happen to my children, I don't want myself or my family wondering what would happen if I could have done more to prevent a tragedy. This bill acknowledges the simple truth that our roads belong to all Nebraskans, not just those in cars and trucks. It protects the vulnerable while creating a clear expectations for all road users. And I urge you to advance LB530.

BOSN: [DISRUPTION] I'm sorry. I don't know why that just started.

LUKE RILEY: Oh, that's all good. I live in the city, so.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

HOLDCROFT: My goodness.

BOSN: I don't know how that came up. I was looking up an article that you had pointed out, and I'm-- it just started playing music in the background, so. I apologize. I'm sorry. Were you finished?

LUKE RILEY: Yeah. I'm finished.

BOSN: OK. Any questions for this testifier? Thank you very much for being here.

LUKE RILEY: Thank you for your time.

BOSN: Yes. Next proponent. Any other proponents? We'll move to opponents. Anyone here in opposition?

SPIKE EICKHOLT: Good evening, members of the committee. My name is Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t. I'm appearing on behalf of the Nebraska Criminal Defense Attorneys Association in opposition to the bill. I did visit with Senator Kauth, I think last week, or sometime earlier about this bill, and told her that we would be opposing. You've got my letter statement, so I'm not going to read from it. I realized when I was looking it over that I should-- I forgot to add a couple of important words to the two bullets on the first page, but I can explain that when I talk about the bill. First, I don't want anyone-- that's-- I know it's difficult to wait here in this building all day to testify. You've got a time limit, and I don't mean to-- well, they're not going to care what I say to this. I don't mean any offense with what I say, I'm not trying to be insensitive at all. That's what I'm trying to say. This bill actually does quite a bit, and there's some parts that we do not object to. Section 6 increases fines, really kind of for a variety of different things. We don't-- we're not opposed to that. Section 7, we're not necessarily opposed to that, but there's some-- there's an issue in that section that I wanted to talk about if I have time. But the principal part of our opposition is the two proposals of the bill that are on Section 1-- actually, both are in Section 1. Page two, lines 10 and 11, when they operate a motor vehicle and-- resulting in unintentional motor vehicle homicide, a Class IIIA felony, if a person was using a phone during the time. We are concerned about that part. The other part that we're concerned is on page 3, lines 1 through 3-- the same section of page 3, lines 1 through 3, that would make motor vehicle homicide a Class IV felony if the person were to violate the new, to-be-added, the due care and caution that's in Section 9. The concern that we have is that prosecutors now have the option to charge manslaughter for

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

these crimes. As you may have-- remember from earlier bills that we testified on-- if a person commits an unlawful act and during the commission of that unlawful act, they can be charged with manslaughter. When Sheriff Hanson talked about that cardiologist or that doctor-- I can't remember what he did, actually, specifically-- that 62-year-old doctor that was drag racing in Omaha, he was just found guilty of manslaughter. Now, Sheriff Hanson referenced that to talk about if we could have stop him and fined him something significantly for the reckless driving he was doing, but he forgot that important point. The concern we have is that, like motor vehicle homicide caused by DUI, prosecutors are going to be allowed to charged with both manslaughter and DUI resulting in death, and so now you'll have third and fourth homicide-related faces-- case-- charges that can be stacked on people who are charged with crimes. And that's important because-- I only read the news articles, I wasn't involved in it, but-- that person who was just found guilty of manslaughter, that doctor, may have had a defense. He was 62 years old, he was a surgeon; kind of an unusual drag racer. And he had some expert testimony said he had a medical condition that would evidence or manifest itself in fainting. I don't know, the jury clearly didn't accept that. But that's the concern we have, is that when you allow these charges to be on the books, they can be stacked. And it does impact our ability to represent our clients, some of whom either are, either are innocent or at least have defenses to the charges. I would just remind the committee, if prosecutors aren't charging things now for whatever reason, adding new crimes is not going to make them charge. I'll answer any questions if you have any.

BOSN: Senator DeBoer.

DeBOER: Thank you. So, I don't know if this is possible, but I assume you do. Is there a way to make the crime not stackable? Like, create this crime, but say it's not stackable. You can't-- you have to pick this one or pick a different one, but you can't pick both. Do you know what I'm saying?

SPIKE EICKHOLT: Right. The way to do that is for the Legislature not to make multiple crimes, because the courts have been clear: unless the elements are same and you got a double jeopardy argument-- and that's fact-specific and it's element-specific-- that when you pass a law, you are presumed to know all the current laws that are on the books, the case law interpreting those existing laws, and when you do something new, the courts are going to presume that you wanted it to be applied new. And prosecutors have--

DeBOER: What if--

SPIKE EICKHOLT: --ample procedural discretion that they can charge and not charge whatever they want. They can--

DeBOER: But what if we say this can only be charged in lieu of these other things?

SPIKE EICKHOLT: I don't think you can do that, unfortunately. I think that's still--

DeBOER: We should be able to do that if we want to do it.

SPIKE EICKHOLT: I think it's still prosecutorial discretion. The, the most I've seen that's close to that in statute is that in a first-degree murder case, the Legislature has direct recourse to always instruct on lesser included homicide-- or lesser offenses of second-degree and manslaughter. I don't think that-- I don't think the Legislature can mandate how prosecutors charge cases. I just don't. As much as I would have want to, I would have brought a bill.

DeBOER: Could we, could we, could we do it instead as an enhancement that can--

SPIKE EICKHOLT: Yes.

DeBOER: --only be applied if, you know, the other conditions are missing, or something like that?

SPIKE EICKHOLT: That's a little tricky because the prosecutor has to prove the elements,--

DeBOER: Mm-hmm.

SPIKE EICKHOLT: --and it's difficult for them to prove a non-existent--

DeBOER: To prove a [INAUDIBLE]-- yeah, OK.

SPIKE EICKHOLT: The way to do it, frankly, is all-- those series of bills that we have, that deal with sort of making a category or a profession a more enhanced crime is to have the regular assault, and then say plus one if that person was a pharmacist acting on pharmacy property, doing pharmacist stuff, or whatever the language was. That's how you do it, because then you've got one, two, three, four, and then you got element five and that bumps it up. If you have elements one,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

two, three and then you have elements five, six, seven-- or even three, four, five-- the courts have said those can be charged alternatively. So, manslaughter-- that case I cite-- the Cerros case that I talked about was kind of a significant. That was manslaughter-- in Platte County, Highway 81-- and DUI resulting in death. He was charged with both; he was acquitted of the DUI charge. For whatever reason, the jury then think he was guilty, but they convicted him of a manslaughter for the underlying crime of either reckless driving or failure to maintain his lane, whatever-- I can't remember exactly what the-- what it was. Reckless driving was the predicate offense. So, you have that now for manslaughter. What you also have-- if you look at page 2, lines 10 through 11, it, it-- that's the, the first underlying section is texting while driving-- or texting, and the second one on line 11 is texting while driving a CDL-- with a CDL license.

DeBOER: I don't think I have the same-- what's your--

SPIKE EICKHOLT: Page 2, lines--

DeBOER: Is-- was there a white copy amendment, or did I miss something?

SPIKE EICKHOLT: Page 2, lines 10 and 11.

DeBOER: Thank you.

STORER: Of the bill?

SPIKE EICKHOLT: Yes. Maybe, I-- I guess if maybe there was an amendment, I didn't get it.

DeBOER: No. I-- just the green copy? I--

SPIKE EICKHOLT: So, what Senator Kauth has added, she's adding the texting offenses as--

DeBOER: Got it.

SPIKE EICKHOLT: --unintentional motor vehicle homicide. Right now, if you look what current law is, at 60-6,213, that's reckless driving. And the second statute that's under current law is willful reckless driving, so we have that now. There's a IIIA felony that can be charged now for some of these instances.

DeBOER: Why are they not getting charged?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

SPIKE EICKHOLT: I, I can't speak for the prosecutors. I think sometimes it might be because the facts are just bad, the facts are unknown, the reconstruction doesn't show clearly that perhaps the vulnerable road user was on the side of the road, for instance. I can't-- I don't know. I can't answer that. Sometimes, it could just be prosecutors don't want to risk something. You know, some of these-- oh, gosh, I shouldn't say this, but I mean some of the smaller counties that have part-time county attorneys don't-- as a-- they're not as aggressive prosecuting and pursuing cases as they are in the cities with a full-time county attorney staff.

DeBOER: OK.

BOSN: Any other questions for this testifier? Thank you for being here.

SPIKE EICKHOLT: Thanks.

BOSN: Next opponent? Neutral testifiers. Anyone here to testify in the neutral capacity? Seeing none. While Senator Kauth is making her way back up, I will note there were 53 proponent comments submitted, 4 opponent comments submitted, and 1 neutral comment submitted. Welcome back.

KAUTH: Thank you very much. And again, thank you all for being here. My close is going to be brief. I hope that we can advance this to the floor. I will speak with Spike-- probably Monday, Spike-- just because it's very late. But if we need to make the adjustments for that so that they feel more comfortable with the bill, if we can get it out of committee and on the floor, I want to have as good a chance as possible for success for this. So, I appreciate everyone being here. Thank you so much.

BOSN: Thank you. Questions for Senator Kauth? Seeing none.

DeBOER: That will move us to LB559 with our own Senator Bosn. Whenever she is ready--

HOLDCROFT: I move we skip the last bill.

BOSN: It's hard to think, but I reviewed this opening statement, like, 9 hours ago now. I almost don't remember what it said. Are you ready?

DeBOER: Welcome.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

BOSN: Thank you. Vice Chair DeBoer, and good evening to the members of the Judiciary Committee. For the record, my name is Carolyn Bosn, C-a-r-o-l-y-n B-o-s-n, and I represent the 25th District, which consists of southeast Lincoln, Lancaster County, including Bennet. LB559 is intended to open the conversation of human trafficking and the scourge that it is in Nebraska. First, this bill provides a definition of "skimming" and prohibits the unauthorized use of a skimmer device. Second, it creates a kingpin statute with respect to financial crimes. Skimming occurs when an electronic device is inserted over an existing device slot on an ATM or other place where a credit or debit card can be used. Generally, skimming takes place at ATMs and fuel pumps. When a customer inserts their credit card, the electronic skimmer device reads the cards, records the encoded information, as well as the pin that is entered by the consumer. The information thus captured is used for various financial crimes. FICO reported that in 2023, 3-- excuse me, 315,000 credit cards were skimmed. That is a 96% increase in compromised debit cards over the year 2022, so in one year. Mastercard reported that skimmers infected 4,500 new sites in 2022 alone-- a 129% increase over 2021 numbers-- and that number increased by another 2,700 in 2023. Total compromised cards were up 368%, you guys. 368% from 2021 to 2023. That's a two-year time span. Often, organized gangs are involved in skimming and other financial crimes. Organized criminal activity utilizes human trafficking to enrich themselves through violations of financial crime statutes. Criminal kingpins may have many people working underneath them. LB559 addresses both of these issues to provide a clear definition of the skimmer device, and prohibits the unauthorized use of the device. Second, it enhances penalties for conspiracy to violate financial fraud statutes, depending on the number of persons working under the organizer and the amount of the gross receipts that that criminal enterprise received. I have handed out AM465, which creates the Financial Fraud Victims Restitution Fund. This allows a victim who has suffered a loss as a result of a financial transaction offense to apply for reimbursement from the fund through a specified application process. Think restitution for victims. The funds shall remain in the Financial Fraud Victims Restitution Fund until the latter of 36 months following the transfer or the resolution of any applications filed during such 36-month period. That was in anticipation of how long some of these cases may take to go through court, so that was somewhat of an arbitrary, but that was our best guess. Once the time has expired, the leftover funds will be distributed in accordance with Article VII, Section 5 of the Nebraska Constitution, which, as you probably know, puts them in the Public Schools Fund. Thank you for your time and attention. There will be financial fraud investigators from financial

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

institutions, as well as law enforcement who are following me. They will be able to answer a lot of the technical questions, and they also have great stories to share about what is happening in our communities. I would be happy to answer any questions, though, as well.

DeBOER: Are there questions for Senator Bosn? Senator McKinney.

McKINNEY: Thank you, and thank you, Chair Bosn. I just have a-- really a curious question. So, if a, a skimmer vice [SIC] is found, like a, like a-- on an ATM or, like, on a gas station, how do we find the person that put it there?

BOSN: Well, that's a, that's a great question for law enforcement, and I think it's a super detailed question. I won't get over my skis too much here, but I think they use some of the information tracking back to--

McKINNEY: OK.

BOSN: --who used the data that was off of it, and, and trace it through that. But I, I agree, there's a lot of that that's technical in nature, and I think some of which is done overseas, and a lot of that kind of thing. I was told today that you can purchase some of these ridiculous devices on Amazon for less than \$100, park in a parking lot and take advantage of individuals, and then toss the machine, which makes it really difficult for law enforcement and financial institutions. And we're stuck saying, "Why are your fees so high?" at the same time as telling them they've got to continuously keep up to date with all of the skimmers that are at-- scams that are going on, while protecting the individuals who have credit cards with them. So, it's a circular problem that this is intended to address.

McKINNEY: All right. Thank you.

DeBOER: Other questions for Senator Bosn? Senator Bosn, I have one question for you, because I was-- some folks talked to me about this earlier. Like you, I know, were a prosecutor, so maybe you know this. You talk about the number of people working for the criminal enterprise. How on earth do you-- what does, what does the [INAUDIBLE] of that look like?

BOSN: Well, I did not ever handle white-collar crimes, however, I think they can be huge. They can be large, and some of those may or may not go federally, but they can also be fairly localized problems that involve local gangs, local--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

DeBOER: But I just mean, like, how do you know that someone is work-- how do you prove in a court of law that someone is working for someone else, or these 23 people are working for someone else in order to get that kingpin part? Maybe there's someone who can answer behind you.

BOSN: Well, you do it beyond a reasonable doubt. That's the only way to prove it.

DeBOER: OK. Thank you.

BOSN: Any other questions? I'm sorry. It's 8:00.

DeBOER: Any other questions? All right. We'll take our first proponent, then. Welcome.

GENE KLEIN: Good afternoon, Vice Chair DeBoer, and members of the Judiciary Committee. My name is Gene Klein, G-e-n-e K-l-e-i-n. I am CEO of Project Harmony, a child advocacy center located in Omaha, Nebraska, and I'm one of seven child advocacy centers that represent the state, and I'm testifying here on behalf of supp-- in support of LB559 on behalf of the Nebraska Alliance of Child Advocacy Centers. In 2023, these centers across the state served over 9,200 children that were making the outcry of child abuse and neglect to include trafficking. The, the Nebraska Alliance of CACs provide trauma-informed services to these children, forensic interviews, medical exams, advocacy and mental health services, as we investigate-- or, we support the investigation with law enforcement-- of child abuse, neglect, and child trafficking. These centers, in, in the last year, have been very active in participating in the Attorney General's Human Trafficking Task Force where there's a multidisciplinary response to this crime, and bringing all those professionals together to identify solutions to prevent and respond to instances of child trafficking across our state. In our experience serving young children who have been trafficked-- many of those that you heard stories about today that go missing-- we know that perpetrators prey on these children and use financial means to reward, exploit, and coerce young children into behaviors that provide a financial benefit to, to many, especially the traffickers. For example, it's-- is very common to see a pattern of financial transactions that provide the evidence of coerced activity, such as providing cash app access, gift cards, buying clothing, supplying the children and, and those victims with luxury items for-- in exchange for sex. LB559 helps identify against human trafficking by enhancing the penalties for these financial criminal enterprises, and scales the penalties to size of a trafficking operation. Trafficking and other

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

forms of, of exploitation are complex and resource-intense, and take a significant amount of time for law enforcement and prosecutors to, to move through. This bill will strengthen their ability and prosecute-- for prosecutors to seize and, and utilize those assets involved in criminal activities, thereby enhancing their capacity to protect children and victims of sexual assault. We encourage the committee's support, and I thank Senator Bosn for bringing this bill forward, and I'd be happy to answer any questions.

DeBOER: Thank you very much for your testimony. Are there questions for this testifier? I don't see any right now. Thank you very much. Let's have our next proponent. Welcome.

BEBE STRNAD: Good evening, Vice Chairwoman, and members of the committee. My name is Bebe Strnad, B-e-b-e S-t-r-n-a-d. I am the Consumer Protection Bureau chief at the Attorney General's Office, and I'm here in support of LB559. Skimming scams are a growing concern that law enforcement should be empowered to address in Nebraska. Illegal skimmers have been found in Nebraska by law enforcement at gas stations, ATMs, grocery stores, and other point-of-sale machines where consumers use cards. Many of the bad actors who employ skimmers are connected to foreign crime organizations, who often launder stolen funds through various channels. These criminal organizations utilize devices that are increasingly difficult to detect by the average consumer, and they continue to innovate on how to avoid detection and device subtlety. While some consumers may tap chip cards or use mobile wallets to avoid potential skimmer devices, not all cards include a chip or mobile interoperability that allows for non-swiping transactions. Notably, federally-funded food assistance cards issued to Nebraskans in tough financial situations do not include a chip and are not compatible with mobile wallets. These transactions are thus more susceptible to skimming, hurting both the most financially-vulnerable Nebraska consumers and harming taxpayer-funded programs meant to help those in need. LB559 would help law enforcement fight back against skimmer schemes, as well as aid in the protection of some of Nebraska's most vulnerable consumers. We therefore urge the committee to advance this bill to General File. Thank you, and I'm happy to take any questions.

DeBOER: All right. Thank you for your testimony. Are there questions?

STORER: I guess I would just--

DeBOER: Senator Storer.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

STORER: Thank you, Vice Chair DeBoer. I would just have a little clarification. So, currently, our-- we really don't have an appropriate way to charge for this specific crime, other than attempted fraud. Is that the closest--

BEBE STRNAD: The-- as-- I-- I'm not a criminal lawyer. I should clarify that I am here in a civil litigant capacity. But currently, it's very difficult, in particular because these are foreign operations with lots of different people being used to perpetuate the crimes, and often, low-level participants in the organization are the ones actually physically putting the skimmers on.

STORER: OK. Thank you.

DeBOER: Thank you, Senator Storer. Just a second. Ope. Other questions? OK. I-- so, I know you're not a criminal attorney, but you may be about the best I got on the-- for right now, at least on the proponent side. How do you-- I read-- you know, I read the statute, and the statute says it's a felony of this kind if they have an enterprise, which the defendant was in a leadership position which included this many people. How does-- how-- first of all, do we have a kingpin statute currently? That's what they're calling this part of the statute. Do we have one?

BEBE STRNAD: Not that I'm aware of, but again, not a criminal lawyer.

DeBOER: Fair. How do you prove "in a leadership position?" Do you know?

BEBE STRNAD: Other than beyond a reasonable doubt, I do not know. But I do know that a kingp-- the kingpin is the person often pressuring people and coercing them to be part of a criminal organization and carry it out. So, anything that addresses only the low-level people operating, I think does not serve justice.

DeBOER: OK. Thank you. Other-- wait, there-- Senator McKinney has one now.

McKINNEY: Thank you. Is this-- maybe I'm saying it wrong. Is this like a state RICO, in a way?

BEBE STRNAD: So, RI-- I, I am not super familiar with the Nebraska State RICO--

McKINNEY: In a different version.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

BEBE STRNAD: --but it, it is similar in the sense that it's, it's going after sort of a mob,--

McKINNEY: Yeah. Right.

BEBE STRNAD: --yeah. Mob activity. That's a good example of RICO claims, which are very difficult to prove, very time-consuming, often only brought by the federal government.

McKINNEY: OK. Thank you.

DeBOER: Welcome. Next proponent.

MICHAEL DECHELLIS: Good evening. Michael DeChellis, M-i-c-h-a-e-l D-e-C-h-e-l-l-i-s. Thank you for having me. I am an investigator with the Douglas County Sheriff's Office. I have served there for 18 years, eight of that investigations. My primary focus is financial crimes investigations, and I look forward to answering any questions you have about the process by which we identify kingpins in large-scale financial crimes. I'll back away from the mic and say that since-- generally speaking, since COVID, large-"spale"-- large-scale financial crimes conspiracies have blown up as a problem for, primarily, the banking community; of course, the citizenry, citizenry then bears the cost down the line. Check fraud is an epidemic in the country; we're no strangers to it here. We work 2 to 3 conspiracy cases per year in which losses are in the multiple hundreds of thousands of dollars, and these conspiracies generally involve 2 to 3 leaders who are printing the checks, directing people where to go, using social media and other means to recruit individuals to either open bank accounts or they have bank accounts; forged checks are then deposited, and then, through a variety of means, that cash is withdrawn. One notable instance from last year, we've made 16 felony arrests, and I anticipate two federal indictments of the primary players in that within the next couple of months. Bank losses were very substantial in this case, and it's worth noting that most of the people whose accounts are used for these crimes are not outwardly criminals. You know, you get college kids, anyone who is offered a chance to make money, sometimes under false pretenses. Should they know better than to turn over their debit card and their PIN and their banking credentials? Yes. But they do it, and somebody who has probably never been arrested in their life is suddenly catching a IIA felony. I have a great deal of other examples I'd be willing to share once the time is up, but I will say that-- it's worth noting that under current Nebraska law, where we do not have any kingpin definitions or penalties, the person running-- the two people running that fraud and profiting well in excess of \$300,000

are facing-- would, on the state level, face the exact same F-IIA felony and conspiracy charges as a college kid who simply responded to an Instagram post and turned over their debit card. We have a great deal of experience with skimmers as well. There's a local group of Cubans in Omaha who have been doing this for more than two years to the tune of tens of thousands of dollars every couple of months. We arrested one of them, charged him with ten felonies based on existing law, and so they moved to the counties surrounding Douglas County to commit their crimes. In respect for the time, I'll sit back and be glad to answer any questions.

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

STORER: Thank you, Vice Chair Boer-- DeBoer. So, you can probably answer the question I had asked earlier, or maybe you already have, but we currently don't really have a way to charge for these kind of crimes outside of attempted fraud. Is that--

MICHAEL DECHELLIS: The-- regarding skimmers, there are a number of laws for that. I believe that the intent of this would be a lot of-- a lot of Nebraska theft statutes or fraud statutes are clearly based on the dollar amount as to classification. This would basically-- my understanding is that this would cover the instance in which somebody is caught placing the machine on a device, and could be charged with a felony without having to prove that they successfully stole any amount, because clearly, that's their intent. We have probably 4 to 5 times a year groups of Romanians that come through on the interstate, steal, again, thousands upon thousands of dollars from people's accounts here in Omaha, move on to the next state. It's very, very common. And then again, we have this locally-based group that's very persistent. They would probably-- I'll just say that it's not amenable to federal involvement or prosecution at, at this point, so any kind of enhancement of laws in this regard for skimmers, definitely useful for us, from a prosecutorial standpoint. And they are impacting at least four Nebraska counties that I'm aware of.

STORER: And to-- I'm going to copycat Senator McKinney and ask that question as well, which he, he may have intended to. How do you, how do you find the individual that put the skimmer on the machine?

MICHAEL DECHELLIS: So, normally you don't know when the machine-- when it went onto the machine. There are times that-- for ATM skimmers, frequently they'll trigger an alarm if they don't do it quite right. Omaha had a note where the arrest of some Romanian citizens early last year, I believe it was. So, what we get is a report from a victim,

maybe several victims, that their card has been used. Generally, the bank bears the loss, but if they weren't paying attention and they got the text message and said, "Yes, this is me," then that victim suffers the financial loss. So, we get specific transactional data; we start to pull video from the gas stations; we look for commonalities, both individuals and vehicles. In the instance of the gentleman we arrested last year, he switched vehicles several times throughout his-- I, I guess you'd call it a crime spree over several months, and we were able to identify a license plate on one of those vehicles through our resources, eventually identify him. It continued to happen, so we got some more evidence, but we knew who it was now. We served a search warrant, recovered between 40 and 50 different people's information on duplicated credit cards; he had a stack of about another 100 blank ones, a credit card reader/encoder. So, it's just like any other criminal investigation: you, you take the evidence that you have, you work towards hopefully a search warrant for both electronics, for, for wherever you believe that the person is working out of, where the most evidence will be. With that being said, that individual is not the ringleader of that group. The ringleader is not going around using stolen credit cards to get diesel, which is then resold, which is what this group is doing. We know who that individual is, and should the evidence for a further action come forward, obviously we would, we would take action. And if we had a kingpin statute, he-- this would probably apply to that.

STORER: Makes sense. Thank you.

DeBOER: Other questions? Oh, Senator Storm.

STORM: Thank you, Vice Chair. Thank you. So, you said there's four counties where they're operating?

MICHAEL DECHELLIS: Yes.

STORM: What are they?

MICHAEL DECHELLIS: Washington, Sarpy-- just to the west of us. I'm sorry, it's very late. Saunders. So, Douglas County. And we're also very aware-- well aware of them being on the Iowa side of the river.

STORM: So, Saunders would be my county, so. OK.

MICHAEL DECHELLIS: Yes.

STORER: Watch out.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

DeBOER: Other questions? Senator McKinney.

McKINNEY: Thank you. Where are the feds at on this? Are they stepping in on these cases?

MICHAEL DECHELLIS: Yes, but it's a process, and we can't guarantee it. I think you'll hear from one of the other banking representatives a, a particular case of one very persistent check fraud individual for whom charges were declined. Basically, it, it slows down the process because we have to go through two different systems of jurisprudence, so we cannot-- the requirements of sealing cases whenever charges are dropped make us very reticent to arrest our primary suspects, even when we've done a search warrant on their house, found forgery equipment, found forged checks, found-- always drugs and guns, to be honest. We're, we're hesitant to charge them while we're still investigating. So, the case where we arrested 16 individuals with felony warrants, the, the-- my partner and I swore out-- we were forced to work basically the entire criminal case and most of the prosecution through to where we were able to proffer with those individuals, you know, where, to their benefit, they were able to be honest with us about who it was that was in charge, but we already had electronic communications that were very powerful evidence that showed us who was orchestrating the fraud. But we have to do all that on the front end before we then even go to the FBI and say, could you sponsor this and take it to the U.S. attorney to try and get an indictment? And just-- the reality is, you know, again, that person who stole \$300,000 paid these account holders who are getting all the felony charges on the state level a pittance, sometimes \$200 for \$20,000 in theft from their account. That person is technically facing the exact same penalty range as that college kid that he brought into that conspiracy. And so, that's why we feel that having a legal structure where recruiting that many people should step up your responsibility and your, your, your penalty range within the state legal system so that we don't always have to go to the feds to try and get somebody something other than probation. With the minor players, we're able to work with the county attorney and say, OK, they're working with us, let's screen them for young adult court so that they don't have to have that felony on their record. You know, we always try and respect what a person's role is in these conspiracies, what the state law is what it is; it's \$5,000 or more in its conspiracy, then those are the charges you get. And so-- and this-- just-- so, to be clear, this is one case example that I'm talking about. I have another case right now that's open that's going to result in at least 25 arrests for check fraud. We see several of these a year, and it's-- cumulatively, losses are in the many millions of dollars for the Omaha banking industry.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

McKINNEY: Thank you.

DeBOER: Thank you, Senator McKinney. Other questions? I have a few.

MICHAEL DECHELLIS: Yes.

DeBOER: So, you keep saying, you know, you have 16 felony arrests here, or charged somebody with ten felonies from existing law. What, what are you charging them with now?

MICHAEL DECHELLIS: So, again, primarily it's the felony-- so, it depends on what's on video for check fraud, right? If we have GPS coordinates that are their house where they're mobile-uploading forged checks, obviously, that's powerful evidence that they're doing it.

DeBOER: So, they're doing forged checks in these cases?

MICHAEL DECHELLIS: Yes. Forged--

DeBOER: Which is not, not the same as the skimming thing, or?

MICHAEL DECHELLIS: This, this bill covers several different things.

DeBOER: Right.

MICHAEL DECHELLIS: To include the human trafficking, which is obviously very important. It's not my specialty.

DeBOER: Sure.

MICHAEL DECHELLIS: But to that end, I'll say that I have done prostitution human trafficking operations with the Attorney General and the FBI, and when you've detained the, the female who is the victim of trafficking, that phone's always ringing, so there is a kingpin there, too. So, I'll just say that the statute is very relevant for in-- internal Nebraska human trafficking rings where they're not crossing state lines or violating federal laws. But so-- you know, we're charging felony theft where appropriate, if they're taking out \$5,000 at a time, which some banking policy allows; we're charging felony forgery based upon the amount of the checks that we can document them, either mobile uploading, depositing at the bank, however they happen to be getting it there. And then, where we have seized electronic devices-- primarily cell phones-- and we have records of communications between that lesser-involved person and then the person who is controlling them-- the, the recruiter, the, the

leader of the conspiracy, the kingpin-- then we're also charging conspiracy where we can show that they had that communication,--

DeBOER: OK.

MICHAEL DECHELLIS: --that's that, that involvement.

DeBOER: Is that a--

MICHAEL DECHELLIS: It's all very specific to each specific suspect. We don't charge broad groups; we charge only based on what the evidence against any one individual is.

DeBOER: And, and what is that conspiracy charge that you're charging? Is that a-- basically a state RICO statute, or what is that?

MICHAEL DECHELLIS: There is a state RICO statute. It's not particularly strong, and it's not commonly used. Conspiracy basically means that two people got together--

DeBOER: Sure.

MICHAEL DECHELLIS: --in order to decide that we're going to commit this felony. And so, if we can only prove that your only involvement in here was that you deposited the check, that's all we charge you with, is forgery second degree. But if we prove that, you know, you're discussing over text messages or recorded calls, or whatever it is with this primary suspect, your plan to go to your bank and defraud them of \$40,000 in a weekend, then obviously you're going to be charged with conspiracy, because it's not-- it's premeditation, basically, is what it's showing.

DeBOER: You should never write these things down, I guess. Never send it by text.

MICHAEL DECHELLIS: Yes.

DeBOER: All right. Any other questions? Thank you.

MICHAEL DECHELLIS: Thank you.

DeBOER: Next proponent. Welcome.

DEREK COLLEDGE: Thank you. Good evening. My name is Derek Colledge, spelled D-e-r-e-k C-o-l-l-e-d-g-e. I'm testifying in support of this bill on behalf of FNBO, where I'm the director of financial crimes risk. So, I'd like to address two issues covered in LB559: ATM

skimming and human trafficking. While the topics may seem unrelated, they are interconnected, and often run by large-scale criminal enterprises, which are sophisticated and run just like a business. The leaders of these enterprises are often involved in numerous types of crimes, and often include members of dangerous cartel gangs and even foreign adversaries to cause distrust within our communities, and, in some cases, transit criminal activities performed by foreign nationals in what is known as criminal tourism, in which they enter the United States to commit crimes before returning back home to Latin America or Eastern Europe. This is not limited to a single cohesive group, and can apply to multiple types of criminal activity, just like what FNBO has experienced with ATM skimming, ATM jackpots, and other related criminal activity. So, we can start by diving into ATM skimming. As you heard, these are skimmers that are placed-- these are illegal devices criminals attach to ATMs or gas pumps to steal your card information. They're cleverly disguised, almost impossible to detect. Once you use the machine, the scan-- the scammer captures your card details and that's sent to the criminals. The bank is able to identify when and where these skimming events occur, and when customers experience fraud. So, I can answer any questions you may have about that. At FNBO, each skimming incident affects an average of 300 customers, and the impact extends far beyond our bank as well. For example, we had an 83-year-old retired widow in Fremont who couldn't use her card to buy groceries after her card was skimmed, and another victim, a 64-year-old mother dealing with the loss of her disabled son, had to navigate the nightmare of disputing fraud. And despite fraud protection services at the bank, vixen-- victims still face emotional and financial stress from filing police reports to spending hours disputing charges. This trauma, coupled with the loss of their card access, makes customers wary of using their cards at locations where they may feel vulnerable. These financial crimes also relate to human trafficking; traffickers need funds to sustain their operations and control victims. Often, this involves illegal financial practices, such as using gift cards to move illicit money. So, let's tie this to human trafficking. Consider a trafficking victim given several gift cards, like those that you get from fast food restaurants, while often being monitored by their trafficker. The kingpin is instructing the purchase of a device online called a magstripe encoder/decoder, and that's what's used to wipe that card, that gift card. This kingpin is also instructing the skimming devices placed on ATMs. Hundreds of card numbers are obtained on this skimming device; the kingpin instructs that magstripe to be-- on that gift card to be removed and replaced with the stolen card information, and the kingpin also instructs others to use those cards to receive cash or goods at fraud-friendly

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

merchants. By easily modifying the cards, they're used to transfer funds without leaving any trace of cash. Organized at the direction of the leader, trafficking organizations rely on money laundering and fraud to fund these operations. So, by disrupting these practices, we can undermine criminal activities like human trafficking, which is where legislation like LB559 comes in: it aims to dismantle the financial networks that these criminals depend on. And we need stronger accountability. Governments and financial institutions must collaborate to improve security and ensure these criminals are held accountable. It's time we recognize how these issues are intertwined and take action to protect our communities and the most vulnerable, so I ask you to move this bill to General File. Thank you for your time.

DeBOER: Thank you very much. Are there questions? Senator Storer.

STORER: Thank you, Vice Chair DeBoer. I, I guess just more out of curiosity-- so, a-- when these skimmers are put on, most-- the, the retailer doesn't have any idea, right? I mean it-- it's that invisible, basically?

DEREK COLLEDGE: Right.

STORER: And the, the, the, numbers-- how is it getting to the, to the kingpin? Through-- I mean, it has to be somehow utilizing the retailer's internet--

DEREK COLLEDGE: It could be a couple of ways. It could be real-time, like through Bluetooth; the information could be relayed directly back to the kingpin almost instantly. In some cases, they need to come back and retrieve the skimmer, in which it's stored hundreds or thousands of card numbers. So, it really depends on their technology, but they do have the technology to have it work both, both ways.

STORER: Bluetooth, they would have to be in close proximity, I assume.

DEREK COLLEDGE: Yes.

STORER: [INAUDIBLE]. Thank you.

DEREK COLLEDGE: You're welcome.

DeBOER: Thank you, Senator Storer. Senator Storm.

STORM: Thank you, Vice Vice Chair DeBoer. So, you're talking just skimming credit cards, like on ATM or a gas pump, right? Is that what we're saying?

DEREK COLLEDGE: Yes.

STORM: Is that now why they have the tap? You tap with the chip, and that takes away with that?

DEREK COLLEDGE: Yeah.

STORM: There's no way they can hack into the that, if you--

DEREK COLLEDGE: Not, not with the traditional skimming devices. Other ways possibly, but not with skimming. Skimming is--

STORM: So, we're not even safe to put your card in the thing now? Is that what you're saying? They already figured that out, too?

DEREK COLLEDGE: Right. Yeah. No, I mean, it's, it's-- they are-- obviously, it's, it's hard to detect. They're, they're placed at usually, you know, late hours when nobody's watching, or in obscure places. But I mean there's some-- sometimes signs if you, you know-- I think they recommend if you, you know, move the, the-- where you-- the slot where you insert your card a little bit, you can maybe detect, but-- they're hard to detect, absolutely.

STORM: OK.

DEREK COLLEDGE: Yep.

DeBOER: Thank you, Senator Storm. Other questions? I have, I have a question for you. The devices that-- you're talking about were they, they strip the, the gift card or whatever that you can buy on Amazon. Can we regulate those devices? I mean, it seems like-- is there any other purpose besides a bank creating a credit card-- I mean, does your average consumer have any purpose for getting these devices, other than criminal activity?

DEREK COLLEDGE: The average consumer, no. But there are legitimate reasons why you would want an encoder. If you-- I imagine if you're a business owner and want to be able to encode your own information on the back of those cards, whether it be for gift cards or store payments or, or something. As a business owner, yes, you would have a legitimate reason for that device.

DeBOER: OK. I have written down, Senator Storer, how does the skimmer device send the info to the criminals? So, we were thinking about the same, the same--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

HOLDCROFT: Sure, sure seems [INAUDIBLE].

DeBOER: It's written right here, Holdcroft. So, you heard some of the questions I was asking in the past, to some of the other testifiers. Do we-- I thought then when I had a conversation with you earlier today, you mentioned that Nebraska has a kingpin statute. Did you say that? Or am I--

DEREK COLLEDGE: I did not say that.

DeBOER: OK. Well then, that answers that question. OK. Any other questions? Thank you.

DEREK COLLEDGE: Thank you, Senator.

DeBOER: Next proponent.

DEXTER SCHRODT: Good evening, Vice Chair DeBoer, members of the committee. My name is Dexter Schrodtt, D-e-x-t-e-r S-c-h-r-o-d-t, president and CEO of the Nebraska Independent Community Banker(s) association, here to testify in support of LB559. I'd like to thank Senator Bosn for introducing this bill. And you heard a little bit about how the skimming devices and, and that sort of thing helps to facilitate sex trafficking, human trafficking. But one key component of this bill that's really strong, and why the kingpin statute is necessary, is the lower-level employees also-- employees, I'll use those-- that term loosely-- are roped into the scheme as well, and that is a version of trafficking in itself. So, for example, my board chair last summer had an individual in his bank that was seeking to deposit a check written on the local co-op. Things seemed a little off, so the teller raised the issue with my board chair; the-- they called over to the co-op, the co-op did not issue the check. So, they called the sheriff, the sheriff came, and it turns out the guy that was presenting the check was a homeless individual from Omaha that these kingpins-- group leaders-- just drove in to a small town out in Nebraska, had them-- had him try to cash this washed check from the local co-op. And it's a perfect example that people get tied up in this on the promise of a few dollars here and there, but what-- who we really need to go after are those kingpins that are organizing. Another example. Last summer, there was a massive check fraud ring dealing with ATMs, and the individual at the head of this scheme was posting on social media, believe it or not-- Facebook, Instagram-- asking anybody either to A) go open an account at particular banks, or B) if they had accounts at particular banks. And what they would do is they would have a new account at FNBO, for example, and they would

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

take that to a Pinnacle Bank ATM and deposit a large amount of money into the ATM, and they were taking advantage of the bank leniencies on deposits, and they would withdraw the cash immediately. Then the checks, of course, would come back bad. But that is now roping in all those people he solicited on Facebook to either use their own account or go open up accounts in their name. They got roped into it at the promise of a few dollars, when, in reality, this individual was leading the whole thing unabashedly. He was arrested a couple times; next day he'd get out and would be doing the same thing at ATMs. Douglas County got onto him, so he would move to Dodge, he would move to Lancaster, and it reached the point where one of my member banks actually stopped accepting deposits at ATMs. So, you're not only now impacting the consumers of the banks, but again, major concern for those that get roped into these promises of, of money, and now are facing criminal charges. So, I will conclude there.

DeBOER: OK. Are there questions for this testifier? I think you're going to get off easy tonight.

DEXTER SCHRODT: Thank you.

DeBOER: All right. Next testifier. Proponent. Welcome.

RYAN McINTOSH: Good evening, Vice Chair DeBoer, members of the Judiciary Committee. My name is Ryan McIntosh, M-c-I-n-t-o-s-h. I appear before you today as the registered lobbyist for the Nebraska Bankers Association to testify in support LB559. The NBA is in full support of LB599 [SIC] to address the increase in all forms of financial fraud. In the last 12 to 18 months, fraud has become absolutely the number one issue that our member banks contact us regarding. This includes skimmer devices as we've discussed tonight, and what hasn't been talked about quite as much is check fraud. Much of this is actually just very unsophisticated check fraud where checks are stolen, stolen from unattended mailboxes, whether it be blue-- the blue post office boxes, or just unattended mailboxes at the end of the driveway. The checks are taken, washed, or deposited into fraudulently-created accounts that are opened up in the payee's name. I've included a handout with a recent-- just last month-- alert from the FBI and the US Postal Service Inspection Service [SIC] dated January 26-- 27, 2025 that gives a little bit of details on some of these definitions that I've mentioned, check washing and the like. These are typically not isolated, and are rather done as part of an organized venture, much like Mr. Schrodt just testified about. We're now receiving reports from our member banks that their fraud losses now exceed their loan loss reserves. Loan loss reserve is money that's

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

set aside to cover losses on loans that may not be paid back. To be clear, the fraud losses are not just exceeding realized loan losses, but the reserve amount that's set aside just in case. The NBA, in partnership with the American Bankers Association, has pushed back against fraud by promoting ABA's Fraud Contact Directory, which seeks to resolve check fraud, warranty claims, and then additionally, we offer consumer protection programs such as "Banks Never Ask That!" and tips on how to protect against skimming devices and recognizing them. However, additional tools are needed by law enforcement and prosecutors to combat the significant rise in fraud. This measure will provide those tools, and with that, we urge the committee to advance LB559. Thank you.

DeBOER: All right. Thank you. Let's see if there are questions.

RYAN McINTOSH: Thank you.

DeBOER: I guess I don't see any. Thank you. Next proponent. Welcome.

JOHN LINDSAY: Thank you, Senator-- Senator DeBoer, members of the committee. My name is John Lindsay, L-i-n-d-s-a-y. I'm appearing as a registered lobbyist on behalf of First National Bank. My primary purpose is just to tie everything together, so I'm going to be wandering a little bit, trying to answer the questions that, that you've had that, that didn't get answered. I would start with, though-- with-- when I first started meeting with First National Bank to address this huge fraud issue that I think Senator Bosn mentioned a lot of the statistics in her opening of how much it's rising-- I was reminded, in talking with Douglas County Sheriff's Office and the fraud investigators at First National, when they talked about one of the scams that's out there, and I thought, "Wow." It was seven or eight years ago that my son who was then in college was approached by-- for a job that was, he thought, pretty easy; all he had to do was be the local bookkeeping person for a Canadian company that, of course, was made up. But it was no risk because they said, we will send you the money, we will send you a check before you ever have to write a check for some of these bills. So, they send him a check on a Canadian bank and said we need you to start writing these checks to our creditors, so he did. Of course, the check was totally forged; didn't have the right routing number, so a lot of, lot of time to, to wait, but eventually all of his checks-- my son's checks that he was writing based on that check-- all bounced, and to the tune of around \$2,300. So-- and he was not a stupid kid. Takes after his mother. But he-- educated kid, but these guys, these people that are doing it are good. I mean, they can-- they've got all sorts of stories they can use

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

and they tricked him into it. So, I just-- it can hit pretty close to home. Let me answer, though, Senator Storm's question about the chip. The chip, if that goes through a skimmer-- which of course is just a plastic device that's going to match the, the, the slot where you insert your card at the gas station-- that-- when the chip goes through that skimmer, the chip is safe. It's not-- the data there is not going to be picked up. And it's, it's very difficult to, to break a chip-- or, break in and get the information from one of the chips. But again, these folks talk a-- they know what they're doing. And I've had this happen to me, where-- I got my First National Bank credit card's got a chip on it, says tap here, or put, put it against the little picture. And I'll do that and won't do anything, and after two or three tries, the attendant will say, oh, just, just swipe it. These scammers know eventually that's what's going to happen, so they'll try the chip a couple times doesn't work; they'll say just swipe it, and now they're into Senator Storer's account, or whoever-- whatever's been encoded on to this magnetic strip. Senator DeBoer, you had a question about--

DeBOER: Well--

JOHN LINDSAY: --why would anybody--

DeBOER: Well, s--

JOHN LINDSAY: Oh, I'm sorry.

DeBOER: Sorry. I'm going to recognize the light, and then I'm going to ask you the question. Actually, just go ahead and tell me what you're going to answer to my question.

JOHN LINDSAY: You said why would anybody have one of these encoders or decoders, and an example would be-- this is how I'm hopefully going to get back into my office tonight. I'll hold my, my key card up to the little pad--

DeBOER: Yeah.

JOHN LINDSAY: --and somebody has to encode that,--

DeBOER: Yup.

JOHN LINDSAY: --and it's my landlord. So, that's one example of why they would do it. I will tell you, my-- I know you can get those online because the son-- same one that got scammed, and that got him interested in cybersecurity-- bought one of those on Amazon because

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

he's in cybersecurity getting-- he's, he's taking classes and learning how these work. That's, that's why he got one, but yes, you can get them for under \$100 on Amazon.

DeBOER: So, let me ask-- first, are there any other questions? I'm going to ask you a couple of questions, because you're likely to be the closest thing I'm going to get to a criminal attorney up here as a proponent who's not going to just say by a-- "beyond a reasonable doubt" to me. How do-- so, first of all, do we have any kind of kingpin law in place in Nebraska now?

JOHN LINDSAY: We have a general conspiracy statute.

DeBOER: OK.

JOHN LINDSAY: And that is-- and that's just as was described,--

DeBOER: Two people--

JOHN LINDSAY: --more than one person getting together and deciding to commit a crime.

DeBOER: OK. And the difference, then, between the bill before us and that general conspiracy crime is that it-- you sort of escalate the more people you have in it, in this bill?

JOHN LINDSAY: Exactly. Exactly.

DeBOER: And the idea is that the larger the criminal enterprise, the bigger the kingpin, or something?

JOHN LINDSAY: Yeah. The, the statute-- or, excuse me, LB559, was drawn partially from federal RICO. RICO, of course, is the Racketeer Influenced and Corrupt Organizations Act, and that's important because when that was drafted, it was-- they were looking for the Mafia.

DeBOER: Do we have--

JOHN LINDSAY: And it's been a long time, and it's changed now. You heard it's Romanian gangs, it's Cuban gangs, it's foreign nationals coming in. And, and the structure is just different, and it's keeping up with the times.

DeBOER: Do we have a state RICO law?

JOHN LINDSAY: Pardon me?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

DeBOER: Do we have a state RICO law?

JOHN LINDSAY: I don't believe so. I believe we have the-- just the general conspiracy statute.

DeBOER: OK. So-- you know what? That's good. Let's see if there's anyone else. Any other questions?

JOHN LINDSAY: Senator DeBoer, I was going to close with "I hope you all have a good weekend," but I think at this point, I got to say "I hope you've all had a good weekend."

DeBOER: Thank you so much for staying here so long and waiting. We'll take our next proponent. Anyone else like to testify in favor of the bill? We'll switch to opponents.

SPIKE EICKHOLT: Hi, thank you. Good evening. My name is Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t. I'm appearing on behalf of the Nebraska Criminal Defense Attorneys Association in opposition to the bill. We-- just to kind of be short about this-- as far as the original bill, we're only opposed to Sections 5, 6, and 7. It sounds like the amendment might resolve the issues with 6 and 7-- Sections 6 and 7. So, to clarify, we do not have an opposition to the new crime anti-skimming device. That's fine. And I think that the amendment-- although no one gave me a copy-- I think that resolves the civil forfeiture issue that was in the original bill. But the issue, I think, that we are still opposed to is page 7 of the bill, essentially Section 5, and that's this sort of new tiered conspiracy-type crime called the kingpin statute. To answer what Senator DeBoer asked a few witnesses before, we have a conspiracy statute; 28-202 provides for conspiracy. It doesn't list a specific crime. It doesn't need to. The way that we wrote our criminal code years ago is that we provided for a series of conspiracy-type offenses. 28-202 states that it's a conspiracy if a person-- I'll read it to you actually on the record, or you can look it up yourself later if you're not even listening now. It does provide for conspiracy with-- along with a penalty. We have another-- a number of related RICO-type crimes that follow that. We have aid in the consummation of a felony, which is if you sort of help somebody after or before the fact. We also have the crime of-- if you sort of prof-- I can't remember where I was going now-- if you profit from a felony. So, I-- in other words, we have that offense now. What this does is it creates a kingpin statute that really only arbitrarily selects financial transaction device crimes in 28-618 to 28-630. It doesn't include the theft crimes in Chapter 5; it doesn't include drug crimes in Chapter 4; it doesn't include any of the human trafficking

crimes in Chapters 8 and so on. I say that because this is the problem that we have when you sort of describe criminal conduct because you don't like a certain thing. You completely disregard your arguably well-written criminal code that has some kind of logic and harmony, you probably copy this from federal law or in another state, and you just throw it on the books like that. The problem we have as practitioners is just causes uncertainty to areas of law that are certain, at least for double-charging, overcharging, and that sort of thing. One thing I want to make a point-- if you look at the triggering dollar amounts for this Section 5, we're in the millions of dollars. That's notable because for it to be a state charge, it has to be within the state of Nebraska. If you get to \$10 million, \$10-- \$5 million within a county-- and I think it has to be a county, or at least certainly within the state-- that's notable. I've represented people that have been caught up with some of these trafficking-type crimes. I've represented homeless people that have been picked up to go to a job site. This is a typical scam. Since people are telling anecdotes, I'll tell some because I'm aware of the crime. 3 or 4 guys picked up at the Siena Francis house in Omaha, brought down for a work job here in Lincoln. The guy says, "Oh, you know what? They're not working today, but I'll pay you for the day and I'll pick you up tomorrow and I'll pay you for tomorrow. Here's a check. Go ahead and cash them. Can you give me some of the money back? You can keep \$100." The issue isn't this-- that is happening is detecting and locating the so-called kingpin. And this crime, arguably, that's created is not going to necessarily enhance that ability to do that. I'll answer any questions that you have.

DeBOER: OK. Are there questions for Mr. Eickholt? All right. I do want to ask you these questions. So, you started to go very fast at the end.

SPIKE EICKHOLT: Yeah, I was running out of time.

DeBOER: So, you're saying that your objection is that you think this is-- the new kingpin crime is stacking on existing Nebraska crimes. Is that right, or did I misunderstand?

SPIKE EICKHOLT: No, I think you're right. We-- it's not-- it doesn't amend the conspiracy statute at all. It doesn't cross-reference it; it doesn't amend it; it doesn't build from it. I think-- and the officer from Omaha sort of acknowledged that, that you-- it may not be as convenient or as easy to prove a conspiracy charge as in federal court, but you can pursue conspiracy charges now in state court, under state law.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

DeBOER: And you object to that? To showing conspiracy charges under state law?

SPIKE EICKHOLT: No, not necessarily. We're not-- we don't have a bill to repeal 28-202. No, not at all. But what does this do? Is-- the concern that we have is that you have this new series of crimes. If you look at the conspiracy law, 28-202, the level of penalty is whatever the highest level of crime the group of people committed. So, say that was only a Class II felony based on the dollar amount of a theft, or something like that. Well, then you can go, maybe if we can say there's 3 or 4 more people, we can also get them on a Class ID felony. And I'll say, wait, judge, I'm going to do a mot-- plea in bar and argue that this is double jeopardy, because they charged my guy with conspiracy already; now, they're charging with being a kingpin under whatever this new statute is going to be. They can't charge him with both. And the court's going to say, well I don't know, it's got different elements doesn't it? The Legislature decided to identify the scourge of financial transaction crime and provide for a different enhancement. They knew what they were doing when-- and they knew it was on the books.

DeBOER: So, so, you think it makes it unclear because it doesn't modify the conspiracy statute--

SPIKE EICKHOLT: That's exactly right.

DeBOER: --but goes against-- out in its own section of law?

SPIKE EICKHOLT: Right.

DeBOER: You also mentioned in your testimony that you object to the fact that it's only financial crimes and not the other kinds of crimes for which you might have a conspiracy or kingpin sort of situation. Is that-- did I hear you correctly?

SPIKE EICKHOLT: That's probably an objection, but that's one point-- one I know, because you can see where that goes. Then, we'll have the kingpin statute for theft charges; then, we'll have a kingpin statute for drug charges.

DeBOER: Why wouldn't we just have the same kingpin statute and just add more? If, if the Legislature was going to go that direction.

SPIKE EICKHOLT: I think that's what we have now, with 28-202. I think we have that now with conspiracy. It may not be called kingpin; it may

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

not number the number of people involved and provide for an enhancement.

DeBOER: So, why don't people charge the conspiracy charge?

SPIKE EICKHOLT: Why aren't they?

DeBOER: Yeah.

SPIKE EICKHOLT: I think because when you get into these dollar amounts and these group of people doing it, I think naturally, you're going across state lines with these kind of things and I think you're getting indicted federally. Alternatively, I think it's just difficult to identify the other people that are trafficking-- people they're able to capture.

DeBOER: Arguably, the conspiracy charge is slightly different, though, because what they're saying here is not that you have a conspiracy between sort of equals,--

SPIKE EICKHOLT: Right.

DeBOER: --but that you have someone who's the kingpin for-- since that's where we are here.

SPIKE EICKHOLT: Right.

DeBOER: And then, you have these lesser-involved folks. And they're-- that's not quite the same thing as a conspiracy--

SPIKE EICKHOLT: Right.

DeBOER: --if the guys from the Siena House [SIC] are sort of hapless involved in the situation, I think that would be kind of hard to, to prove a conspiracy because it isn't quite a conspiracy. So, what the-- am I wrong here? Is this a slightly different situation?

SPIKE EICKHOLT: I think in the example I gave, they could-- if they could identify the two people who picked up the people working, then you got your conspiracy with the two guys that are sort of the supervisors of the work crew, picking up the workers.

DeBOER: But if you only have one doing that--

SPIKE EICKHOLT: Only have one, that might be a little bit tricky to do, admittedly so. But in our defense, we weren't asked-- we weren't consulted to write this bill. OK?

DeBOER: Well that's fine.

SPIKE EICKHOLT: So, I-- so, I'm not going to necessarily defend its value. And no one's really articulated, in my opinion, what's deficient about our law right now, why this doesn't work.

DeBOER: Well, I'm trying to articulate that--

SPIKE EICKHOLT: [INAUDIBLE] just don't know who it is. OK.

DeBOER: I'm trying-- for purposes of 9:00 at night on a Friday, having the conversation, with everyone knowing that maybe that's a little difficult thing to do. But if what they're saying is there is a lack of a statute that would criminalize a sort of single mastermind-- which I like better than kingpin--

SPIKE EICKHOLT: Right.

DeBOER: And the, the sort of hapless folks who are sort of doing the mastermind's bidding-- I mean, can you think of another place where you could-- where you could charge that, the kind of use of others that don't know they're being used in a criminal enterprise?

SPIKE EICKHOLT: I mean, you got-- I'll have to look at what the elements are for the different labor trafficking and sex trafficking, but many of those crimes do envision someone who's sort of running the show, if you will, and they are subject to a higher penalty. I can't recall exactly what those elements are just sitting here.

DeBOER: OK. But--

SPIKE EICKHOLT: I mean, I, I heard, I heard the proponents. We're talking about a Romanian gang. Saunders County Sheriff can't go to Bucharest to haul somebody back under this statute.

DeBOER: No, sure.

SPIKE EICKHOLT: I mean, so that's what-- I understand the disconnect. It's a problem. I get that. What is the solution? I don't know if this is really workable. I've represented co-defendants in many cases, and it's always "blame the other guy for being the ringleader."

DeBOER: Yeah, that was a question I asked about proof, because that would be something that I want a little more understanding of. They say, "in a leadership position." I mean--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

SPIKE EICKHOLT: And they might be able to show that, but I think then you're just getting evidence of other crimes.

DeBOER: Well, and also, I don't know what that means. "Leadership position."

SPIKE EICKHOLT: Right.

DeBOER: I mean, he says the pledge of allegiance at the beginning of the day? I don't know-- I don't know what that means.

SPIKE EICKHOLT: Well, that doesn't make you a leader around here, even.

DeBOER: No, well. All right. Any other questions? Senator Holdcroft.

HOLDCROFT: Vice Chair DeBoer, thank you. Who are you representing this time?

SPIKE EICKHOLT: The Criminal Defense Attorneys Association.

HOLDCROFT: Oh, OK. Well, I have to say, you seem to be a little cranky.

SPIKE EICKHOLT: It's past my bedtime.

HOLDCROFT: Yeah, I can tell. That's all. Thank you.

DeBOER: Thank you, Mr. Eickholt. Other opponents. Is there anyone here who would like to testify in a neutral capacity? Seeing none. As Senator Bosn is coming back up, I would like to mentioned that there are 5 provo-- proponent position comments, 1 opponent position comment, and zero op-- neutral-- opponent-- zero neutral position comments. That's all for the record.

BOSN: Thank you. I know you guys didn't receive the amendment until now, so I'm happy to work out any of the portions of this. I will note that [INAUDIBLE] been working with Mr. Lindsay and Ms. Kastner [PHONETIC] on how to do this. I know they had conversations with Mr. Eickholt, trying to fix some of those things. So, to the extent we can get to a place where everyone can be happy, I will work on that. Bottom line is this is an increasingly significant problem with real detrimental impacts on Nebraskans, and I think we have an obligation to fix it. I'll take any questions.

DeBOER: Questions for Senator Bosn? Senat--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 28, 2025

STORER: Not to prolong the night, but I just--

DeBOER: Senator Storer.

STORER: Thank you, Vice Chair DeBoer. Just a-- and so, just to really wrap this all up in a nice little-- a "dealy." Currently, there is no way in our statute or in, in Nebraska law to charge someone differently; to differentiate the charges. If you have ten people, two guys are directing traffic, and they recruit ten college kids, and they all get busted; right now, they're all getting charged-- could, theoretically, all get charged with the same-- with the same crime or the same penalties. Is that-- I mean, is that the way I'm understanding it?

BOSN: As of right now, given-- it-- if the amounts are the same for all of them, yes.

STORER: OK. And this would allow for some differentiation for those charges.

BOSN: Yeah, it better recognizes the reality of what's taking place there versus what is in current statute.

STORER: OK. Thank you.

DeBOER: Other questions? That will end our hearing on LB1-- or, LB559, and end our hearings for today.