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Judiciary Committee
November 17, 2008

[LB1 LB3]

The Committee on Judiciary met at 1:30 on Monday, November 17, 2008, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1 and LB3. Senators present: Brad Ashford, Chairperson; Steve Lathrop, Vice Chairperson; Ernie Chambers; Vickie McDonald; Amanda McGill; Dwite Pedersen; Pete Pirsch; and DiAnna Schimek. Senators absent: None. [LB1 LB3]

SENATOR ASHFORD: Good afternoon, everyone. Why don't we try to settle down just a bit and we'll get started. Good afternoon, everyone and Speaker Flood. Let's go over a few ground rules, if we can. First of all, we are going to spend until around 5:00 on this issue. I will review the situation at 5:00 to see how many testifiers there are, and I will make a determination on whether or not we will go beyond 5:00. Also, we do have two bills to hear today, and Speaker Flood will be introducing the bill for the Governor, and Senator Dubas has a bill as well. We're going to go in a little different direction this time. We're going to have both bills introduced, one after the other. And I have a list of testifiers that have talked to us before today and they will testify first, six or seven, I believe, seven testifiers who have given us their names quite a while ago. Each person that gets up and testifies I would ask them, first of all, to give their name, whom they are associated with, and whether they're for or against either bill. We're not going to take proponents and opponents of these bills. We're going to have the bills introduced and then as each person gets up, I would ask that they give us their...indicate whether they're for or against or neutral. And it may be that some of you may wish to just testify in a neutral capacity on the general topic that we're discussing. And as you...I am sure you are aware you will hear as these bills are introduced, the first bill will deal primarily with the age limit of the safe haven law. The second bill, Senator Dubas' bill, also deals with that issue but goes into some other issues involving older children. So I expect that we will hear discussion about older children. Let me tell you at the outset that the Speaker and I fully intend to take up the issue of older children as well in the session of the Legislature that begins in January. So keeping that in mind, if you are here to talk about that issue, and for some reason you do not have the opportunity to testify because of time or whatever, there will be ample opportunity in January. I know on at least a couple of bills, and probably more than that, in January to deal with older children and some of the issues that certainly the press has written about and talked about over the last couple of months, so. Let me introduce some of the people here at the head table. It's good to see everybody again. I'm glad to have everybody back. Amanda McGill from Lincoln is here, Senator McGill; Senator Pete Pirsch from Omaha; of course, our esteemed colleague, Senator Ernie Chambers from Omaha, and this maybe the last set of hearings, Senator Chambers, but... [LB1 LB3]

SENATOR CHAMBERS: Hopefully. [LB1 LB3]

SENATOR ASHFORD: ...hopefully, (laughter) and thank you obviously for your service;

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Christina Case is acting as committee clerk today; LaMont Rainey is committee counsel; Vickie McDonald, Senator Vickie McDonald from St. Paul, Nebraska; and Senator Dwite Pedersen from Elkhorn, Nebraska, both of whom are also in probably their last public hearing as state senators and I would thank them, and I know I speak for all our colleagues, of the years of service they've given to us. The Vice Chair of the Committee is Steve Lathrop from Omaha. So with that, Mr. Speaker, proceed. [LB1 LB3]

SENATOR FLOOD: Thank you. Good afternoon, Chairman Ashford, members of the Judiciary Committee. For the record, my name is Mike Flood, F-l-o-o-d, I represent Legislative District 19. which includes the city of Norfolk and all of Madison County. As is the customary practice for the speaker, I am here this afternoon to introduce LB1 at the request of the Governor. LB1 amends Nebraska's safe haven law, specifically Nebraska Revised Statute, Section 29-121 by adding a seventy-two hour age limit. In other words, the statute would be amended to read and I quote, "No person shall be prosecuted for any crime based solely upon the act of leaving a child seventy-two hours old or younger in the custody of an employee on duty at a hospital licensed by the state of Nebraska." A traditional safe haven law is intended not for those babies born in a hospital, but rather by a desperate and frightened mother who has a baby at home and for whatever reason, doesn't want anyone to know. That was the tragic situation that occurred in my home town of Norfolk in 2004, where a baby was born at home and dropped in a gulch behind a department store, hours after the baby's birth. As a recent article in the Columbia Law Review points out, the seventy-two hour age limit, which 14 states have adopted, underscores the intended exceptionalism of anonymous abandonment. Safe havens are not receiving stations for unwanted babies generally. The intended beneficiaries are newborns, born in secret, and therefore, at unique risk on the first day of life. That said, I have heard from many folks in my district and across this state about the safe haven law in general, and about an age limit in particular. And I can understand where people are coming from with an age limit greater than three days. Reasonable people can differ as to whether the age limit in Nebraska's safe haven law should be three days, fourteen days, or thirty days. But the clear intent of the traditional safe haven law is to protect newborns and their mothers. Finally, the larger question. The larger question without a doubt, is about appropriate resources for children up to age 19, especially those in the first few years of their lives. It is my hope that a discussion of our resources and services will continue today and on into the next session, at which time the Legislature can carefully address the issues that have been highlighted by the recent safe haven cases. I understand Todd Landry, director of the Division of Children and Family Services, will be following Senator Dubas following her introduction, and he will provide the committee with more information. Thank you for your consideration of LB1. I will be happy to answer any questions. [LB1 LB3]

SENATOR ASHFORD: Any questions of Speaker Flood? Thank you, Speaker. [LB1 LB3]

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SENATOR FLOOD: Thank you, Mr. Chairman. [LB1 LB3]

SENATOR ASHFORD: Let me remind everyone again about the lights. The lights...or Senator Dubas, come on up, and then I'll remind everybody about the lights after that. The lights don't apply to you. (Laughter) Senator Schimek is here. Hello, Senator Schimek, welcome. [LB1 LB3]

SENATOR DUBAS: Senator Ashford, members of the Judiciary Committee, my name is Senator Annette Dubas, that's D-u-b-a-s, and I represent the 34th Legislative District. I thank you for the opportunity to present my bill and to discuss this very important issue that deals with protecting children of all ages. Physical health and mental health are strongly correlated. Many mental health symptoms are a result of a serious physical, medical condition. Last month, Congress passed a parity bill that mandates insurance companies provide mental health services just as they provide for physical health services. Currently, there are 186,000 uninsured Nebraskans. Eighty percent of the uninsured are the working poor and 12 percent are children. As unemployment rises in Nebraska and nationwide, you can count that the uninsured rate is also going to rise. And so here we are today in the midst of a crisis that has caused much national attention. That attention is even more focused now as we seek a solution far more involved than just setting an age limit in statute. This is a crisis that has been ongoing since the onset of behavioral health reform. This is a crisis where children, and the most vulnerable in our society, are being swept under the rug. I am pro-life and I strongly believe that if we are going to encourage children to be brought into this world, then we ought to ensure that their families can provide a quality of life that we all enjoy. Perhaps the current safe haven legislation is more right than wrong. LB3 creates a two-tier safe haven system for the state of Nebraska. The first tier is called the Nebraska Infant Safe Haven Act. Like the original safe haven bill, this legislation will allow a parent or guardian to drop off a child under the age of one at a hospital, and terminate parental rights after a prescribed period of time. The second tier of my bill is called the Nebraska Children's Safe Haven Act. It is for children over the age of one and under the age of sixteen as defined in Section 28-705. Both tiers are met to set up some process for attempting to locate and contact both parents. This has been overlooked in the original legislation and creating a process to ensure that both parents who would like to terminate rights will allow the state to protect the child and the parents. The second tier creates a safe haven child triage system delegated through each behavioral health region. Each region will be required to set up a safe haven crisis team that will be responsible with providing immediate and appropriate services to any child or parent utilizing the safe haven law. In addition, a statewide team is established as a mechanism to coordinate the regional teams. The second tier is set to expire on June 4, 2009, the tentative date that the 2009 regular legislative session adjourns. The second tier serves as a stop gap to protect those children in need of assistance until we can appropriately deal with the issue in the regular session. Some may think we will be able

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to deal with this issue in the regular session in an expedited way. However, we must take into account the budget process. We will be in a budget year, which means that no appropriations bills will be passed until we have completed the budget. The budget is not required to be completed until the 60th day of the session. Therefore, funding for these children that appears maybe to be only weeks away, will be more than half a year away. As evidenced by the 35 children dropped off, this is a complex issue, and a part of a bigger picture of how we deliver community based care. And I do believe it deserves careful planning and deliberation. People from across the state have contacted me about this issue. Surprisingly, and typical of Nebraska values, most of my contacts are telling me that they do not agree with the seventy-two hour age limit, or they simply want it to remain in its current form. Parents of behaviorally challenged children, along with mental health providers, have contacted me to discuss problems with accessing and delivering services to children and their clients. The fact of the matter is, and we all know this, services are being cut in each and every way. We cannot ignore the problems that are being illuminated across the board. As we tout the importance of saving money, and it is important that we are fiscally responsible in the way we deliver our services. Nebraska is currently being investigated by the Department of Justice for denying developmentally disabled their civil rights, and we are forcing Veterans home staff across the state to work mandatory overtime. Over 50 percent of the children who have been abandoned under this law, are children in the care of the state. Over 90 percent of them had accessed some sort of mental health services in the past. Much to my surprise, the Department has deemed that none of the children who were dropped off were in immediate danger. I am shocked that the Department of Health and Human Services in good conscience could describe some 35 children not in immediate danger. I have read report after report by the media that detailed in some cases, suicidal and homicidal ideation and behaviors that were extreme to say the least. Procedurally, I challenge the Judiciary Committee to find a solution within the call of the Governor's proclamation that will, in fact, create sound public policy, due process for children and parents, and a mechanism to fund these services. I challenge the limited nature of the scope, which prevents us from offering a complete solution, albeit temporary. If you like my bill and believe that we need to do something until at least June for these kids, then I ask you to help me find a solution. Perhaps our best solution is just to leave things as they are. Let's not let this special session turn into an exercise in futility that ultimately causes us to determine which age group of children is deemed of more value. As the national spotlight shines on Nebraska, I challenge both the legislative and executive branches to do the right thing by our children. Taking the opportunity to advance and adopt this legislation as a temporary stop gap until we can properly address legislation in the 2009 session, is paramount to families across the state. Do not forget those struggling families who will again be left fearing for the safety and well-being of their children and families. We need to understand our role as a legislative body, and our role has been restricted by this proclamation. We ought not limit the Legislature's authority to find or reach a solution. This proclamation was drafted so narrowly that our hands are tied as policymakers to

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actually draft sound public policy structurally significant and built as a foundation with a conclusion that is ours. I encourage the Legislature to assert itself as a separate branch of government with the responsibility for appropriately taking care of this problem until it can be fully addressed with thought and fortitude during the regular legislative session. I thank you. [LB1 LB3]

SENATOR ASHFORD: Thank you, Senator Dubas. Any questions of Senator Dubas? Thank you for your comments, Senator. Let me just go over again this light system. And the reason we have it, obviously, is because we want to give as many people in the next four hours or three and a half hours a chance to speak on this issue. So the lights are gauged on a 3 minute time table. When the yellow light comes on, we're asking you to begin to sum up, and the red light means to stop, and you'll be ejected out of your seat up into the... (Laughter) That hasn't happened that often, but in any event I think we have, as I said, a few individuals that I've asked to come in and testify to start off the testimony. The first one is Todd Landry. I don't know if Todd is here. Todd? Again, Todd, if you are here or not, but we're asking everyone to kind of as they come up and start to speak that they indicate whether they are for or against either bill and, or neutral, so that we don't have proponents or opponents. Okay. [LB1 LB3]

TODD LANDRY: (Exhibit 1) Good afternoon, Senator Ashford, and members of the Judiciary Committee, my name is Todd Landry, L-a-n-d-r-y, and I am here today to testify in support of LB1. You have a copy in your packets of my full and detailed testimony. In the interest of the time that the Senator referred to, I will try to briefly just hit a few of those highlights. All states, other than Nebraska, have responded to the issue of safe haven laws with bills and laws that range from three days to one year in duration. Safe haven laws were not meant to provide a way for parents or guardians to abandon their older children by transferring their parental responsibilities to the state. They were instead intended to provide a safety mechanism for newborns or infants. Our current safe haven law intent, I believe, was to protect children who were in immediate danger of being harmed, which was reflected in the debate that occurred on LB157. I want to say that I certainly empathize with parents and caretakers who have difficulty in raising their children, especially children and youth with behavioral and mental health problems. However, if the child is not in immediate danger of harm, there are resources available that parents can and should access so that the family can remain together, and the child does not experience the trauma that abandonment may cause. For the vast majority of parents, this is what occurs. However, our experience in recent months shows that this is not always the case and the safe haven law as currently written has had significant unintended consequences. The role of the state child welfare system is to protect children who are fundamentally unsafe. For children or youth who are otherwise safe, it is not the role of government to intervene in a family's life. Instead, available community services are the appropriate mechanism for families to access for assistance and help. I would be happy to go over some of the details of the cases that we have found so far. A matrix in your packet details those. This has been updated from

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the first version that was provided to senators last week with the additional cases that have happened since then. But as I see the yellow light is on, I will simply conclude by stating that I am again here today to testify in favor of LB1. I believe that the seventy-two hour presumed age limit is the right age limit for the policy for the state of Nebraska, and believe that that is in the best interest of our state. So with that, I'd be happy to go into more detail if you'd like, but again, in the interest of your light, I will conclude with that. [LB1 LB3]

SENATOR ASHFORD: You still have about 15 seconds probably left if you want it. (Laughter) [LB1 LB3]

TODD LANDRY: That's okay, I'll bring it back to you. [LB1 LB3]

SENATOR ASHFORD: Thank you, Todd. Thanks for your comments. Any questions of Todd? Yes, Senator Lathrop. [LB1 LB3]

SENATOR LATHROP: I do. Mr. Landry, we had a number of children that were brought to us from other states and left under the safe haven law, and as I was reading the newspaper articles and what I can to find out what's happened to them, each of those kids were returned to their state of origin, am I right? [LB1 LB3]

TODD LANDRY: That is correct. [LB1 LB3]

SENATOR LATHROP: And they were each returned to their state of origin within a short period of time? [LB1 LB3]

TODD LANDRY: That is correct. [LB1 LB3]

SENATOR LATHROP: And, in fact, the safe haven statute that this Legislature passed doesn't talk about abandonment does it? [LB1 LB3]

TODD LANDRY: It simply... [LB1 LB3]

SENATOR LATHROP: It talks about bringing...no person shall be prosecuted for bringing a child to the hospital. [LB1 LB3]

TODD LANDRY: Yes sir, I believe the technical term in the bill is leaving a child at the hospital, but yes. [LB1 LB3]

SENATOR LATHROP: Okay. And in fact, for the vast majority of the parents who have availed themselves of the safe haven bill, they've also attempted at least to participate in efforts by Health and Human Services and the juvenile courts to improve the condition of those children that have been left. Is that also true? [LB1 LB3]

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TODD LANDRY: Well, I believe it's how you want to define those terms and how you want to characterize that. In some cases, a few pieces of information that I would share with you, as you can see on the matrix, in many cases those kids have been involved in some way or another with the department, had accessed services in the past, may have been accessing services currently or not. However, it is also important to note that, I believe, in the vast majority of the cases, over 70 percent, maybe nearly three-quarters of these kids were on Medicaid, had access to those services, and were potentially receiving those services. And I think that is an important point to make, if I may, in that I believe there has been a perception that the issue here may be related to the ability to access services or pay for services. And clearly, the data that we have seen so far with this number of cases has demonstrated instead that those services were, in fact, available and were, in fact, was not an issue of ability to pay. [LB1 LB3]

SENATOR LATHROP: Perhaps you misunderstood my question. My question was, once these people left their child at the hospital and Health and Human Services was brought in and juvenile court was engaged, the parents have been participating in that process for the most part, is that true? [LB1 LB3]

TODD LANDRY: As required by the court, yes, sir. [LB1 LB3]

SENATOR LATHROP: Okay. So they didn't just leave them and then leave town. They left them and they are participating and working through some kind of a plan as developed by Health and Human Services and the juvenile court, would that be true, for the most part? [LB1 LB3]

TODD LANDRY: That is correct, for the most part. [LB1 LB3]

SENATOR LATHROP: Okay. Last night I read through many of the newspaper articles and two things struck me. One was your comment, almost repeatedly, that none of the children were in immediate danger of harm. You made that comment frequently in response to these safe haven drop-offs? [LB1 LB3]

TODD LANDRY: That is correct. [LB1 LB3]

SENATOR LATHROP: I also saw that a number of the kids were left there because they were threatening suicide. [LB1 LB3]

TODD LANDRY: What I can... [LB1 LB3]

SENATOR LATHROP: Would that also square with your understanding of why some of the children were left there? [LB1 LB3]

TODD LANDRY: I believe every case is unique and different. [LB1 LB3]

SENATOR LATHROP: Certainly. [LB1 LB3]

TODD LANDRY: In some cases, youth had at some point in their history potentially threatened or had suicidal ideations, does not necessarily mean that they were actively suicidal or actively having suicidal ideations at the time that the child was left at the hospital. [LB1 LB3]

SENATOR LATHROP: But just judging from the news accounts of what these parents said, the parents at least, or the guardians at least, thought that they meant it when they brought them into the hospital on many occasions, would that also be true? [LB1 LB3]

TODD LANDRY: I do not believe that's the case, sir. [LB1 LB3]

SENATOR LATHROP: You don't think so. [LB1 LB3]

TODD LANDRY: And I don't believe, as I'm sure we're all well aware, that sometimes everything written in the media is not an accurate portrayal of the cases involved. [LB1 LB3]

SENATOR LATHROP: Well, your statement that they were not in immediate danger of harm that is accurate? [LB1 LB3]

TODD LANDRY: That is accurate, yes, sir. [LB1 LB3]

SENATOR LATHROP: And that would be your judgment? [LB1 LB3]

TODD LANDRY: That is our judgment based on the evaluation and assessments that we have done on each of the 34 kids that were left under the safe haven law, including those who were from out of state. [LB1 LB3]

SENATOR LATHROP: Okay. For those who are in the immediate danger of harm, should we provide a mechanism for them to access services through Health and Human Services? [LB1 LB3]

TODD LANDRY: There is a mechanism in place, in my opinion, sir. [LB1 LB3]

SENATOR LATHROP: Okay. And what is that mechanism, Mr. Landry? [LB1 LB3]

TODD LANDRY: That mechanism is, in fact, as we do on thousands, tens of thousands of situations every year. Those referrals are made to us by individuals in the community, parents sometimes themselves, the law enforcement officials, schoolteachers,

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counselors, etcetera. They call our hot line or call our local offices. We investigate those. We assess those and in any of those situations where the children are deemed to be unsafe, services are provided either on an in home voluntary basis or on a court involved in home or out of home basis. [LB1 LB3]

SENATOR LATHROP: Those are people in immediate danger? [LB1 LB3]

TODD LANDRY: Those can be people in immediate danger, yes, sir. [LB1 LB3]

SENATOR LATHROP: And they get to you through what...through a referral? [LB1 LB3]

TODD LANDRY: Yes, sir. [LB1 LB3]

SENATOR LATHROP: They have to talk to their teachers in order to have a referral? [LB1 LB3]

TODD LANDRY: No. Certainly not. Many of the referrals come into our hot line from the parents themselves, reaching out for help, concerned about situations that they're in. Many of them come to us through law enforcement officials. Some come to us through referrals that are made by teachers or counselors, neighbors, or others in the community. They come in a variety of ways. [LB1 LB3]

SENATOR LATHROP: What hot line are you talking about? [LB1 LB3]

TODD LANDRY: I'm talking about the Child Abuse Hotline in the state. [LB1 LB3]

SENATOR LATHROP: And who answers that? [LB1 LB3]

TODD LANDRY: That line is... [LB1 LB3]

SENATOR LATHROP: Does that go into Health and Human Services? [LB1 LB3]

TODD LANDRY: Yes. That line is answered by Health and Human Service employees and professionals on a twenty-four hour, seven day a week basis, and it's answered based on these referrals that come in. Once the information is gathered by our hot line staff, that information is then triaged to determine what level of need there is. Depending upon the level of need, those calls are then investigated on either a twenty-four hour basis, on a three day basis, a five day basis or a two week basis. [LB1 LB3]

SENATOR LATHROP: So all a parent has to do is call the hot line? [LB1 LB3]

TODD LANDRY: In order to establish a referral. We then go out and investigate those

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cases. If the child is not determined to be unsafe, then our involvement ends at that point, and we only provide information or referral to the families, as it should be. [LB1 LB3]

SENATOR LATHROP: Okay. Back to the children who were actually left off. How many of those kids, as a consequence of being left off, receive services? [LB1 LB3]

TODD LANDRY: Well, I can speak for the 29 that are still here in Nebraska. For the five who have gone back to their home states, I can tell you what I'm aware of but I don't know their exact cases as to date. [LB1 LB3]

SENATOR LATHROP: I'm more concerned about what's happening in Nebraska. [LB1 LB3]

TODD LANDRY: All 29 of them continue to be in the custody of the state pending the outcome of the juvenile court proceedings. None of those have currently been returned home to the individual that left them at the hospital. So they all are currently in the custody of the state and receiving whatever needed services that they may have. Whether those are a continuation of services that they were already receiving before, or whether, in fact, they are new services that have come to light since the act of abandonment. [LB1 LB3]

SENATOR LATHROP: How many of those kids have been hospitalized? [LB1 LB3]

TODD LANDRY: Well, that is an interesting point and I'm happy that you raised this. Of all of the kids that we have, so of the 29 who remain in the state of Nebraska, only three of them are placed in a treatment level setting within our services. All of the others are currently placed in homelike settings such as foster homes, homes of relatives, or in a few cases, emergency shelters. So only three of them have required services at a treatment level, whether that be a hospital, a treatment group home, some type of psychiatric residential treatment facility. Only three of them. The others are being safely and appropriately cared for in these homelike settings such as foster homes or relative homes. [LB1 LB3]

SENATOR LATHROP: Would all of these children be receiving the services they're receiving today had they simply called the Child Protective Hotline? [LB1 LB3]

TODD LANDRY: Well, that's an impossible, obviously, theoretical question to answer. But what I can tell you is, again, there sometimes, I think, is a perception that once a child comes into the care of the child welfare system that we have this separate bag of services or tools that we can use. And that's not true. We're utilizing the same services, the same medically necessary services for these kids just as if the kids were not in our care, but for example, still covered by Medicaid. So it's not as if we're using any new or

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different services with these kids. We're using the exact same array of services that are available to someone, for example, on Medicaid, but not in the involvement of the state. [LB1 LB3]

SENATOR LATHROP: I think in the interest of allowing enough time for some of these families to testify, I'll stop asking you questions. [LB1 LB3]

TODD LANDRY: Thank you. [LB1 LB3]

SENATOR LATHROP: Thank you for your time. [LB1 LB3]

SENATOR ASHFORD: Any other questions? Yes, Senator McGill. [LB1 LB3]

SENATOR MCGILL: Mr. Landry, I've been very, very disturbed by some of the things that you have been saying in the press, primarily based around how judgmental you have been towards the parents that have decided to use the safe haven law. Now I accept there are a rainbow of circumstances. There are parents who are great parents who happen to have kids who are very troubled, and there are some who aren't so great parents who have kids that are troubled. But you have said things grouping everyone together. I've sat and talked to some of these parents who have used the law. Parents who said they tried to call you directly and you did not return their calls. You've had plenty of time to talk to the press, but you haven't actually called them back to discuss their circumstances with them. And yet you've been making incredibly judgmental statements about them in the press about being bad parents, about how they're abandoning their kids when they want to be part of their kids lives still. This was a last ditch effort for them. Because they love their kids so much they wanted to get them help. Can you please, at the very least, tell me why you won't return their calls, while you have plenty of time to make these statements about them in the press, sir? [LB1 LB3]

TODD LANDRY: Well, Senator, I'm happy to try to answer your question. All phone calls to my office have, in fact, been returned. Every single one. [LB1 LB3]

SENATOR MCGILL: But not by you directly, and you're the one making the statements about them. [LB1 LB3]

TODD LANDRY: They may not have been done by me directly, you're correct. But they have been appropriately returned by a professional within our department who can answer their questions. So all calls have, in fact, been returned or communications been provided in written form, for example, if an e-mail came in or a letter came in. Now you are correct and I agree with you completely. There is a wide range of situations. As I have also said on numerous occasions in the past two months, every case is unique. Every case is different. Every child is unique and different. What I have though said

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also, is that in some of the cases, not all, and I have never said I believe in all of the cases. The only thing that I've said that applies to all of the cases is that in our professional opinion of the department, none of the cases involved children who were in immediate danger of being harmed. Beyond that, what I've said in some of the cases, there are situations where the children were, in my opinion, unnecessarily abandoned. And I'll give you an example of a few of them if you'd like. [LB1 LB3]

SENATOR MCGILL: Please do. [LB1 LB3]

SENATOR ASHFORD: Did you want to go through those or... [LB1 LB3]

SENATOR MCGILL: I would like to. [LB1 LB3]

SENATOR ASHFORD: Okay. [LB1 LB3]

TODD LANDRY: I'll just give a couple. [LB1 LB3]

SENATOR ASHFORD: Okay. Try to limit it to a couple. [LB1 LB3]

TODD LANDRY: And again, these are not every single case. But when you have a situation where a child is left at the hospital and we attempt to contact the parent, and the parent says, why are you calling me, I thought I was done with this, that was the whole purpose of why I left the child there. We have had that situation. We have had situations where we have interviewed older grown siblings of the child where we've been told the parent has, in fact, done this...you know, wanted to do this to them and was looking for a way to quote, unquote, using their words not mine, "get rid of them as a teenager." We have had situations, obviously, from out of state where they weren't getting the services that were determined to be medically necessary and the child was driven 16 hours or 10 hours over into Nebraska. Now, it's very hard for me to believe that a child who's in immediate danger of being harmed, is going to willingly go into a car for 10 or 16 hours or whatever the case may be. So when I have talked about some of those instances, Senator, it is a means to illuminate some of the situations that have occurred. [LB1 LB3]

SENATOR MCGILL: I don't disagree... [LB1 LB3]

TODD LANDRY: Now I will also very readily, if I may, very readily, acknowledge the fact that for some of the families, they truly believe that they were at wits end, and they were at massive levels of frustration, did not know where else to turn. And they have, in fact, continued to be involved in their court cases and involved in these cases. [LB1 LB3]

SENATOR MCGILL: I just wish you would have been saying that more often in the press, sir. [LB1 LB3]

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TODD LANDRY: Well, and, Senator, what I can tell you is, I have been saying it in the press but I can't control what the press reports or prints. [LB1 LB3]

SENATOR MCGILL: Well, some were interviews on the radio. (Laugh) [LB1 LB3]

TODD LANDRY: Well, I believe I have been clear in those and making it very clear, and if I have not, then I will today in front of this committee. [LB1 LB3]

SENATOR MCGILL: I appreciate that. [LB1 LB3]

TODD LANDRY: There's a wide range of these situations and they fall across that entire spectrum. As I said before, the only thing that we have made a generalization on, in my opinion and belief, is that in our professional opinion of the department, none of the children that were left under these...under the current law, were in immediate danger of being harmed. [LB1 LB3]

SENATOR MCGILL: Thank you. [LB1 LB3]

SENATOR ASHFORD: Thank you, Senator McGill. Senator Schimek. [LB1 LB3]

SENATOR SCHIMEK: Thank you, Mr. Chairman. If I might, Mr. Landry, I have a couple of quick questions. One has to do with confidentiality and it has been disturbing to see the names of families in the press. [LB1 LB3]

TODD LANDRY: I agree. [LB1 LB3]

SENATOR SCHIMEK: And is there a way to prevent that from happening? How is this happening? [LB1 LB3]

TODD LANDRY: Well, I should first and foremost point out that the department has never released the name... [LB1 LB3]

SENATOR SCHIMEK: Well, I suspected that. [LB1 LB3]

TODD LANDRY: ...of that. Under our current, as I understand it, and I'm not a constitutional lawyer, but under our current constitutional statutes, court records, including those in juvenile court, court filings, court pleadings, etcetera, are a matter of public record. And so it is my understanding that those in the media are aware that those are public record, have accessed those. And keep in mind, that there's that initial 48 hour protective hold when a child initially comes into our custody, but once the county attorney actually files for continuing jurisdiction, at that point those names are, I believe, public as part of that court filing, and I believe that's how that information is

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getting out there. And in some cases, as you are, I believe, aware the families themselves have come forward and voluntarily offered information. [LB1 LB3]

SENATOR SCHIMEK: I would like to see a way to prevent that from happening. If indeed we continue to have these kinds of cases, I don't want to belabor that, I just wanted to raise it as an issue. [LB1 LB3]

TODD LANDRY: And I would just say, I believe that would require a statutory change. [LB1 LB3]

SENATOR SCHIMEK: And I think it would too, and I hope that the new Legislature will take that under advisement. And then, secondly, and I will limit myself here because of time, Mr. Chairman. I have heard a rumor and I would like to either have it confirmed or put to rest, that there are parents against who charges are going to be made. Is that true, and if so, why? [LB1 LB3]

TODD LANDRY: Well, again the law as currently written solely protects an individual from prosecution for the act of leaving the child with an on duty hospital. [LB1 LB3]

SENATOR SCHIMEK: Correct. [LB1 LB3]

TODD LANDRY: And it is my understanding that none of them are being prosecuted for that sole act. However, in the course of the investigation that comes forward and comes after the child has been left, if, in fact, there are issues of potential abuse and neglect that occurred prior to the child being left at the hospital, and keep in mind, we're talking about older children here in all cases, none of them newborns or infants. So if, in fact, there was previous abuse or neglect prior to when they left the child at the hospital, the current law does not prohibit prosecution for those acts. [LB1 LB3]

SENATOR SCHIMEK: Could you give me an estimate of what percentage of these parents you're talking about? [LB1 LB3]

TODD LANDRY: At this point I would be remiss if I did so. I'd need to go back and get you that information. [LB1 LB3]

SENATOR SCHIMEK: Okay. Thank you. [LB1 LB3]

SENATOR ASHFORD: Senator Pedersen. [LB1 LB3]

SENATOR PEDERSEN: Thank you, Senator Ashford. Mr. Landry, you mentioned the hot line. Could you tell me what that hot line number is? [LB1 LB3]

TODD LANDRY: Yes, it's 1-800-652-1999. [LB1 LB3]

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SENATOR PEDERSEN: How long has that been in place? [LB1 LB3]

TODD LANDRY: For several years. I don't know the exact date, Senator. [LB1 LB3]

SENATOR PEDERSEN: If a person calls that hot line, what is the soonest they can get services? [LB1 LB3]

TODD LANDRY: Well, it's going to depend upon the situation. This is a child abuse neglect hot line, and so if an individual calls, we're going to gather information as much as we can on that hot line for why the individual was calling with a referral, the issue of abuse or neglect for example. Depending upon the severity, depending upon the issues that are raised, then we triage that on a specific basis to determine whether or not it's an urgent situation and we need to be out investigating that case within 24 hours, or if, in fact, it's a nonurgent situation and can take longer before that is investigated. Once the investigation happens, services can be rendered immediately. The child could be removed from the home in cooperation with law enforcement, and I think, as you know, law enforcement has the right for child removal in this state, not the Department of Health and Human Services. And so the child could be immediately removed because of those situations and that does, of course, happen. In other cases, it is not an urgent need and so services are then offered or provided to ameliorate the safety issues. And in those cases where there is no safety issue, then we do not, of course, require those services. Services can be offered to them or they can be referred to on a voluntary basis. So it depends upon the situation. [LB1 LB3]

SENATOR PEDERSEN: And they get immediate services, I mean, within the time of the current telephone call that they've called the hot line? [LB1 LB3]

TODD LANDRY: Well, certainly if it is that urgent of a situation, we will then immediately notify law enforcement and law enforcement will respond if it is, in fact, an emergency crisis, life threatening situation. [LB1 LB3]

SENATOR PEDERSEN: In the cases we've had... [LB1 LB3]

TODD LANDRY: And if I may, I'm sorry, Senator, but in some cases, of course, that call goes directly to law enforcement via 911 and law enforcement responds and then contacts us. So it doesn't have to come through us first. [LB1 LB3]

SENATOR PEDERSEN: Okay. In the cases we've had, obviously, added up and you being aware of these cases, what is this...what's the down side? What's it doing to the state of Nebraska besides making a lot of media? [LB1 LB3]

TODD LANDRY: Well, I think the biggest thing that is happening is that children who

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fundamentally could avoid the trauma of being abandoned, are not able to avoid that additional level of trauma. I think our biggest concern is always with the youth who are being impacted here. I believe that most members, maybe all members of the Legislature when they passed LB157, had full intentions of this applying to newborns and infants. I don't know if many lawmakers, you would know better than I, if, in fact, they really intended it to be primarily for these older kids. Again, we could discuss that maybe in greater detail another time. But what I will say is that in these cases, I think the biggest level of concern that I have is what is happening to these kids, these teenagers, these preteens, sometimes as old as 17 years old, who did not have to suffer the trauma of this abandonment. And instead now, I believe, in some of these cases, their situations and problems have been made worse because of it and not better. And then the second thing I believe it does for us as a state is, again, I believe the intent of safe haven laws, and I believe in the best interest of the state of Nebraska the intent of our safe haven law should be on newborns and for that reason I'm here to support LB1. [LB1 LB3]

SENATOR PEDERSEN: Would that mean there should be no intent to protect those that are older? [LB1 LB3]

TODD LANDRY: Certainly not. And certainly, as I've said before, and this is where we may have some area of disagreement. I believe services are available and, in fact, anecdotal information that I've heard from communities, private providers, hot line providers and others, is that, in fact, more families are now reaching out to get the help and assistance that they need. We've tried to be very clear through our promotional campaign and others to make sure families know where to go and where to call to get free information and referral services. We've also tried to be very clear to say, wherever possible we want families to reach out and get help early on in the process and not wait until it's an emergency or crisis. It's a lot like a physical health issue. It's a lot easier for the... [LB1 LB3]

SENATOR ASHFORD: Just a second, Mr. Landry. I'm not...that's, I'm going to try to move on. Do you have another? [LB1 LB3]

SENATOR PEDERSEN: That's it. Thank you. [LB1 LB3]

SENATOR ASHFORD: Senator Chambers. [LB1 LB3]

SENATOR CHAMBERS: Mr. Landry, as you know the Legislature as a law making body formulates the policy of and for the state. I'm not asking questions to be judgmental but to rather obtain information, so I want objectivity in the questions that I ask and your answers don't have to be expansive for my purposes. Under this law there's no requirement that a child be in danger, is that correct? [LB1 LB3]

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TODD LANDRY: Correct. [LB1 LB3]

SENATOR CHAMBERS: A child could be dropped off under this law who would not be subject to any services or handling by HHS if a call were made to the hot line, is that true? [LB1 LB3]

TODD LANDRY: Correct. [LB1 LB3]

SENATOR CHAMBERS: Under this law, every person who dropped off a child is allowed under the law's terms to do that, is that correct? [LB1 LB3]

TODD LANDRY: Yes, sir. [LB1 LB3]

SENATOR CHAMBERS: So the problem would not be with those who are making use of a law which allows them to do what they're doing, is that correct? [LB1 LB3]

TODD LANDRY: No, sir, they will not be prosecuted for the act of leaving the child at the hospital. [LB1 LB3]

SENATOR CHAMBERS: Here's the question that I'm asking, not prosecution. If a person makes use of a law which allows that person to do what that person is doing, the person is not doing anything wrong by making use of a law, is that correct? [LB1 LB3]

TODD LANDRY: If I'm understanding your question correct, Senator... [LB1 LB3]

SENATOR CHAMBERS: Let me make it as simple as I can. If the law allows me to drive my vehicle on a public highway if I have a license, am I doing anything wrong to make use of what the law allows me to do? [LB1 LB3]

TODD LANDRY: No, sir. [LB1 LB3]

SENATOR CHAMBERS: So none of these parents is doing anything wrong by making use of the law? [LB1 LB3]

TODD LANDRY: No. [LB1 LB3]

SENATOR CHAMBERS: If a judgment comes into play, anybody can say the parent was acting in a way that was wise, unwise, or whatever, but that's outside of the consideration of whether the law allows what they did. [LB1 LB3]

TODD LANDRY: That's right. It is outside the consideration of LB157 as passed by the Legislature. It is not outside the consideration of the juvenile court in further proceedings. [LB1 LB3]

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SENATOR CHAMBERS: But we're not...LB157 doesn't deal with the juvenile court.
[LB1 LB3]

TODD LANDRY: No, but I'm simply, I'm simply... [LB1 LB3]

SENATOR CHAMBERS: Mr. Landry. [LB1 LB3]

TODD LANDRY: Yes, sir. [LB1 LB3]

SENATOR CHAMBERS: I will ask you to limit your answers to my question. [LB1 LB3]

TODD LANDRY: And I will do my best, sir. [LB1 LB3]

SENATOR CHAMBERS: Because I know what I'm asking you. [LB1 LB3]

TODD LANDRY: (Laugh) Thank you, Senator. [LB1 LB3]

SENATOR CHAMBERS: And I know when it has been answered or not. If there is a fault anywhere in what is occurring, it would be in the law itself rather than the people who are making use of the law, is that true or false? [LB1 LB3]

TODD LANDRY: I believe that's true. [LB1 LB3]

SENATOR CHAMBERS: You are here to speak in behalf of this bill because you are of the opinion that older children should not be dropped off under a bill which purports to be a safe haven bill, is that correct? [LB1 LB3]

TODD LANDRY: That is correct. [LB1 LB3]

SENATOR CHAMBERS: And you stated, if I understood you correctly, that there are traumatic effects felt by these older children when they are dropped off, whether we call it a drop-off, an abandonment or whatever else? [LB1 LB3]

TODD LANDRY: I believe so, yes. [LB1 LB3]

SENATOR CHAMBERS: One thing I'm not sure that I understood correctly. Did you say if a child felt endangered it would be unlikely that he or she would voluntarily get into a car with this parent or the guardian who is going to drive this great distance? Did I understand you correctly or were you saying something different? [LB1 LB3]

TODD LANDRY: That would be my judgment, yes, sir. [LB1 LB3]

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SENATOR CHAMBERS: At what point should the child refuse to get in the car? If the child fears the adult and the adult says, get in the car, the child is probably going to get in the car because of that fear. [LB1 LB3]

TODD LANDRY: He or she may, yes, sir. [LB1 LB3]

SENATOR CHAMBERS: Now, if the child is in the car and the car is in transit from a distant location, the child might feel that he or she would be worse off to escape from the car, if that were possible, between point A of origin, point B of destination, and would be even worse off to jump out of the car or escape while it's in transit, would you agree? [LB1 LB3]

TODD LANDRY: They might, yes, sir. [LB1 LB3]

SENATOR CHAMBERS: Now, my final question. There are complexities connected with these bills that we're not going to resolve here today, correct? [LB1 LB3]

TODD LANDRY: I believe so, yes, sir. [LB1 LB3]

SENATOR CHAMBERS: So if you're asked any more questions, would you be more succinct and to the point even if my colleagues are not of a mind to hold you to it? [LB1 LB3]

TODD LANDRY: (Laughter) Be happy to, sir. [LB1 LB3]

SENATOR CHAMBERS: Okay. And if they don't and if the Chairman doesn't, I'm alert and paying attention, I will then say, I think the question has been answered. (Laughter) Thank you. [LB1 LB3]

SENATOR ASHFORD: I have a couple questions. I don't know if I'm going to around again. Does anyone have any follow up questions? Let me just kind of throw out some of my thoughts on this, Todd. I would agree with you in looking over these cases that a number of these cases don't involve immediate danger. If there were immediate danger, there is recourse and that recourse, at least in my city, is through the Omaha police division and the triage that occurs at Project Harmony and I understand that process and I do also understand that HHS is involved in that process and that works. The cases that do come in, that that triage works and it's effectively done and that's the impression I get from talking to people who work on this on a daily basis. So I get that point. And I also understand that the statutes talk about the immediate danger as being a triggering event for this kind of thing. And I also understand what you're saying about the traditional safe haven laws applying to infants. And if you poll the states, clearly, we're the only one that...state, that, I think, has gone beyond one year, I believe, or maybe there's another state that... [LB1 LB3]

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TODD LANDRY: No, that is correct and there's a map in your packet demonstrating that. [LB1 LB3]

SENATOR ASHFORD: Right. I get all that and I'm not disputing that. But let me just tell you what my intent was. My intent was to vote for the bill that passed because it applied to older children, not because HHS is doing a bad job or that there is some problem with that. The reason I voted for it was because I knew it applied to older children and I felt that Nebraska does not always hold firm to the traditional view of how we do legislation. If 49 states do it one way, Nebraska sometimes does it another way. So in my experience in the Legislature, that's not unusual and in many cases it's a good thing, in my view. Like the learning community and other things. So I'm not squabbling with you, but I can tell you my intent was to help older kids if they needed help. And I think that was the intent of most of my colleagues, at least the ones I've talked to about this issue. It was unexpected to have as many people come into the safe haven process but not unintended. I think that would be at least a better representation of the way I felt about it. And my...when I...and I don't, whatever you say in the press or what I say in the press is what the press reports and so that's not an issue between you and I either in my view. Here's my problem, and it really boils down to what has happened in our city in the last several years, in the last two or three years in Omaha, the largest metropolitan area of the state. We've had significant violence and in looking and this is not...you didn't cause that either. (Laughter) [LB1 LB3]

TODD LANDRY: Thank you. [LB1 LB3]

SENATOR ASHFORD: We've had significant violence and a number of the children, young people who have been involved in that violence and the shootings, have had services given to them, provided to them over the years. And I'm not suggesting that you have to guarantee as HHS, nor is that your role to guarantee that violence won't occur. We had the Von Maur shootings and I'm not suggesting that was your, HHS fault either, but there is a heightened degree of violence. My concern is not with the...my concern is with eminent danger cases but I do think to some extent those are covered, maybe not good enough, but they're covered. My concern is with this discussion about whether or not these parents abandoned or guardians abandoned these children. I have a hard time classifying what was done. And I don't know the details of every case, but I have a hard time classifying what many of these guardians, or parents or grandparents did, or aunts or uncles, as abandonment if they have no other place to go and a hospital is a safe haven to take those children and they stay with the case. I mean, if they simply drop them off and were gone into the wild blue yonder, that's closer to an abandonment. But in my mind, they were very, very concerned parents. I guess, my question is, and I understand there are...and further that the other thing that's troublesome to me, is we have in our state, and certainly in Omaha, assets like Boys Town. I mean, to me the fact that the first reports on this is, aren't you embarrassed in questions to me by the

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national press, aren't you embarrassed to have had this happen? And the answer is, absolutely not. To me is that we do have the assets in place in our state, we have HHS, we have Boys Town, we have Project Harmony, Lutheran Family Services, Catholic charities. We are a loving people in Nebraska. I mean, we are..."he isn't heavy, he's my brother" means a lot to the way we think. What bothers me is that there is a gap with many of these families who took advantage of safe haven. They wanted help. Maybe...and I believe I'm right in saying, in many of the cases they had had several contacts with services with HHS or whomever over the years prior to these safe haven instances, that would be correct, isn't it? Generally, they had had prior involvement with HHS, many of these cases had had that involvement? [LB1 LB3]

TODD LANDRY: Some of the cases had, yes, sir. [LB1 LB3]

SENATOR ASHFORD: Okay. So my question to you though is, can you agree with me or will you work with me in the next six to eight weeks to explore what I think is the problem here, which is this issue of families that are just at the end of their rope and cannot get services...not necessarily just from HHS, but wherever it is. I mean, would you agree with me that we should work on that and have a collaborative effort to try to come up with a solution to this in the next six to eight weeks? [LB1 LB3]

TODD LANDRY: Keeping in mind, Senator Chambers' admonition, I would... [LB1 LB3]

SENATOR CHAMBERS: Which I didn't impose on the Chair. (Laughter) [LB1 LB3]

SENATOR ASHFORD: No, you know, I'm exempted from Senator Chambers' admonition. (Laughter) [LB1 LB3]

TODD LANDRY: Well, I don't think I am, so... [LB1 LB3]

SENATOR ASHFORD: No, go ahead. I mean, I just...I'm just inviting you to... [LB1 LB3]

TODD LANDRY: I don't know exactly what you have in mind, Senator. I believe we have always tried to be as open and transparent as we can be and have tried to answer questions as best we can and worked whenever we could, collaboratively to examine issues, determine what real problems are... [LB1 LB3]

SENATOR ASHFORD: And I don't deny that, Todd. [LB1 LB3]

TODD LANDRY: ...and attempt to address those. [LB1 LB3]

SENATOR ASHFORD: I just think we need to step it up. And all I'm asking you to do, is just step it up with us in the next six to eight weeks and see if we can put something together. I think this...we wouldn't have had 35, 34, 35 children left here if there was

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nothing out there, no problem. And this is not accusing you or finding fault with you...
[LB1 LB3]

TODD LANDRY: Right. [LB1 LB3]

SENATOR ASHFORD: I just think we need to step it up and bring all the providers together and come up with a plan. If there isn't a problem, we don't need legislation, but if there is a problem then we'll have something put together to address it. That's all I'm asking. [LB1 LB3]

TODD LANDRY: I'm sure we're happy to work with you in whatever way we can, Senator. [LB1 LB3]

SENATOR ASHFORD: Thanks, Todd. [LB1 LB3]

TODD LANDRY: Thank you. [LB1 LB3]

SENATOR ASHFORD: Amy Cada, is she here? Amy Cada, I'm sorry. If I'd seen you, I would have known it was you. Hi, Amy. [LB1 LB3]

SARAH CADA: Hi. Senators, thank you for allowing me to testify, my name is Sarah Cada. I'm an obstetrician here in Lincoln and I'm the chair of the women's section of the Nebraska Medical Association. I feel like my job here today is just to provide you with some medical information about postpartum depression while you make your decision. And I'm testifying in a neutral manner. And if you have a doctor that's late for your appointment, maybe they were testifying in front of the senate at the state Legislature, and that's why, so, anyway. I'm going to be talking to you about postpartum depression and blues. Characteristic feelings of postpartum depression are sadness, lack of control, irritability, helplessness, feeling teary and alone, and for some women, feelings that they could harm themselves or harm their baby. Eighty percent of new moms experience this in the first two weeks after delivery. This is what we call the postpartum blues and this peaks about five days after delivery. So it's 80 percent of women and it peaks five days after the baby is born. In 25 percent of new moms this will last beyond two weeks and then will be called postpartum depression. These women may also suffer panic attacks making them feel even more anxious about their situation. Many of these women won't freely admit that they are suffering. And it's only with directive questioning, are you feeling sad, helpless, out of control, are you having feelings you may be a harm to yourself or your baby, that they reveal what's going on inside. Women most at risk for this are single moms and moms without any extended family available to help. That is, women without anyone close to them that could possibly see or perceive what's going on with them. On average postpartum lasts three months after birth and for 6 percent of women it will be present one year after birth. I don't have a lot of more information to provide to you unless you have questions for me. I do have a statement

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from the pediatricians in the state and what they had said. This is a quote from a letter that I have from them. "If there is a hope for such legislation to decrease severe forms of child abuse such as abusive head trauma, which can result in death or severe handicapping conditions, the age limit should be extended to a minimum of two years of age." And that would be a time frame in which the young children's heads would be hard enough that they could sustain some damage, which is a sad, sad thing. But that's all I have to say, so. [LB1 LB3]

SENATOR ASHFORD: Thanks, Amy. Any questions? Yes, Senator Schimek. [LB1 LB3]

SENATOR SCHIMEK: Just a procedural question, do we have a copy of the letter? [LB1 LB3]

SENATOR ASHFORD: I don't know if we do yet. Do we? [LB1 LB3]

SARAH CADA: I can leave a copy of the letter. [LB1 LB3]

SENATOR ASHFORD: Okay. Yes, Senator Pirsch. [LB1 LB3]

SENATOR PIRSCH: Just to clarify, the two years of age, are you saying that's what you would...you said, what was the percentage that lasted, postpartum depression after one year, you said 6 percent? [LB1 LB3]

SARAH CADA: Six percent postpartum depression at one year. [LB1 LB3]

SENATOR PIRSCH: And so you're recommending... [LB1 LB3]

SARAH CADA: And the pediatricians said in their letter that severe head trauma is more apt to happen up to age of two, that's at the time the head becomes...you know it's soft at birth. It can mold and go through the vagina. And then at two years after birth is when the head is hard enough that it may be able to sustain more physical damage and not have long lasting mental illness in a child. [LB1 LB3]

SENATOR PIRSCH: So it's based on the hardening of the head that you're recommending the two years? [LB1 LB3]

SARAH CADA: That's what the pediatricians said. For postpartum depression, 80 percent of women will experience some form of that in the first two weeks after birth. It peaks five days after birth, and then for the depression itself, that continues beyond those two weeks, 25 percent of women suffer from that. [LB1 LB3]

SENATOR PIRSCH: Very good. Thank you very much. [LB1 LB3]

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SENATOR ASHFORD: Yes, Senator Chambers. [LB1 LB3]

SENATOR CHAMBERS: Am I to understand that the supporters of the letter that you brought and the information you gave to us, that if a bill were in place allowing a two-year period for a child to be dropped off, we would not be having these cases of shaken baby and other syndromes, meaning that these people instead of doing that, sometimes it seems that it happens on the spur of the moment, would instead take a child to the hospital, is that what we're to believe is being said? [LB1 LB3]

SARAH CADA: I don't think I can say that. I think I can say that if there was a law in place and the people knew they could maybe take a child to the emergency room and not have to wait for somebody to return their call from social services, that that possibly may be an aid to them. But I... [LB1 LB3]

SENATOR CHAMBERS: You mean because if a child had...before a child had been harmed... [LB1 LB3]

SARAH CADA: Well, you can hope. That would be the whole purpose of the safe haven law. [LB1 LB3]

SENATOR CHAMBERS: No, I'm asking, not to argue. Are you saying that, say a child wouldn't stop crying, the parent would say, I want to take this child to the emergency room rather than try to stop the child from crying. And you think that would be a position the state ought to take? [LB1 LB3]

SARAH CADA: Anything you could do to protect a child, I think, would be worth it. [LB1 LB3]

SENATOR CHAMBERS: Okay, that's all that I have. Thank you. [LB1 LB3]

SARAH CADA: Okay. [LB1 LB3]

SENATOR ASHFORD: Thank you, Amy. Thanks for...oh, Senator Pedersen, yes. [LB1 LB3]

SENATOR PEDERSEN: Postpartum depression and postpartum psychosis, are they the same? [LB1 LB3]

SARAH CADA: Psychosis is not the same as depression. [LB1 LB3]

SENATOR PEDERSEN: I didn't think so. [LB1 LB3]

SARAH CADA: Depression is more common. [LB1 LB3]

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SENATOR PEDERSEN: Thank you. [LB1 LB3]

SENATOR ASHFORD: Thank you, Senator Pedersen. Thank you, Amy. [LB1 LB3]

SARAH CADA: Okay. [LB1 LB3]

SENATOR ASHFORD: Thanks. Don Kleine, and then Ann Schumacher, and then Dr. Bleicher, I hope I pronounced that right. Don. [LB1 LB3]

DON KLEINE: Good afternoon. My name's Don Kleine, K-l-e-i-n-e, I'm the Douglas County Attorney. With regard to the law that's currently in place, we have 17 open dockets in Douglas County in our juvenile court from these cases. Obviously, more than 17 children, some of them are multiple children cases. All those cases have been filed under 43-247, 3a's as abuse and neglect. Not from a criminal perspective but just to get the court jurisdiction. There have been no criminal charges filed in any of these cases in Douglas County. All the parents on these cases are involved, the goal being a reunification of the family ultimately. I'm here to testify neutrally with regard to the bills as proposed. Obviously, the...I think part of the impetus for the bill that was passed was a case we had in Douglas County where a young woman had a child at home and dropped the baby off at the restroom at Bergan Mercy Hospital. I declined to file charges in that case. And I think the Legislature took up that issue with regard to a safe haven bill. There are several suggestions with regards to 72 hours, 30 days, those kinds of things. Ultimately, we just want to do everything we can to protect kids. And the people...I have 13 lawyers currently in the juvenile court in Douglas County. They're very busy people, and we have a huge effort going on to help children. Obviously, the cases in juvenile court are the purposes, the best interest of the children, and that's our goal, and we'll do whatever we can. I'd be happy to answer any questions about any of these cases. [LB1 LB3]

SENATOR ASHFORD: Any questions of Don? [LB1 LB3]

SENATOR LATHROP: Could I just ask one? [LB1 LB3]

SENATOR ASHFORD: Yes, Senator Lathrop. [LB1 LB3]

SENATOR LATHROP: Don, thanks for coming down here, first of all. What's the harm that's come to the state from having the safe haven cover all children? Can you think of anything, I mean, the kids need something or they wouldn't be getting services now, so... [LB1 LB3]

DON KLEINE: No, I think there is... [LB1 LB3]

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SENATOR LATHROP: Are they getting something they wouldn't get or we...what's the harm? [LB1 LB3]

DON KLEINE: I guess, suppose the harm, when you talk about is, is people bringing cases from other states. I mean, that's...the cases that we've gotten from other states, those kids have been sent back, those juveniles have been sent back to their states. But I think it points out that there is a gap in services at least that people aren't aware of what services exist or there's a gap in services particularly with behavioral health, mental health, with adolescents in the system currently. I hear that all the time from parents who contact our office. I hear it from our juvenile court attorneys, so certainly there are some issues with regards to service gaps in the system. [LB1 LB3]

SENATOR LATHROP: The people that came from out of town, Todd Landry told us they've all been returned and they get returned fairly quickly. [LB1 LB3]

DON KLEINE: Yes. [LB1 LB3]

SENATOR LATHROP: And so, the people that are here, Nebraskans that take, avail themselves of the safe haven, their kids are now getting care. Some of these kids were threatening suicide before they were dropped off. [LB1 LB3]

DON KLEINE: Yes. [LB1 LB3]

SENATOR LATHROP: Is that fair? And so, whether they intended to carry it out immediately or at some point in the future, getting them care is probably a good thing, isn't it? [LB1 LB3]

DON KLEINE: Well, certainly, you know, I've heard the question come up, well, these kids weren't in imminent danger. Well, none of these juveniles have been returned home at this point in time. They're, as Mr. Landry said, they've been placed. So obviously, there are issues that were a concern of the court not to let these children continue where they were. So I don't know, you can use the terminology of imminent danger, danger, but whatever, they're not back where they were because certainly there were issues that needed to be dealt with. [LB1 LB3]

SENATOR LATHROP: And that sort of makes them needing services self-evident. [LB1 LB3]

DON KLEINE: Right. [LB1 LB3]

SENATOR LATHROP: The parents that have been involved in this, we keep using the term abandonment. It's nowhere in the statute. They haven't abandoned them. They've actually been engaged in the process, which involves juvenile court and dealing with

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social workers and people like that, am I right? [LB1 LB3]

DON KLEINE: In every one of these cases...there might be one, there was an uncle who was a guardian who was not involved, but all the rest of them the parents are involved in the juvenile court process currently and want to be involved with, again, the goal to reunify. [LB1 LB3]

SENATOR LATHROP: So what we've done is, we've created an access point to services for people that don't know or can't find or have no success going through more traditional means. [LB1 LB3]

DON KLEINE: My understanding, these are people who are desperate and want help. [LB1 LB3]

SENATOR LATHROP: Okay. Thanks, Don. [LB1 LB3]

SENATOR ASHFORD: Don, just to following up on that point, and thank you for your work in getting these cases processed. I know those weren't necessarily expected. [LB1 LB3]

DON KLEINE: Weren't expected, but we're there for... [LB1 LB3]

SENATOR ASHFORD: Weren't expected, but...I just want to follow up on this last point and its what's been bothering me all along. And I will say the hospitals, the county attorneys office, the juvenile court, HHS, everybody that has dealt with these children, I think, have acted admirably and really above level, and I congratulate your office for that. This is what bothers me. I don't see abandonment here in the classic sense. I had a conversation with, you know, Kathy Gonzalez from Omaha police division today. She said exactly the same thing that you're saying. Basically, if the police appear at a house, there's imminent danger, there's some physical harm going to occur, whatever that may be, they take action, bring that child down to Project Harmony. Kathy is there at Project Harmony. They do a triage. But it sounds to me like a lot of these cases are in between somewhere where there's been a chronic case of, cases of whatever it is, mental health issues, and then it finally just hits the wall and they can't take it anymore. It sounds to me like, as you've described it, that's what we're dealing with quite a bit. [LB1 LB3]

DON KLEINE: We have tremendous resources in place. The gap I see is in adolescent mental health, behavioral health issues. [LB1 LB3]

SENATOR ASHFORD: Right. We don't really have, do we, as far as respite care and being able to get them into a bed somewhere? That can be lacking as well, can it not? [LB1 LB3]

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DON KLEINE: It's problematic. [LB1 LB3]

SENATOR ASHFORD: Very problematic. [LB1 LB3]

DON KLEINE: Yes. [LB1 LB3]

SENATOR ASHFORD: Okay. Senator Pedersen. [LB1 LB3]

SENATOR PEDERSEN: Thank you, Senator Ashford. Don, couple of questions. The word abandonment, when you charge somebody for abandonment, can you give me an example what your...which how you read the law of what abandonment means? [LB1 LB3]

DON KLEINE: Well, it's somebody who has a legal responsibility, a duty of care, and they don't carry that out. A parent who, you know, leaves children in a car somewhere, anything to that nature where they aren't given the proper care. They abandon the child. I mean there's several examples I can think of. [LB1 LB3]

SENATOR PEDERSEN: If they're, but let's say there's a 14-year-old in the house and two kids and three other siblings under the age of 10, and mom, and sometimes, or dad, whatever it may be, goes to Las Vegas for the week and lets the older one take care of the kid. That's an abandonment type... [LB1 LB3]

DON KLEINE: Well, it certainly would be an issue, right. [LB1 LB3]

SENATOR PEDERSEN: Yeah (inaudible). [LB1 LB3]

DON KLEINE: Well, the kids are in danger. I mean, they're not being properly cared for. [LB1 LB3]

SENATOR PEDERSEN: And a hospital is not usually a place where somebody abandons their children, is it not? [LB1 LB3]

DON KLEINE: Well, it depends what the...no, it's not. Their purpose isn't to abandon in these situations, it's to get help. That's my understanding. And that's what we would look at. What's the intent of the person. If you leave a child on the street somewhere, you could say, well, I thought the child was going to get picked up and I thought they would get help. Well, that's still...we would think that was an abandonment situation but the idea of taking a child to a hospital to get cared for or to have somebody there immediately to take care of the child, that's a little different story. [LB1 LB3]

SENATOR PEDERSEN: Thank you. [LB1 LB3]

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DON KLEINE: Sure. [LB1 LB3]

SENATOR ASHFORD: Senator Chambers. [LB1 LB3]

SENATOR CHAMBERS: Just one thing for clarification. I'm glad you're here, Mr. Kleine, and you all have been doing good work. [LB1 LB3]

DON KLEINE: Thanks, Senator. [LB1 LB3]

SENATOR CHAMBERS: I think we need to keep in mind that the term abandonment in the statute has a legal significance for the purpose of action of a negative kind being imposed or taken against a person, but in the populous sense of abandonment, it could just mean that a person was set adrift and all the lines of attachment have been cut. Whether it rises to the level of criminology or not, is not even in the meaning of that popular term abandonment. If I use it in that sense, I would ask you this question, rather than ask as the Vice Chair appropriately did for his purposes, how is the state harmed by the existence of this bill? Have you or has anybody in your office, anybody with the juvenile court or those with whom you've dealt, detected any harm to some of these older children from the mere fact of having been left in this manner, the mere act of leaving them, forgetting whether it's criminal or not, or would be criminal or not, without this bill? [LB1 LB3]

DON KLEINE: Well, I think there's concerns about that how the child would feel with regard to being taken and say, driven from Michigan and dropped off in Omaha, Nebraska, what impact that would have on the child, certainly. [LB1 LB3]

SENATOR CHAMBERS: Well, let's say even in Douglas County where according to newspaper accounts and I'll take those as anecdotal examples and not necessarily absolute truth, there were parents who told their children, I'm going to leave you at the hospital. Something like in the old days, they'd say, if you don't do what I tell you to do, the devil's going to get you. So it has not always been a set of circumstances where the child was left with the impression that this is being done in my behalf, it's being done to punish me, to get rid of me. Do you think that has ever obtained in any of these cases? [LB1 LB3]

DON KLEINE: Oh, I think it's very possible, and I think that has a bad impact on the child. [LB1 LB3]

SENATOR CHAMBERS: If a bill is passed this session, the special session, which is simply, prevents any more older children being dropped off, or as I say, abandoned in my sense of the term, how will that hurt the state? (Laughter) [LB1 LB3]

SENATOR ASHFORD: I'm glad I'm sitting here. (Laughter) [LB1 LB3]

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DON KLEINE: I think you'd have to ask the people with the state about that, that question, as how it would hurt the state. [LB1 LB3]

SENATOR CHAMBERS: How would it hurt your office? [LB1 LB3]

DON KLEINE: If it was changed? [LB1 LB3]

SENATOR CHAMBERS: If a bill were passed which restricted the age to a number of hours or a few days, and none of these older children could be dropped off any more under the law, how would that hurt your office? [LB1 LB3]

DON KLEINE: I don't think it would hurt us. Again, we've had a series of cases come in because of the law the way it is, but we're there...that's our purpose. And it doesn't hurt us. Our goal is to help children and help juveniles in these situations, whatever it takes. And so when we have these cases that come because of this law, that's not a problem for us, we'll deal with it. [LB1 LB3]

SENATOR CHAMBERS: And my last question. Are you aware of any judges, or we can say the court, considering the mere fact that the drop-off occurred as a reason for not returning the child to the parent or guardian who dropped that child off? [LB1 LB3]

DON KLEINE: Well, I'm sure the court...and I guess, I'm giving an opinion here, looks at all the circumstances that were involved and any part of that, even the purpose by the parent or guardian and whoever in taking the child and doing what they did, whatever the reason that might be, to make sure, I suppose, what the background is and history is. [LB1 LB3]

SENATOR CHAMBERS: Okay. That's all I have, thank you. [LB1 LB3]

SENATOR ASHFORD: I believe Senator Lathrop now has a question. [LB1 LB3]

SENATOR LATHROP: As you might expect. (Laughter) The senior member appropriately asked what, you know, what harm would come to the state if we limited the law, but the reality is, there is the opportunity that we will be closing the door on, that there will be a child who will need services that won't get them. Some of these children were actually threatening suicide before they were brought to the hospital, is that right? [LB1 LB3]

DON KLEINE: Yes. And I suppose my goal, I mean, with government is to provide services, to help people. And certainly the role of our office, and I think any office, whether it's state, county, whatever, is to help somebody who is in need, that needs services. So that's, I guess, that's the way I would look at it. As far as a harm, it's not a

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harm, okay, this is an opportunity. If we can do something here, let's do something. [LB1 LB3]

SENATOR LATHROP: Okay. That's all I had. [LB1 LB3]

SENATOR ASHFORD: Yes, Senator Pirsch. [LB1 LB3]

SENATOR PIRSCH: Yes, thanks. Just a couple questions, going along the lines of what Senator Chambers...following on Senator Chambers. There was an...I'm going by recollection here within the last couple of weeks. A couple of children who were dropped off under the safe haven, I think, a hospital. One was an older girl, I think, 15, 16, somewhere around there, and I just caught the part where they indicated that she had ran off from the hospital when she was left there. And Senator Schimek here informs me she was a 17-year-old. Is...are you familiar, that was in Douglas County, correct? [LB1 LB3]

DON KLEINE: Yes. [LB1 LB3]

SENATOR PIRSCH: Could you tell me what ended up happening with the 17-year-old girl, did she...was she ultimately...at the time of the report she had not been located. [LB1 LB3]

DON KLEINE: Right. I think there was a missing person case for that child, a missing report. [LB1 LB3]

SENATOR PIRSCH: To this day? [LB1 LB3]

DON KLEINE: Yes. [LB1 LB3]

SENATOR PIRSCH: Okay. Very good. [LB1 LB3]

DON KLEINE: I think the Omaha police said there were 1,500 missing children cases filed per year for Omaha police. [LB1 LB3]

SENATOR ASHFORD: 1,599 to be precise. (Laugh) Yeah. [LB1 LB3]

DON KLEINE: Right. Right. [LB1 LB3]

SENATOR PIRSCH: I do appreciate that. Thank you. [LB1 LB3]

SENATOR ASHFORD: And just to follow on with that point. I mean, in 2007 the special victims unit, this is Kathy's comments here, Kathy Gonzalez, the unit that deals with these issues, 1,442 cases were investigated, 106 children were taken into protective

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custody, and as of October, 2008, 1,045 cases were investigated and 167 children were taken into protective custody. And those protective custody cases were the immediate danger cases under the statute. So there are other cases out there that don't... [LB1 LB3]

DON KLEINE: Absolutely. [LB1 LB3]

SENATOR ASHFORD: Yeah, so...there are a lot. Thanks, Don. [LB1 LB3]

SENATOR CHAMBERS: Mr. Kleine, you're a sounding board in this one. I'm not asking you a question, but I might work it in if I have to. (Laughter) These other issues, first of all, I don't believe in safe haven bills, period. I don't think the state should put its imprimatur on people giving up their children. The Legislature when considering all of these bills never has looked at underlying causes that would impel any woman, regardless of her age or circumstances, to give up a child. Nebraska was the last state to do this and somebody heard it on Oprah that Nebraska and Alaska, and that person contacted a Senator and that's why we wound up with a bill before us. Not because of something that happened in Omaha. Nebraska was the last one. This bill that exists now was a compromise. Now, people can say all they want to about the other issues that arose, and I'm glad they were brought to light, but to pretend that these issues are going to be addressed under safe haven type piece of legislation is cockamamy in my view. We cannot take the concept of safe haven and say, that means if you support this, you care about children, and if you don't, you don't care about children, which would mean all those up to the age that the state allows a child to be defined within. These are separate issues. They are complicated. The line should not be blurred and they should not be put together. There's no way these issues being discussed...I think they should be, no way they're going to be addressed in this special session and the senators know that. But if from the tenor of our discussions and our questions, they get the idea that this special session we're going to deal with these broad issues, they're mistaken. They're not going to be addressed in the form of legislation. The only thing that's going to come out of this special session, and I will stake my...wait a minute, my life, my fortune and my sacred honor (laughter) on this point, we're going to do something to make sure that these older children are not dropped off. The legislation will be like what I refer to as a tourniquet, because I was the first one who asked for a special session. I said we should stop this hemorrhaging of older children being brought here between now and the beginning of the session. Anything we do is like a tourniquet or a stop gap. When the session starts, there will be time enough for the Legislature in a careful, deliberative, responsible manner to consider all of these issues that are being raised, not in a scatter gun effect here, and there like letters where people are trying to get their point in because they think that's all they can do, or Senator Ashford reading bits and pieces from a police officer's letter. If they're going to have safe haven, that should be kept separate and dealt with by itself. And I would hope they decide not to have it at all. But if they do, the result will come from a mature, careful discussion. As you know, hard

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cases make bad law. I think bad law is on the books. I think the results have been bad. There are people, who after the fact, will say certain things but we can look at the debate and see what occurred. All of that can be cast aside. For my purposes in speaking at this point, is to say that the only thing that's going to be dealt with this session is putting a cap on the amount of age that one of these drop-offs can have and the parents not be dealt with under the law of abandonment. And if people came here thinking that something else would happen at this session, they're mistaken. However, the reason I would like to see the Legislature address this matter in a regular session, is because people who bring information now, those who will not have the opportunity to present it now, could make contact with their individual senators, whether it be the county attorneys office, the juvenile court, these child welfare agencies, counselors, anybody who deals with dysfunctional families and children who have problems. And it can be done in the way a responsible Legislature ought to act, not in a heat and a rush, not willy-nilly, not helter-skelter, and not to make it seem like Nebraska's not going to be the only state out here. And contrary to what people are saying, I don't believe Nebraska got it right with this bill. I think Nebraska got it all wrong. Nobody contemplated the county attorneys office getting involved. Nobody contemplated HHS not having in place everything needed to accommodate these older children. That's my view, my colleagues have a different view. And that's not a question, but I wanted to get that in the record, because in me asking questions, I don't think I made it clear what I think we're going to do this session. And if anybody thinks they can get around what I think we ought to do this session, that person should speak now or forever hold his or her peace. And regardless of what they say, it's not going to change anything. (Laughter) [LB1 LB3]

DON KLEINE: Any other questions? [LB1 LB3]

SENATOR ASHFORD: What? (Laughter) Thank you, Senator Chambers. And Don, thanks for all the good work you're doing. [LB1 LB3]

DON KLEINE: Thank you. [LB1 LB3]

SENATOR ASHFORD: And I think we're all aware of the limits of our ability to do anything this session, but this is very welcoming information anyway, so. Let me see...where are we on my list? Where did my list go? Ann Schumacher. Yes, Ann, hi. And then Dr. Bleicher, if she's here. [LB1 LB3]

ANN SCHUMACHER: (Exhibit 2) Senator Ashford, members of the Judiciary Committee. Thank you for allowing me to talk to you today regarding the safe haven law. My name is Ann Schumacher, A-n-n S-c-h-u-m-a-c-h-e-r. I'm the chief operating officer of Immanuel Medical Center. I'm here in a neutral position to the bills proposed. Immanuel is one of ten Alegent Health hospitals, making us the largest not-for-profit health system in Nebraska. We are the largest private employer in the state with 9,200

employees and over 1,300 physicians. In addition to a state-of-the-art spine center, cancer center and bariatrics program, Immanuel and Alegent Health is proud to be a premiere mental health and behavioral health provider in the state. On any given day, Alegent Health cares for over 16,000 mental health patients. I'm not here today to discuss the merits of the safe haven law or to suggest how you should change it. Instead, I'm here to tell you, in human terms, the learnings we have found with the law as it is written. We have handled more than 20 cases at Immanuel Medical Center, Bergan Mercy Medical Center and Midlands Hospital and none of them are babies. Yet, I believe this Legislature did a very brave thing by passing the safe haven law without an age limit. It has drawn attention to a serious problem, not just in Nebraska, but throughout our nation. Families are in crisis and the emergency department at Immanuel, as well as other hospitals, have been on the front line of that crisis. Clearly, the safe haven law has been a challenge for us, as healthcare providers, as citizens and as parents. At the same time it has shined a light in the breakdown of many of our families who cannot hold up under the stress of financial, emotional, and often mental health challenges facing them. It is time we, as a state, community, and country address the behavioral and mental health crisis that permeates our neighborhoods. Because I am here to tell you, it is literally tearing apart our families. Day after day we have watched parents and guardians bring their children in declaring safe haven and walk away. These are desperate families, overwhelmed with responsibility, and exasperated with their children, some of whom live with mental and behavioral problems. In many of these cases, parents have run out of options. They do not know where else to turn. So they come to an emergency department already filled with trauma, sickness and sadness. It is not the right place for relinquishment to occur for older children. Keep in mind that we are talking about children in our experience, ages 5, 10, 12, 15, 18 years old. Some of the children have an understanding of what is happening, others do not. We have watched hysterical children begging their parents not to leave. One child pleaded, I'll be good, I'll be good, I promise. We, as adults, cannot imagine the anguish of that child or the desperation of their parent or guardian. More concerning are the children who show no emotion at all. They are the children for whom abandonment is nothing new. They have been in and out of foster care and they have buried their feelings so deeply that they can no longer reach them. In one case, an older teenager was brought in by a foster parent, who like so many guardians told us, I can't do this anymore, I'm done. With that she walked away and when that happens, the child will never be the same. It will stay with them the rest of their lives and that is the tragedy of this law as it is written today. The children we are discussing are old enough to understand that their parents or guardians, the people who thought that would always be there for them, have instead left them. By contrast, a baby, whether three days or three months or one year old, would not have that memory or the attachment problems and trauma that comes with it. When our first cases came into Immanuel, we were quite procedural with our approach. After the first couple of cases, we took the opportunity to debrief them and to learn from what was happening. It became very clear to us that these were not cases. They were real children. They were families, and they needed

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help. [LB1 LB3]

SENATOR ASHFORD Ann, I'm going to ask you just to sum up, if you could, just to keep it going because we have to... [LB1 LB3]

ANN SCHUMACHER It is our mission at Alegent Health to care for the body, mind, and spirit of every child, and we are asking you to join us to find a solution to care for these families and these children in crisis. I have attached to my testimony a document that we are using with families. By giving them the chance to take a breather to show them solutions, to explain to them the law, we have had success. In nearly half of our cases, half of the families have been willing to give it another try. I want to be clear that we don't take the stance of whether we are in a position to determine whether relinquishment is appropriate, it is not our position. But if there is anything we can do to make sure that these families have the resources available to them, that's what we're here to do. [LB1 LB3]

SENATOR ASHFORD: Thank you, Ann, very much. Any questions? On behalf of the Legislature and the state, we do wish to express our appreciation for how you have handled these cases. And we're well aware of what you have done and you've set an example and a standard. So thank you for those efforts. [LB1 LB3]

SENATOR PIRSCH: Can I just ask one quick question and I apologize? [LB1 LB3]

SENATOR ASHFORD: Yes. [LB1 LB3]

SENATOR PIRSCH: Do you have any...as between...you mentioned 3, possibly 3 days, 30 days, a year. Do you have any preference with respect to that? [LB1 LB3]

ANN SCHUMACHER: You know, it is our position that children within the first year may be an appropriate age limit. You know, I believe you're going to have other people testify more specifically about the developmental needs of those children. But what we've seen is older children, this is not the place, an emergency room is not the place for relinquishment. [LB1 LB3]

SENATOR PIRSCH: Thank you very much. I appreciate that. [LB1 LB3]

ANN SCHUMACHER: Thank you. [LB1 LB3]

SENATOR ASHFORD: Thank you, Senator Pirsch. Yes, Senator McDonald. [LB1 LB3]

SENATOR McDONALD: When these children were brought in and it was determined that they were not in immediate danger at that point in time, but do you feel or do you ask questions that would give you a little history of what would happened at home prior

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to them getting in the car and getting there? Because I'm assuming that at that point in time that parent and that child, there was immediate danger. But some of that kind of gets away from that in the care as they get to the hospital. Do you talk to them about what happened prior to that and how immediate that danger was at that point in time? [LB1 LB3]

ANN SCHUMACHER: When families come to us and state that they're here for a safe haven, to invoke the safe haven law, they are triaged like any other emergency room patient. And we treat them as if they are our patients. And so within that would be a screening to determine what's going on. There would be a physical assessment as well to make sure there aren't signs of child abuse or harm to the child. And that triage nurse, like with all of our patients that come to the emergency room, would fair it out if there are psychiatric concerns. We would have a psychiatric emergency assessment done if we determine that was needed. And in some cases we have done that. So yes. In that situation there would be a full battery of questions about what's going on at home, and trying to determine whether it's a psychiatric need at that point and whether it needs acute psychiatric care. [LB1 LB3]

SENATOR ASHFORD: Thank you, Ann. Stacy Bleicher. Was it almost right? [LB1 LB3]

STACY BLEICHER: (Exhibit 3) You said it perfectly. Senator Ashford, committee members, thank you for allowing me to testify today in accommodating my schedule a little bit. My name is Stacy Bleicher, it's B-l-e-i-c-h-e-r. I am a general pediatrician here in Lincoln, but I am speaking on behalf of the Nebraska Chapter of the American Academy of Pediatrics because this is an area of great concern for us. And there is testimony that's being compiled as trying to summarize what our members feel in the process of all of this. Today I do speak in opposition of LB1 and in support of LB3. Our biggest concern is if we are looking to protect newborns that 72 hours is too short of time. I don't know that we have good mechanisms to have audience with these young women that get pregnant and don't want anyone to know they're pregnant, and deliver the baby and try to dispose of them. I don't know that they're anymore accessible to intervene in their actions than the folks that shake babies and beat their heads against walls when they're young infants as well. But there are issues with postpartum depression and other things. Families that aren't prepared for dealing with young infants oftentimes are not aware of how totally overwhelmed and ill equipped they feel until they've been home for a week or more. And because of issues along those lines, we are suggesting that a minimum perhaps of two months would be a better catchment for kids that perhaps we could help. Apparently Dr. Cada got one preliminary statement that I had typed up through the NMA with the issues of dealing with children until two. In the area of child abuse, and I work a great deal in that area as well as general pediatrics, we know that children two and under because they're a nonverbal, because they have normal developmental behavioral issues that irritate parents greatly, especially when they're toddlers, are at great risk of being abused. And so I think one of the thoughts of

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going up to 24 months is that those children are at significant risk whether of shaking, physical injuries that can be life threatening or that can cause severe long-term handicaps for these kids. I do agree with Senator Chambers that there are real issues about whether we can truly intervene in the actions of people that act that way towards children. And I don't know that a safe haven law will make a difference for that. But I think our biggest concern is the number of issues that have been brought forth by having the older children brought in and agree that that's not going to be dealt with at this session. But as an organization, we feel very strongly that those indeed are the issues that need to be dealt with. How do we support young families? How do we help them feel more comfortable raising children? We definitely...as a practitioner, I see a lack of availability of mental health services in Lincoln where I think we have fairly rich resources, I have kids on waiting lists that need mental health services. I have kids that I don't feel we can find appropriate services. Having Medicaid does not matter, sometimes it restricts the care they can receive because the providers are restricted in the payments they can perceive. So the many, many issues that we need to deal with outside of this session. But I think our organization feels if we're changing the legislation, that 72 hours may not be an appropriate length. [LB1 LB3]

SENATOR ASHFORD: Thank you, Doctor. Any questions? Yes, Senator Chambers. [LB1 LB3]

SENATOR CHAMBERS: I'm glad you mentioned the last point about even if you have Medicaid you may not get the service because of doctors or whatever. Sometimes the term "available" will be used with reference to services. All that means sometimes is that there are people who provide these services. But to be available in my mind means it's obtainable by the people who need it. So you could have a panoply that includes every imaginable mental health service for children. But if it's out of the reach of those who need it, those services are not available, in my opinion. [LB1 LB3]

SENATOR ASHFORD: Thank you. Senator Pirsch. [LB1 LB3]

SENATOR PIRSCH: Thank you. You had indicated in your memorandum, your written testimony here that you would...there's a hope to address abusive head trauma that you would think that it should be extended to two years of age, and you say a minimum time span to protect infants would be two months of age. What happens at that point in time that is a trigger? [LB1 LB3]

STACY BLEICHER: You know, I think that lets us identify some of the moms that might be so profoundly depressed that they might not be able to deal with the child. As Dr. Cada mentioned, these moms are not diagnosed very early, although in two months maybe a high end. We had entertained the idea of one month also. I don't think that's written in stone. But three days just seems very inadequate. [LB1 LB3]

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SENATOR PIRSCH: So it's just additional time to observe to look for classical symptoms of postpartum depression? [LB1 LB3]

STACY BLEICHER: Of depression and for the families to understand what the obligation of having a totally dependent infant to care for involves, and a lot of families don't figure that out for the first week or two. [LB1 LB3]

SENATOR PIRSCH: Thank you. [LB1 LB3]

SENATOR ASHFORD: Thanks, Doctor. Thanks for your testimony. On my list I have Jim Blue, Tim Jaccard, Sarah Juster, and Kathy Moore are the next group of four. Jim. [LB1 LB3]

JIM BLUE: Good afternoon. Senator Ashford, members of the Judiciary Committee, my name is Jim Blue, B-l-u-e, and I am the president of CEDARS Youth Services. But I am speaking today as the president of the Children and Families Coalition of Nebraska, CAFCON. Looking at the lights. CAFCON is an association of approximately 14 of some of the largest and most established child welfare family services organizations in the state of Nebraska. Among our members: Nebraska Children's Home Society, Boys Town, Heartland Family Services, Child Saving Institute, Epworth Village, Boys and Girls Homes of Nebraska, Catholic Charities, Child Connect, Uta Halle, Cooper Village, Family Services of Lincoln, Lutheran Family Services of Nebraska, Richard Young Hospital, Christian Heritage, and CEDARS. We believe that the age should be one year, to the point. When a child is in his first year of life he is susceptible to severe abuse like at no other time in a child's life. From 1997 to 2006, infants ages birth to one year accounted for over one half of the deaths of Nebraska children, between the age of birth and 17, one half in that first year of life. And deaths attributable to child abuse accounted for one third of those kids. All the testimony today related to the risk that young, young children experience is very real, and our organizations see it everyday. In a child's first year the scenario goes through my mind of a very young birth mother who does not know what to do, may see her friends moving ahead socially, educationally. The birth father moves on with his life or insinuates that the mother must choose between him and the baby. The baby is crying over ear infections. There's not enough food. Desperation. The more that the state can do to provide a safety net for the life of that child, the better Nebraska is going to be. We recognize their honest differences in the ages, but our main point is 72 hours is too short we believe, and we ask you as respectfully as we possibly can, carry on this energy to the regular session about what services does Nebraska need to have in place for the children and families who are so vulnerable. Thank you. Be happy to answer any questions you have. [LB1 LB3]

SENATOR ASHFORD: Thank you, Jim. Senator Pirsch. [LB1 LB3]

SENATOR PIRSCH: Do you have access to empirical information that gives even a

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greater breakdown as to age of babies in months? You said you mentioned a figure that one...you were suggesting one year, that zero to one year is 50 percent of the deaths and a third of those children were due to child abuse. And I guess whatever source it is from which you've derived that I'd be...is that specific to Nebraska or is those national statistics? [LB1 LB3]

JIM BLUE: Half of the deaths of children between the ages of birth and 17 are in that first year of life, and one third of those are due to child abuse. That is from the Nebraska child death review team report, April 2007. Nationally, from the Child Welfare Information Gateway--I need my glasses for this one... [LB1 LB3]

SENATOR PIRSCH: Well, that's okay. [LB1 LB3]

JIM BLUE: ...44 percent of fatalities nationally are in that first year of life. [LB1 LB3]

SENATOR PIRSCH: Yeah, and the Nebraska, the more specific information... [LB1 LB3]

JIM BLUE: Yes. [LB1 LB3]

SENATOR PIRSCH: ...is more persuasive with me. [LB1 LB3]

JIM BLUE: Be happy to follow up with that. [LB1 LB3]

SENATOR PIRSCH: But I just wanted to get the source of that, maybe we can get a breakdown of the... [LB1 LB3]

JIM BLUE: Great. [LB1 LB3]

SENATOR PIRSCH: month to month. I appreciate that. [LB1 LB3]

JIM BLUE: Thank you. [LB1 LB3]

SENATOR ASHFORD: Senator Chambers. [LB1 LB3]

SENATOR CHAMBERS: Mr. Blue. [LB1 LB3]

JIM BLUE: Yes. [LB1 LB3]

SENATOR CHAMBERS: I see a disconnect here today. I've listened to the information and I'm very glad that it's going to be helpful to the senators when they try to forge legislation, if they're able to come up with something that will help. But not one of these cases that has been presented about child abuse, whether it's shaken baby syndrome,

throwing against the wall or anything else, not one has been dropped off under this bill. Right now such children can be dropped off. They're not being dropped off. There were not children in that category that were being dumped places. They were being abused in the home whether in the custody of the birth mother, the boyfriend, the birth father or whomever, whichever person or persons were in charge of that child at the time was the person or were the persons who would abuse that child and that child was not going to be taken to the hospital or any place else to prevent that from happening. So in the context of this type of abuse to these children, what difference does it make if the law says three hours, three days or like now, no age limit at all? These children are not going to be dropped off anywhere. So I'm trying, not to say those are not serious problems, to point out a safe haven law is not going to touch the problems that people are talking about. And they ought to kill the safe haven concept, just get it off the table period. And look at the whole thing in the context of what is happening to children and don't hastily put a piece of legislation in place. Children--and by that I don't mean just little kids running around playing in the sandbox, some up to 20 and in their early 20s--they don't understand how their bodies work. They don't understand sexual intercourse and the results and the consequences. They know what the act is. They can see that fabricated, imitated, and pretended on the screen. They have access to pornographic movies, books, and everything else. They have people telling them things on street corners. Some of these young people, male and female, even at the college level, just entering, have thought that if they have sex standing up and drink a lot of a certain kind of pop or alcohol, they cannot get pregnant. They are ignorant. Nebraska is not a loving state. It is not a nurturing society for women, children, and those who need help. I think there should be prenatal and postnatal care for women who are pregnant. I think children need to be taught in school about contraception, and it's not teaching them anything to say abstinence only. That's crazy! What we need to do is be realistic and...and I'm not lecturing you, but to tell you why I see a disconnect. Teach these children about sex, conception, contraception, responsibility for a child however that child is conceived under whatever circumstances, that they're not throwaways, they're not dolls that you use for a while, then you get rid of them. Our children are not being educated in the schools. Teachers are embarrassed to talk to them, they don't know what to say. Parents are embarrassed. Sometimes they go to counsellors and the counsellors abuse the children. They go to a priest and they're sexually victimized. There is not category of adults in this society with whom parents can safely leave their children in total confidence. So we need to give these children knowledge and information to protect themselves. Not just saying if you see an old guy with white hair and beard, run away from him. (Laughter) That might be the one. If it's me, they ought to run too. So here's what I want to get clear to you. I'm not denigrating any of the work you and the organizations you work with the work that's being done. It might make more sense to say that these are the facilities whose names and services ought to be broadcast everywhere so that a person would know that when you come here, there's assistance and you don't have to leave your baby and run off somewhere. You don't give your name, you don't give address, you don't give anything, you're just gone, and

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the only way to get something done for that child is to just dump the child. I think we've taken the wrong approach. The present law is loony despite what my colleagues say after the fact. And I'm glad that we had the doctor to talk about the terrible impact on these children. I don't believe a person on this panel, maybe in this room can know what it means to feel abandoned. My parents never abandoned me. They were always there. But I was certainly abandoned when I went to school. I was in a classroom. She talked about that people were just supposed to trust. My parents taught me to respect teachers and all adults, honor authority. And when I was in that white teacher's classroom, she read Little Black Sambo and I was the only black child there and those white kids laughed at me. Little Black Sambo made me. That white teacher made me. I felt abandoned because the ones my parents taught me to respect was doing this to me, and they didn't teach me what I ought to do when that happened to me at the hands of somebody I respected. So I didn't even tell my parents. This is the one they told me is on my side. I couldn't fight back. The teacher knew I couldn't fight back. I didn't even know how to fight back. So when I read about these children, whether it's in Douglas County, whether they're brought across the country or across the street and even if the family is dysfunctional, but when you're taken out of a set of circumstances that are familiar to you you're put in a strange place among strange people and you have no idea what's going to happen to you. Then I hear people talking about, well, it's going to cost so much money and so much money to do this or the state or this facility or this institution. These children get treated like ping-pong balls. Then when they get old enough if they get a gun and go to Von Maur, then suddenly everybody's looking and saying, why, why, why. Things happen to children. I wasn't born into this world with attitudes I've got now; they were built into me by a society that hated me even when I was a child, and I will never forget it. What happened to me all those years ago...I'm 71 years old now, and I remember it like it was yesterday. But it didn't destroy me like it destroyed some of my friends. Many of them are dead, many of them got on drugs, alcohol. I don't know why, but it didn't do to me what it did to them. It made me white people's worst nightmare. And I will never rest as long as I have a voice. And I see children or anybody abused because of what they are. I don't care whether it's age, infirmity, sexual orientation, religion or anything else, when those who are strong mess over the weak, I want to stop it. So here's the question I want to put to you in the context of all that I've said. Has there ever been a plan devised by these different groups that you mention to offer themselves as the contact point for these desperate families and children, not where you have to have a certain amount of money, be referred by a doctor or you have Medicaid or some such thing as that? Because as good as Immanuel has been if that's the hospital where the lady spoke was doing these things, they're not going to admit that child and treat that child's need forever. If there is a mental assessment made and the child needs psychiatric care, I didn't hear any hospital say, we will take that child free of charge and provide the services. That child is going to be taken out of that temporarily nurturing environment and be put somewhere. Will it be in the kinds of foster care homes where we see examples with children abused by foster parents? Will they be put up for adoption where we've seen adoptive parents sexually,

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physically, and psychologically abuse children? Those are the things that need to be discussed, and they were not discussed when this Legislature was talking about safe haven. The underlying causes were not discussed. Education for these young boys and girls was not discussed because in this state, these peoples nose is in everybody's crotch and anything that pertains to education about sex invariably leads back to the likelihood of abortion. So you have all these so-called pro life people running in here saying, you cannot have these clinics in school, you can't teach them about their bodies because the next thing they're going to want to do is have sex. And if they have sex, they're going to get pregnant, and if they get pregnant, they want an abortion. No, keep them ignorant. And that's the attitude in this...you know what, as I think about this, Mr. Blue? I'm glad I'm out this Legislature (laughter) in January because it is like beating your head against the wall, a voice crying in the wilderness, and Nebraska will never change. And this is my last comment for this hearing I think. When Senator Ashford said Nebraskans are loving people, I remember how Nebraska is the one that banned affirmative action in educational settings, these loving white people. And I'm supposed to ignore that and pretend that everything is as it should be and our children are aware of these things. Our children know. They know what it means when these white people vote that you shouldn't get any help to go to school or your parents to get a job. They know their parents are discriminated against in employment, housing, and everywhere else. Then these white people say, we're not talking about segregation or unfairness, we're talking about fairness. No. What they're saying is that white people have affirmative action now. They have all the advantages now. They rule everything now. And they want to leave it that way. Then they say it's nondiscriminatory. Well, now I put something else on the table which this Legislature is not going to address, which the Governor is not going to address, and nobody else in this society is going to address except the people like me of whatever complexion. And for those who wonder what it means to be black, it's not a matter of hue, it's a matter of point of view. And there are some people of your complexion who have a better understanding and more concern for people of my complexion than some people of my complexion. And I'll tell you why. Because some people of your complexion have one drop of that black blood which is so powerful (laughter) it will turn an otherwise white person into a black person. And I'm through now. [LB1 LB3]

SENATOR ASHFORD: We don't want you to leave though, Senator Chambers, for a while. Thank you, Jim. I do think though that the point that Senator Chambers made that I am very interested in is for your group and the hospitals to spend the next two months coming up with a plan, and I really mean it. I think a piecemeal approach is not going to work. And to have a bunch of sessions with lobbyists...and I'm not critical of anybody in this room, but to pick off senators and lobby a particular aspect of this problem isn't going to solve it. And we really desperately need a plan where the people that know what they're doing on these issues get together and work it out so that in January we all be together on one page. And if nothing else positive comes from this and I think other things positive are coming from this, that will be a big advantage to us in the

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Legislature. So, thanks, Jim. [LB1 LB3]

JIM BLUE: Very good. Thank you. [LB1 LB3]

SENATOR ASHFORD: Now, Senator McGill has evoked her privilege and has asked...I think Lavennia Coover--is that the right pronunciation--has to leave and Senator McGill has asked that Lavennia would come up and testify. So is she here? She's here. There you are. Okay. Because you have to leave very soon, so. Give us your name and then you proceed. [LB1 LB3]

LAVENNIA COOVER: (Exhibit 4) My name is Lavennia Coover. They gave them to the pages. I'm not sure what they did with them. They have the copies somewhere. [LB1 LB3]

_____: Do you have things to pass out though? [LB1 LB3]

LAVENNIA COOVER: No. They gave them already to the pages. Thank you for giving me the opportunity to speak with you today. My name is Lavennia Coover and my son Skyler was admitted into Immanuel Hospital in Omaha, Nebraska, on September 24th through the safe haven law. Since that time, I have endured judgments and criticisms ranging from these parents do not want the responsibility anymore, to how could anyone abandon their child, to being accused of neglect by the state of Nebraska. I come here today to let you know what brought me to this decision about my son Skyler. Skyler's difficulties began when he was eight years old. He was attacking me physically, kicking, hitting, scratching, and biting. Shortly after this behavior began, I had him tested through the school. The testing indicated behavioral issues. I took him to a psychiatrist and he diagnosed him as bipolar, ADHD, and ODD. My son continued to get worse with his outbursts and it led me to take to Immanuel's ER and have a psychological evaluation done. He was admitted into the acute child and adolescent ward. He stayed for three days, then came home with three new medications and a doctors follow up in six weeks. We never made it back to the doctors appointment due to the fact that the behaviors got worse and my son was admitted into the hospital again. This time insurance would pay for five days. When my son was released, it was recommended he attend the partial program at Immanuel Hospital. I drove my son for three weeks one and a half hours to Omaha for his partial program. After three weeks he was released and went back to school. He was heavily medicated and at this point, Skyler was either sleeping or raging. This went on for a few months. I then decided to take him off of his medications for two reasons. He was an eight-year-old boy who was sleeping and raging his childhood away. I was also struggling financially trying to pay for all the medications due to having another child that I had given up at state wardship due to her behavior. I was paying child support to the state at that time also, and I'm a single parent trying to make all my ends meet. Life was bearable until last August. Skyler's behavior was getting out of control again and much more aggressive and he was also

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much bigger than he was when he was eight. Skyler refused to go to school and the aggression toward his brother who was still at home was getting out of hand. When I say Skyler refused to go to school, I mean he would kick at my face when I tried to wake him up. He would hit at me, cuss at me, and throw things at me. My parents had told me of this new law in Nebraska and for me to take Skyler to the hospital under this new law. I looked into it and also called the hospital. I was told the process and then I asked if my son would get the help that he needed. I was told, oh, definitely yes, yes, he would get the necessary care. I took Skyler to Immanuel Hospital over Labor Day weekend and admitted him, but I did not use the safe haven law. I thought this was going to help and we would get the help that we needed for Skyler. After three days the insurance approved stay, Skyler was sent home with three new medications. Life was good for one day when we came home. The next day, Skyler got up to go to school with minimal resistance and took his meds. But the next day, it was back to the defiant behavior, refusing to get up for school, refusing to take his meds, and the aggression toward his brother. What worried me the most were there were signs of torture to a family pet. This behavior continued for three weeks. On September 24th, I caught Skyler in the moment, he had not left the house for three weeks prior to this, and got him in the truck and took him to Omaha and invoked the safe haven law. From September 24th until September 29th, I had no idea where my son was. Once I was notified of my son's whereabouts, I have had consistent contact through weekly visits and phone calls three to four times per week. While I was at the hospital, I tried to let all the staff know why I was bringing my son there. I told them that I was unable to give him the help that he needed. I stayed with my son even though the hospital staff kept telling me that I could leave. Around 11:45 p.m. that night, I gave Skyler a kiss and a hug and I told him that I loved him and I went home. In the document LB157 considerations for hospitals from the state of Nebraska Health and Human Services, there are eight considerations. There are only three that say the hospital will. The last five states the hospital may. It's too bad the last five weren't stated "the hospital will." This would have maybe let families know about the services they did not know were available to them. Many families and myself have received harsh criticism from Todd Landry, the director of Children and Family Services from the Department of Health and Human Services. Todd Landry states that we are taking advantage of the law because our children were not in immediate danger of harm. How can we be taking advantage of the law if the law does not limit its use to cases of immediate danger? According to the September 26th DHHS news release, once a child is placed into the temporary custody of DHHS, the legal process is the same for all children. This is regardless of how they entered the system, whether through reporting of child abuse and neglect, a case being handled by the office of juvenile services, or LB157. Here is a quote from the DHHS: yet in Nebraska, in order for any child to receive a treatment level of mental health care, they have to be made a ward of the state. When your child is a ward of the state, no matter how they are made that ward, you the parent lose your voice and the decisions are made for you. So what does it matter how my child was made a ward of the state as long as he is receiving the services and treatment that he needs and deserves? Since my child has been made a

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ward of the state, the state has contacted the biological father who walked out of this child's life when he was six months old to ask him what he thinks would be best for this child. They have also interviewed myself and his older brother, but have never really talked with the child that they are representing. Yet these people will go into the courtroom to tell the judge what is best for this child. How ironic is that? In the same news release it states, if abuse or neglect is uncovered that occurred before the child was turned over to the hospital, county attorneys do have the option of filing charges. According to the court documents I received, I am being charged with neglect due to the fact that I dropped off my child at Immanuel hospital. I stated I was invoking the safe haven law. It also states that I am failing to provide proper parental care, support, and supervision due to the above allegations my child is at risk for harm. No where in the document does it state that the neglect happened prior to me invoking the safe haven law, therefore I am being prosecuted for invoking the law. I am tired of being labeled a bad parent by people in power who have no idea of what my life with my family is like in my home. It would be different if someone would stop and ask before passing judgment and making public statements about my parenting skills and my family issues I deal with on a daily basis. If I truly abandoned my child, why would I be so adamant about getting him the proper care that he needs, providing him clothing, and visiting him weekly, and phone conversations three to four times per week? If I were truly the bad parent some here in Nebraska are trying to say I am, would I be giving you all the intimate details of my family issues and asking for help to be provided for my son? [LB1 LB3]

SENATOR ASHFORD: Thank you, Lavennia. Any questions? Thank you for...and you have some copies that you want us to have too. [LB1 LB3]

LAVENNIA COOVER: One of the ladies I came with had given them to the page. [LB1 LB3]

SENATOR ASHFORD: Okay. Thank you, Lavennia. [LB1 LB3]

SENATOR CHAMBERS: I have a question. Has anybody from the state told you comprehensively what the plan of treatment and care for your son is and will be? [LB1 LB3]

LAVENNIA COOVER: Right now, he is still in the hospital. This is day 54 that he is in there. They are having a difficult time finding the proper level of treatment that he needs. We're hoping that there's a foster home available soon. We live in a rural area of Nebraska where services are unavailable, the closest are an hour away. We're hoping he gets placed here in Omaha so that the services are available for him. [LB1 LB3]

SENATOR CHAMBERS: So why would the child be put in a foster home rather than returned to you? Would it be a home where people know how to deal with this situation? [LB1 LB3]

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LAVENNIA COOVER: Yeah. It's a higher level treatment home. [LB1 LB3]

SENATOR CHAMBERS: Okay. [LB1 LB3]

LAVENNIA COOVER: I can't remember the term that they used right now. [LB1 LB3]

SENATOR CHAMBERS: But it's not just two people who are taking in foster children? [LB1 LB3]

LAVENNIA COOVER: Right. They did say it had to be...like I said, I can't remember the term right now, it was one of the higher level of foster cares that they had, not just any foster care like if there was... [LB1 LB3]

SENATOR CHAMBERS: And you feel comfortable with that from what they've told you anyway? [LB1 LB3]

LAVENNIA COOVER: I don't know anything about the foster parents. I'm pretty much left in the dark on everything that goes on. I called the caseworker to ask her what is going on and she goes, oh, I don't know, let me find out. And then I never find out. [LB1 LB3]

SENATOR CHAMBERS: When they say that your child must become a ward of the state, does that mean...I know what you read, that you don't make decisions and so forth, do they also tell you that you're going to be to some extent removed from your child's life? [LB1 LB3]

LAVENNIA COOVER: Yes, and I have had a daughter who I had went through the proper process according to the state to get help for her. She is bipolar. And all I got was criticism as I am getting now. I had a judge that told me I was a worthless parent and I didn't even deserve to have my other two children. [LB1 LB3]

SENATOR CHAMBERS: Did the judge say that in court? [LB1 LB3]

LAVENNIA COOVER: Yes, he did. [LB1 LB3]

SENATOR CHAMBERS: How long ago did the judge say that? [LB1 LB3]

LAVENNIA COOVER: That was probably four years ago. [LB1 LB3]

SENATOR CHAMBERS: There's no statute of limitations on inappropriate conduct by judges, so if you can get... [LB1 LB3]

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LAVENNIA COOVER: I admitted it to the Judiciary Committee and I was told that there was nothing there. [LB1 LB3]

SENATOR CHAMBERS: Well, you did, but sometimes they listen to other people. If you can get a transcript of what that judge said in the courtroom, I wish you would share it with me. [LB1 LB3]

LAVENNIA COOVER: I sure will. [LB1 LB3]

SENATOR CHAMBERS: Okay. That's all I have. [LB1 LB3]

SENATOR ASHFORD: Thank you. Tim? Is Tim Jaccard...Tim? Hi, Tim. [LB1 LB3]

TIM JACCARD: (Exhibit 5) Senator Ashford, members of Judiciary Committee, citizens of Nebraska, my name is Timothy Jaccard, that's J-a-c-c-a-r-d. I am the president and founder of the National Safe Haven Alliance in Washington, D.C., and I am the author of the first original bill of the baby safe haven program in 1998. I'm here and my board is here in support of the LB1. And the purpose of that is for the temporary needs of being able to receive newborn infants into the safe haven program as the bill does state "newborn infants." To be able to allow the Nebraskan legislative body review this information and then be able to come up with a bill that would be more appropriate than to dealing with infant abandonment of newborn infants. We are here today listening to testimony from many people regarding children. I am not here to say that the other issues of a child over the age of being newborn is not a serious one. And I'm here to aid you with some of the situations that I have dealt with. We have rescued 1,158 newborn infants into the safe haven programs throughout the United States in all 49 states. There have been changes of legislative hearing of other bills in other states where the bills have been passed like you did in yours with your infancy stage bill right now. And then they've went back and they reviewed those particular bills and changed the necessities of those bills. In the front lines as a medical officer with Nassau County Police Department, I've had the experience of having to go out and remove a newborn infant out of a toilet bowl out of dozens of cases of where they were actually killed by the birth mother. I've dealt with issues of postpartum depression, postpartum psychosis and know what it's about. So today I'm here to answer any questions that you might have from my experience of the last ten years in the passage of the safe haven laws. And I thank you for allowing me to come here and speak to your body. [LB1 LB3]

SENATOR ASHFORD: Tim, thanks for coming this long way, but I have a feeling you've done it before. [LB1 LB3]

TIM JACCARD: Yes, I have. [LB1 LB3]

SENATOR ASHFORD: That's my sense. [LB1 LB3]

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TIM JACCARD: I've been here before. [LB1 LB3]

SENATOR ASHFORD: Well, not only here but many other places. [LB1 LB3]

TIM JACCARD: Yes. Yes, I have been all over the country dealing with the issues. [LB1 LB3]

SENATOR ASHFORD: Senator Pirsch. [LB1 LB3]

SENATOR PIRSCH: And I'm sorry I didn't catch it, you were from which jurisdiction then? [LB1 LB3]

TIM JACCARD: I'm actually the president of the National Safe Haven Alliance in Washington, D.C. It's an organization that's actually been organized by all of the states that have safe haven laws to review and aid those states in maintaining and improving the safe haven bills that are presently out there. [LB1 LB3]

SENATOR PIRSCH: You say you're the author of the original safe haven bill that passed in Texas then, 1999? [LB1 LB3]

TIM JACCARD: Correct. Well, right. That was the "baby Moses bill." I wrote the bill...I wrote our bill which was known as the safe haven bill, but it was actually the Infant Abandonment Protection Act in New York. That's where the first bill actually originated from, and from there Senator Geanie Morrison in Texas had the "baby Moses bill" and I flew to Texas and worked with them on their bill to get it passed. [LB1 LB3]

SENATOR PIRSCH: Very good. And in authoring that bill, what age did you put the cut off? [LB1 LB3]

TIM JACCARD: They have 30 days on their particular bill. Throughout the entire... [LB1 LB3]

SENATOR PIRSCH: You're saying they being Texas, is that correct? [LB1 LB3]

TIM JACCARD: Correct, correct. And they amended their bills. Originally it was a 5-day bill, then they changed that to 30 days. The bills changed throughout the entire country from actually 72 hours all the way up to one year of age, which is North Dakota. And the purpose of North Dakota's bill is to deal with the death of what is known of infanticide which is the category of killing a baby from birth to one year of age. Where you have neonaticide is the killing of the baby within the first 24 hours, and that's basically what we tried to focus on. [LB1 LB3]

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SENATOR PIRSCH: Right. And I'm asking you since you've had this experience, where would you draw the line? [LB1 LB3]

TIM JACCARD: I draw the line at 30 days. I would like to see 30 days. And my own state, the state of New York, we have five days. With the cases of neonaticides that have occurred, that is again where the babies are killed within the first 24 hours, my study that was presented to the Center for Disease Controls, CDS (sic), actually proved that the 82.6 percent of the cases of the deaths that were studied took place within the first 24 hours. Three days, right now, is acceptable because it falls into the categories where we'll be able to allow your crisis centers, which is your hot line numbers, to receive the calls from women that are desperately in need of assistance and provide her with the ability to drop that child off within that period of time before they terminate or proceed with terminations. [LB1 LB3]

SENATOR PIRSCH: Yeah, but you recommend 30 days, so why the extra time? [LB1 LB3]

TIM JACCARD: I'm recommending 30 days, but at this particular time, your bill in order to resolve the issues that you're faced with here in the state of Nebraska, right now your three-day scenario is enough to be able to change the present position to allow us to get through the critical point that's about to come up. Which is the end of January, February, and March it is known throughout the entire country that that is the point where we have the highest number of neonaticides and also the highest number of relinquishments and calls on the crisis centers through the United States. And the purpose and reasons for that is if you think back what occurred nine months prior to that is the senior prom, spring breaks, times when the child is actually conceived during that period of time. [LB1 LB3]

SENATOR PIRSCH: Okay. Thank you very much. [LB1 LB3]

SENATOR ASHFORD: Any other questions for Tim? Thanks for your work, Tim. [LB1 LB3]

TIM JACCARD: Thank you very much. Appreciate it. [LB1 LB3]

SENATOR ASHFORD: Sara? And then Kathy Moore after that. [LB1 LB3]

SARA JUSTER: (Exhibit 6) Senator Ashford and members of the Judiciary Committee, thank you very much for allowing me to testify today. My name is Sara Juster, that is S-a-r-a J-u-s-t-e-r. I'm a vice president with Methodist Health System in Omaha. And I am here today to support changing the current law as proposed in LB1, but to urge you to extend the time frame to one year for abandoning a newborn under the safe haven law. As the leading provider of obstetrical and birth services in Nebraska, many of you

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may recall that I testified before this committee on behalf of LB157 which was the other safe haven law which...I'm sorry, I testified in support of LB6 which was the other safe haven law proposed at the same time as LB157. You have copies of my testimony today in your packets, and I'm just going to summarize our position for you today. We believe that the current law needs to be changed so that the law will accomplish its fundamental purpose, namely the safeguarding of the lives of helpless newborns. However, we believe that the three-day time limit is simply insufficient to protect those children who safe haven is really designed to protect. The month-old baby whose mother is suffering from severe postpartum depression ought to be protected under this law just as the day-old born in hiding as Senator Flood initially described. We urge you to consider a one year age limit, but at the very least to provide safe haven protection for newborns up to 30 days following birth. Late last week, two teenagers were dropped off at Methodist Hospital, so we know firsthand that the current situation is simply not working for Nebraska's children. Under current law, hospitals are not equipped nor do I believe we are permitted to forcibly restrain older children and adolescents who are dropped off on our doors until law enforcement arrives. In our case, the teenagers ran away before law enforcement was able to come and pick them up. If the intent of the law is to help children in trouble, the current law simply does not provide the protection needed to accomplish the goal. Again, we support the concept of LB1, but we do urge you to extend the time frame to a minimum of 30 days and preferably one year. And I'd be happy to answer any questions. [LB1 LB3]

SENATOR ASHFORD: Any questions? Senator Pirsch. [LB1 LB3]

SENATOR PIRSCH: Just quickly the same question I have asked. You said at least 30 days, but preferably one year. What is the 30-day marker in your mind? Why is that significant and one year as well? [LB1 LB3]

SARA JUSTER: Well, a couple of reasons. Again, I set them forth in my letter. But if a baby is delivered in the hospital, especially by a caesarean section, it's very likely that the mother will still be in the hospital up to three days. The mother may be surrounded by family and friends for those first couple of days, and the impact of that birth, again, if the baby is born in a hospital, may not be apparent to her for a number of days after that. So three days just doesn't address that. And obviously the initial intent of the bill is to protect those babies born in hiding, mothers who have hid the fact of their pregnancy to themselves, to others. And if they have that baby outside of the hospital, then it may be sufficient. But there are also mothers who suffer again from the severe postpartum depression, and that may not manifest itself until beyond that three-day period. And it would be I think a shame for a 4 or 5, 15-day-old baby to be dropped in a ditch because the mother is suffering severe depression and the law was not sufficient to provide protection to that baby. [LB1 LB3]

SENATOR ASHFORD: Thank you. [LB1 LB3]

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SARA JUSTER: Thank you very much. [LB1 LB3]

SENATOR ASHFORD: Thanks, Sara. Kathy Moore? [LB1 LB3]

KATHY MOORE: (Exhibit 7) Thank you, Senator Ashford. I'm Kathy Moore, executive director of Voices for Children in Nebraska. This is probably the most complex testimony a person has ever tried to give. But in a way the Nebraska safe haven law is my worst nightmare, my worst fear not because it's an embarrassment to have been passed, but because it reflects the neglect and abandoning, if you will, of the basic relevant issues that should have been decided upon in previous legislative years. The Nebraska policy makers and administration have declined and denied the development of true behavioral health services. And I think what is particularly confusing in listening to the testimony today is that when we're hearing from Todd Landry, we're hearing about services through Children and Family Services, through Child Protective Services. But the needs this has revealed should be being addressed through a behavioral health system. So there isn't any right answer under the parameters that we've got defined before us currently. I am very hesitant to look at simply reducing the age because of my 20-some years of bringing a request before you to create behavioral health services. And I fear if the pressure is off, no disrespect to those of you who will be here in the coming years, but I'm fearful that we will not see the true solutions that we need to see if we simply reduce the age now. I therefore oppose LB1. I would support LB3 if we could find a way to create a short-term voluntary system. I think what we've heard from Lavennia Coover and others is they did not want to make their children state wards. And in fact Health and Human Services has done just that, perhaps appropriately so based on the evidence in the County Attorney's Office. But what could have happened, I believe, is that a safe haven division could have been temporarily created allowing families to come forth through a hospital door, but to be provided voluntary services. That is what I believe we should strive for in the ensuing few months. And I don't think that will be accomplished by just reducing the age. So I would urge you to feel the same pressure you felt for passing a safe haven law, any safe haven law...and I share Senator Chambers concerns about the efficacy of any safe haven law. But I would urge you to feel the same pressure now not to abandon the kids who have come forward or worse yet, the forthcoming 30 or 40 kids who will come forward. I stand ready to work with each and every one of you to develop the appropriate well thought out system. But I urge you to find a safety net that can remain in place during that time period. [LB1 LB3]

SENATOR ASHFORD: What pressure? (Laughter) Now, that doesn't... [LB1 LB3]

KATHY MOORE: Perhaps you need to clean your glasses here. [LB1 LB3]

SENATOR ASHFORD: Kathy, I've known you since you were eight years old or nine.

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[LB1 LB3]

KATHY MOORE: You bet, and you were two, right? [LB1 LB3]

SENATOR ASHFORD: And I'm sorry that I said that because I look much older. In any event, any questions of Kathy? [LB1 LB3]

SENATOR PEDERSEN: Thank you for what continue to do. [LB1 LB3]

SENATOR ASHFORD: And same here. Thank you for everything you have done and do and will continue to do. [LB1 LB3]

KATHY MOORE: And I'll continue to visit with each of you. Thank you very much. [LB1 LB3]

SENATOR ASHFORD: No pressure. Sarah? Sarah Helvey? [LB1 LB3]

SARAH HELVEY: (Exhibit 8) Good afternoon, Chairman Ashford and members of the committee. My name is Sarah Helvey, H-e-l-v-e-y, and I'm a staff attorney and director of the child welfare program at Nebraska Appleseed. I'm here today to testify in opposition to LB1 and in support of LB3. First with regard to LB1, we oppose LB1 because it fails to address the larger issue of the unmet behavioral health needs of older children exposed by the safe haven law. It does not provide adequate services and safeguards for older children. While we believe that the traditional safe haven law must be restricted to infants, we cannot do so until we address the gaps in our system of care for all children. If we simply limit the age of the safe haven law, we will be neglecting the root problem. The children in our community who are struggling will still be out there. The only difference will be that we will no longer hear their stories in the media and the cries for help the safe haven law has brought to light. Therefore, we oppose LB1 because it removes the safety net that the safe haven law provides for older children without addressing the larger underlying issues. With respect to LB3, I want to start by thanking Senator Dubas for her continued leadership in seeking to improve our foster care system in Nebraska and for having the courage to follow her conscience in bringing this important bill. We support LB3 because it creates an infant safe haven law with important protections and procedures and because it puts into place much needed services and safeguards for older children. And without going into detail, I just want to say first with respect to the infant safe haven provisions, we think that this bill includes some important mechanisms for parents or caregivers to voluntarily provide information, to get referrals to social services agencies, and includes procedures for notice to noncustodial parents and for termination of parental rights with the option of reunification within a designated period of time. We also support strongly the provisions that put into place safeguards for older children, and we think that those outlined in the bill, although we understand that it's intended as interim measure, are

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appropriate as a starting point. We believe that this bill more properly meets the intent of the existing safe haven law which was to provide protection for all children. The Legislature has received much criticism for the safe haven law, but the intention to protect older children is commendable even if the safe haven law passed last session was not the correct vehicle. Finally, I just want to mention that we understand that the Attorney General has determined that LB3 is outside the scope of the Governor's call, but we think LB3 more aptly addresses the problems that our current safe haven law has exposed. And therefore if necessary to pass LB3, we would urge the Legislature to seek to potentially expand the call so that we might be able to consider LB3 or other similar bills. While advocates and providers certainly don't agree about every detail of this issue, there is I think some general agreement that something must be done to address the needs of older children. And we urge the committee and the full legislative body to respond to the pleas of the families in our community and the professionals and advocates who work with those families on a daily basis who I think are speaking more or less with one voice. And I hope you'll hear from more of those advocates after me in saying that this is an issue that desperately needs to be addressed now. So we urge the committee to advance LB3 or within this special session to otherwise ensure the protection of not just infants, but all children in need in Nebraska. [LB1 LB3]

SENATOR ASHFORD: Thanks, Sarah. Any questions? Yes, Senator Pirsch. [LB1 LB3]

SENATOR PIRSCH: And again I'm going to ask about the age. You had recommended the legislation that Senator Dubas has introduced here today, and I perhaps should have asked Senator Dubas this, but was I mistaken? Did that go through age 16 then? Do you know? [LB1 LB3]

SARAH HELVEY: I believe that's the case, yes. But there's an infant safe haven provision that through age... [LB1 LB3]

SENATOR PIRSCH: Yeah, yeah. It bifurcates it and puts in two tiers, baby track and then other services for age 16. And perhaps I'll have to ask Senator Dubas this. I'll just ask you if you know. Do you know why 16 was chosen as the second tier date? [LB1 LB3]

SARAH HELVEY: I don't. I had that same question. I didn't have an opportunity to speak with Senator Dubas or her staff about that. [LB1 LB3]

SENATOR PIRSCH: Very good. But it puts you, in your opinion, in the direction that you believe that... [LB1 LB3]

SARAH HELVEY: It's in the right direction, yeah. [LB1 LB3]

SENATOR PIRSCH: Okay, very good. Thank you very much. [LB1 LB3]

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SENATOR ASHFORD: Thank you, Sarah. I'll tell you, here's what we're going to do. We're going to take the official from Creighton and from Bryan next. So I think Laura from Creighton and then Kathy from Bryan. And then George, Foster Care Review Board next, Susanne Haney, and Topher Hansen. And then we'll see where we are at that point, so. [LB1 LB3]

LAURA PEET-ERKES: Senator Ashford and members of the Judiciary Committee, my name is Laura Peet-Erkes, P-e-e-t-e-r-k-e-s, and I am the social work supervisor at Creighton University Medical Center. I'm here today on behalf of the hospital and our chief executive officer, Linda Ollis. As healthcare providers, we provide a place of refuge for those in need of care and we recognize your efforts to create the safe haven law as an attempt to care for all Nebraska children. However, we have witnessed firsthand the emotional effects this legislation has had on adolescents left in our care. We believe that the revised law should limit the age of children who can be left with hospital employees to infants only. At a minimum, we feel this should include infants up to the age of 30 days old. Other states support legislation that defines infants as three-day-old babies as does LB1, but there are a few reasons we feel that the safe haven law should extend protection to children at least 30 days old. In our experience, many mothers are not even discharged from the hospital within three days. The average length of stay for a woman at our hospital who has had a caesarian section is four days. Parents have had little time to understand the social implications the child may present to their family. They have no idea if both the parents will be involved or if their family and friends will be supportive. And the hospital provides a great service to these patients during the initial three days of life. They provide assistance with caring for the child and the mother. Major challenges don't typically arise until after the child is taken to the home environment and cared for without the assistance of hospital personnel. The adolescents who have been left at our hospital share a common experience. Most have a history of mental health or behavioral health issues and all of their families have been trying to navigate a maze of services in an attempt to seek help. We ask that the Legislature focus attention on increasing support for agencies that provide services to children and families in addition to the need to provide a safe haven during the early days of these children's lives. The services that are available are not accessible, particularly to those families in immediate crisis or those who have financial needs. We value our role in the community as caretakers and we've had the pleasure of serving many people in need through this current legislation. We will continue to do what is asked of us, but we ask that careful thought be given to how we're going to care for those children in need in our community. The safe haven law should be used to handle the immediate needs of new parents and children up to the age of 30 days and to allow us all to protect the lives of newborns. Additionally, the legislative body needs to understand the social implications and the failure of our system to care for children after the newborn stage through legal adulthood. It has been clearly evident that services available today for youth in our communities and their families are inadequate, not

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easily accessed, and are not available. I'd be happy to answer any questions. [LB1 LB3]

SENATOR ASHFORD: Any questions of Laura? Please express to your team our appreciation also for the work you've done with the children left at Creighton Medical Center. Thank you. Kathy? And then George after that, so. [LB1 LB3]

KATHY CAMPBELL: (Exhibit 9) Thank you, Senator Ashford. My name is Kathy Campbell, K-a-t-h-y C-a-m-p-b-e-l-l. I'm the vice president of patient care services and the chief nursing officer at Bryan LGH Medical Center. Bryan LGH Medical Center opposes LB1. I am a registered nurse with a master's degree in nursing. My nursing degree is in the care of children and families. I have over 20 years of clinical experience in caring for families in both obstetrics and pediatrics. Today I'd like to speak to you about the safe haven act and the proposed narrowing of the time that a parent may relinquish a child. Throughout this country the intent of the states safe haven laws are to provide a safe option for women and families while dealing with the crisis of a birth of an infant. These laws remove a major barrier to a woman seeking help in dealing with a crisis of having given birth and their uncertainty of their ability to care for the infants, this barrier of severe prosecution. What may bring a woman to this crisis point? It may be an unplanned pregnancy without support or a pregnancy that the woman is hiding from others. Or the woman may be in such denial that she herself is unaware that she is pregnant until she gives birth. Or it may be a last minute change in her plans of adopting the child, but chooses to keep the infant due to pressures from others. Whatever the reason, these women are in crisis and need a safe option for their infants. Therefore Bryan LGH Medical Center respectfully requests that you consider narrowing the time frame of the current Nebraska safe haven act to 30 days. I believe based on my experience of working with these women that 30 days is a reasonable and appropriate time frame for women who are making these very difficult decisions. For many women, three days may be too short. If they have delivered in a hospital, they may yet be discharged to home. They are still dealing with the physical effect of the birth process. The reality of parenting and what that entails may not have set in yet. If the time frame is three days, they may desire to take advantage of the safe haven act, but find that the opportunity has already passed. By the infant's first birthday, the child has developed bonds with the mother. Separation for the mother may be a detrimental effect on the child at this age. The parenting crisis at this time is about the child becoming more independent and it becomes more of a parenting issue. The recommendation of 30 days allows women time to recover from the birth. It gives those who are unsure of their decision to keep the infant or relinquish time for decision making. And it allows those women who have denied their pregnancy time to face the reality that they now have a life dependent on them. For these reasons, Bryan LGH Medical Center supports a 30-day time frame for the Nebraska safe haven act. Thank you much for your consideration. [LB1 LB3]

SENATOR LATHROP: Very good. Thank you, Kathy. Senator McGill. [LB1 LB3]

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SENATOR MCGILL: Hi. I'm not sure that you can answer this question or not. But there haven't been as many of the safe haven cases here in Lincoln and I had heard that it's because the cops arrive and they've actually tried to get the parents the proper services for their kid without having the parents needing to enact the safe haven law. Is that true do you know? [LB1 LB3]

KATHY CAMPBELL: Within Bryan LGH, the children who have been presented in requesting safe haven, we filed the intent of the law and the letter of the law where the Lincoln Public Health Department are called after the fact so that we do enact the safe haven act. [LB1 LB3]

SENATOR MCGILL: You do. Okay. What I'd heard may not be... [LB1 LB3]

KATHY CAMPBELL: Now, what happens prior to coming to the hospital I can't speak to. But that is (inaudible). [LB1 LB3]

SENATOR MCGILL: Okay. I had just heard that might be the case, but that might not be true. [LB1 LB3]

SENATOR LATHROP: All right. Senator Pirsch. [LB1 LB3]

SENATOR PIRSCH: Well, you raise an issue I don't think has been raised yet as far as what would place an upper limit on the time. You say that developmentally there are strong bonds that are developed between the mother and the child at age one year and that would put an upper limit on it. And I don't know if you've researched into that, but by one year of age that exists. Does the research if you know suggest that that exists at a younger age to a great extent or... [LB1 LB3]

KATHY CAMPBELL: Yes. Separation anxiety first is exhibited in a child about six to eight months. That's when the infant...if a parent has the infant in their arms and they attempt to give the parent (sic) to an unknown family member or friend, the child doesn't want to separate. And it's evident that the time frame is once again very evident at a year and remanifests itself at 18 months. And then throughout the child's life span, when they go off to school and the like when they're in crisis. But it is evident in late first year of life. [LB1 LB3]

SENATOR PIRSCH: Okay. So the so-called stranger danger phenomena kicks in about six or eight months typically child development. [LB1 LB3]

KATHY CAMPBELL: Um-hum. Six to eight months. [LB1 LB3]

SENATOR PIRSCH: Thank you. [LB1 LB3]

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KATHY CAMPBELL: Um-hum. [LB1 LB3]

SENATOR LATHROP: Great. Thank you. Any other questions? Seeing none, thank you, Kathy. [LB1 LB3]

KATHY CAMPBELL: Great. Thank you very much. [LB1 LB3]

SENATOR LATHROP: Appreciate your testimony. I'm glad you remember because I forgot who was up next (laughter). [LB1 LB3]

GEORGINA SCURFIELD: Good afternoon, everyone. My name is Georgina Scurfield. I'm a social worker. I run a CASA volunteer program in the juvenile court in Sarpy County, and I'm currently the chair of the Foster Care Review Board for the state, and I'm here on their behalf today. The board is testifying neutral on both the bills. The board has repeatedly expressed concern about the impact of uncertainty and delay on children in out of home care. And what I wanted to talk to you about today is the impact of being left or the impact of being left under safe haven, even for a tiny baby is significant. The attachment and stability of children in the first year of life, indeed in the first three years have been repeatedly demonstrated to be of paramount importance for a child's emotional health and well-being. And research has shown that children who experience early secure attachment can build resilience and better cope with later difficulties. And the Foster Care Review Board has long advocated for moving cases through the system quickly to prevent the insecurity of temporary and changing foster care placements. And this of course is particularly important if we're talking about very young babies. And the young babies are the ones that safe haven was intended to protect. So we need to make sure that if children are left, babies are left, in hospitals that there are adequate services to parents to reach out to those parents to locate those parents, to work with those parents. And every child comes with two, so we shouldn't be just talking about mothers. To look at both parents, to identify what needs they have and what services will benefit them, and if necessary, to recognize that they're unable to parent and move those very tiny babies to permanence as soon as possible in adoptive homes. Clearly we need services for those parents, but we want to expedite the possibility of providing permanence for children, especially if the age is limited very severely just to three days. We need to know that those children, those very tiny babies will be able to have a place permanently for them as soon as possible. The board also has concerns about the older children. We know that 19.4 percent of the children we reviewed in 2007 came into the system because of their own behaviors. Those behaviors often express...children often express their mental health needs as difficult behaviors. For example, depression in children is often expressed as persistent irritability, anger or hostility, difficulty with relationships, poor school performance. And these things are identified as depression later, but seen initially as just children being difficult. Many of the children who enter the child welfare system come in so that their

parents can access treatment. If we had another door whereby we could have children come in and access behavioral health care in other ways, we may be able to address that in a very different way. The Foster Care Review Board is therefore concerned that that bigger picture of access to behavioral healthcare is addressed and addressed urgently. [LB1 LB3]

SENATOR ASHFORD: Well said. Any questions? Senator Lathrop. [LB1 LB3]

SENATOR LATHROP: In the end, Foster Care Review Board wants to leave it alone, wants to make it just apply to young children, and hope that some change will come next session? [LB1 LB3]

GEORGINA SCURFIELD: The board hasn't met to discuss that in looking at all the impossibilities. So we haven't...I can't make a statement on behalf of the board. I think that leaving it alone, personally I would say, leaving it alone so that we can address the issues in the next session would be the possibility that we should pursue. But because we need some really clear and good planning about what we do with tiny babies and what we do with children who are older and have behavioral healthcare needs. [LB1 LB3]

SENATOR LATHROP: Thank you. One of the things that's evident to me so far, and we've been at this a couple hours now, a little over a couple hours, is we have thoughtful people, experts on both sides that are telling us, you know, leave it the way it is, we do a lot of good that way, and change it by all means because we're doing some bad things when we leave these kids here. And the Foster Care Review Board is taken no position, but your own thought is leave it alone. [LB1 LB3]

GEORGINA SCURFIELD: Um-hum. [LB1 LB3]

SENATOR LATHROP: Okay. Great. Thanks. [LB1 LB3]

SENATOR ASHFORD: And again, I just heard the last few minutes, but I think it is an entry point issue. We've been spending...one of their...that's one of the primary issues, there are of course levels of issues. But I just can't get away from that entry point situation if there was a more clear pathway to services. It isn't that people aren't there to provide the services. I have...I think our whole committee, I'm sure the legislature without speaking for all of them, have confidence in the people providing the services. I think we're really trying to grab hold of what is the proper pathway so that, you know, so that all this experience and being in the national news and all of this stuff, what it really means is Nebraska can deal with its issues, and maybe where other states have not. So thank you for your comments. Susanne is here from Project Harmony. I know where she's from. [LB1 LB3]

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SUSANNE HANEY: Good afternoon. I'm Dr. Susanne Haney, H-a-n-e-y. I'm a child abuse pediatrician and I'm the medical director at Project Harmony, which as many of you know is a children's advocacy center in Omaha. We at Project Harmony have been intimately involved with many of the children who have come into the care of the state through the safe haven law. We've provided shelter, medical care, and case coordination for just about every child that has come in through the city of Omaha. As we all know, historically safe haven laws were enacted to prevent the discarded baby deaths, the dumpster babies. Of those babies, a vast majority of them who were discarded were born to a woman who denied or hid their pregnancy, delivered the baby outside of a hospital, at home or in a rest room. Statistically these women are young, immature, and the children are discarded almost immediately after birth. As we heard, over 80 percent in the first day. Therefore, if the intent is to capture this group of the dumpster babies, then the age limit should be set to 72 hours for a safe haven law. There's argument that older children, 14, 30 days, a year, and obviously it varies state to state. Now, we know most children are born in a hospital, but a majority of the children who are abandoned at birth, 95 percent of them are not born in a hospital. As far as a risk of death, after the first week, the number of homicides attributed to mothers, which again is what's assumed in a safe haven law, is exceeded by the number attributed to fathers. These are child abuse cases, not abandonment issues. And I've been doing pediatrics for almost ten years, child abuse specifically for over three. I have never seen a case of children's abuse where they even considered giving a child up. These abuse occurs in the heat of the moment. Parents don't call for help. They don't consider giving their child up. The other concern with children greater than over 72 hours is postpartum depression. There's been actually no statistics that support that women who are depressed after birth are at risk of harming their child. The ones that murder their children are psychotic and those women are unable to read a law, contribute to society, and therefore unreasonable to expect that a safe haven law will actually assist these children and families. Obviously our current law has brought into light some significant inadequacies in our current system in regard to family support and behavioral health. And we hope that these are addressed in the upcoming sessions because these children need a safety net. And we at Project Harmony are working with many of the local groups to address these issues, and we hope to talk with you in the future. [LB1 LB3]

SENATOR ASHFORD: Senator Pirsch. [LB1 LB3]

SENATOR PIRSCH: So at the bottom of this, what is your recommendation as far as changing the law from what it is now? [LB1 LB3]

SUSANNE HANEY: If you are going to change the law, I recommend 72 hours. [LB1 LB3]

SENATOR ASHFORD: Just a...thank you for all the work you do. And I would hopefully

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in the next six to eight weeks, you can get together with everybody, most of whom are in the room today, and meet and stay in the room until you get a plan because we do need another pathway probably. Wouldn't you think? [LB1 LB3]

SUSANNE HANEY: We certainly agree with that, yes. [LB1 LB3]

SENATOR ASHFORD: Okay. And I thought Don Kleine's comments were right on point and Susanne's. And so we need to get a pathway done in time to get a bill drafted. Okay? [LB1 LB3]

SUSANNE HANEY: We will be working on that. Yes, sir. [LB1 LB3]

SENATOR ASHFORD: Okay. And you'll have it done by the end of December time frame? (Laughter) [LB1 LB3]

SUSANNE HANEY: Of course, we're miracle workers. [LB1 LB3]

SENATOR ASHFORD: Not that you have anything else other to do. [LB1 LB3]

SUSANNE HANEY: No, we don't. [LB1 LB3]

SENATOR ASHFORD: Okay. Very good. Thank you very much, Susanne. [LB1 LB3]

SENATOR LATHROP: And we won't need to edit. [LB1 LB3]

SENATOR ASHFORD: No. No editing. It has to be the final...the bill has to be in the final form, no work has to be done by any of us in the Legislature (laughter). [LB1 LB3]

SUSANNE HANEY: No problem. [LB1 LB3]

SENATOR ASHFORD: Thanks, Susanne. Okay. Topher, is that the right pronunciation? I hope I... [LB1 LB3]

TOPHER HANSEN: Yes, sir. [LB1 LB3]

SENATOR ASHFORD: And I hope I...And I'm sorry to have...and then after that, Senator Chambers has asked that Diane Keller be given a opportunity to speak and who is a mom or maybe she has left. But Senator Schimek has asked...okay. That's fine. We'll ask her after...oh, that's fine. And then Senator Schimek has asked that Peter Meyer, a parent I believe also, be given an opportunity to speak. So we will go with them after this. So proceed. [LB1 LB3]

TOPHER HANSEN: (Exhibit 10) Thank you, sir. Mr. Chairman, members of the

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Judiciary Committee, my name is Topher Hansen. I come here in support of LB3, Senator Dubas' bill and neutral on LB1. I am the president of the Nebraska Association of Behavioral Health Organizations. I come here today on behalf of the Behavioral Health Coalition, which is a group consisting of children and family coalition in Nebraska, some of whom you've heard from today: Iowa Nebraska Primary Care, National Alliance of the Mentally Ill, Nebraska Association of Behavioral Health Organizations, Associations of Homes and Services for Children, Private Practice Therapists, Health Care Association, Hospital Association, Medical Association, Psychological Association, Social Workers Association, and Voices for Children. That is our group that we have been collaborating... [LB1 LB3]

SENATOR ASHFORD: Well, it's going to be a big room, (Laughter) so you're going to need to find a ballroom somewhere. [LB1 LB3]

TOPHER HANSEN: And we've come down to a simple bit of testimony. [LB1 LB3]

SENATOR ASHFORD: We just need a plan. [LB1 LB3]

TOPHER HANSEN: And I'm glad you asked for that. This is a group, obviously, a wide variety of people. We've been meeting for over ten years to try and provide better services in the state, and we of course are all embracing the concept "do no harm." We also believe that we don't always get it right, and when we don't get it right, we need to back up, figure out what we did that was wrong, and begin to correct that. "He ain't heavy, he's my father" is apt for this circumstance because the first place we have to do is back out to 50,000 feet and ask ourselves why is this happening, what is this picture telling us. And the first place you need to start is your values. And "he ain't heavy, he's my father" says to us there's an unconditional promise of care. And what we need to form in this state is a context that safe haven becomes irrelevant. That if we develop the services that are necessary to meet the needs of the mothers, of the children, of the young adults and up to age 19 years of age, than we won't care about the safe haven age. We have to start with this philosophical foundation. Currently the system that we're operating is a system of cost not a system of care. The providers, the consumers, the regions are all collaborating on a system of care. But what we run into and, Senator, your comment about the plan runs into what we find is a system of cost, that we are restricted in ways, that there is a narrow gauntlet, that all people have to run. And why there are people--kids--sitting in jails, in hospitals, in dysfunctional homes and they can't find services when there are providers in the community that could have more capacity... [LB1 LB3]

SENATOR ASHFORD: But we have to..you're right, but we have to then make sure we've got the right pathways to prevent that from happening at an early stage. That isn't to militate against your point. And those children at the Douglas County Youth Center, that can't go on. You can't have 200 children or 150 or 160 kids there. I mean, there

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have got to be other options. But go ahead, I didn't mean... [LB1 LB3]

TOPHER HANSEN: And there are other options, but there's a gauntlet that prevents the full access of services in our system. [LB1 LB3]

SENATOR ASHFORD: Then put it in the plan. I'm serious. We need a plan because you're the experts. [LB1 LB3]

TOPHER HANSEN: Well, and we don't have the same system in the services for children that we have in the services for adults. And what we've found now is that the families who need help are being told to go over to the behavioral health services where long lines exist to get into care. So capacity becomes an issue in the whole system. And to focus on a cost-centered approach to this instead of a care-centered as the primary stopping point is going to get us the same kind of thing we've gotten before. [LB1 LB3]

SENATOR ASHFORD: But I know you guys...and I'm not being silly about this. I absolutely know...I know most of the people who have testified, and I am absolutely convinced you can come up with something. And that doesn't mean that it's automatically going to happen, obviously. But, you know, then all of this experience of the last three months will have not been for naught if we can address this issue. And you're the experts and you need to do it, and then come to us as a group. [LB1 LB3]

TOPHER HANSEN: Absolutely. [LB1 LB3]

SENATOR ASHFORD: Not individual piecemeal approach because that's gotten us...that's why we are here now. It has to be a plan, comprehensive plan. [LB1 LB3]

TOPHER HANSEN: Well, it's not because it's a piecemeal approach. It's because that what's happened is we've whittled down and we're into bone. [LB1 LB3]

SENATOR ASHFORD: I get it. [LB1 LB3]

TOPHER HANSEN: And that's the reason Von Maur happens. That's the reason that safe haven happens. That's the reason that we've seen the Beatrice State Developmental Center. It's whittling into bone, and what happens is you get the pictures that have presented to us over the last year on different kinds of services that are falling apart. We are standing trying to decide which hole we're going to put our finger in. Meanwhile, the whole dike is falling down around us because kids and families aren't getting help. [LB1 LB3]

SENATOR ASHFORD: I get it. But we have to start now and change the dynamic, and we have to start now. [LB1 LB3]

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TOPHER HANSEN: Absolutely. [LB1 LB3]

SENATOR ASHFORD: And we're agreeing. [LB1 LB3]

TOPHER HANSEN: Absolutely. [LB1 LB3]

SENATOR ASHFORD: And I'm not scolding or preaching. [LB1 LB3]

TOPHER HANSEN: Nope. [LB1 LB3]

SENATOR ASHFORD: We're only...we don't know anything. We're just legislators.
(Laughter) So we need a plan that you guys can buy into. So thanks a lot. [LB1 LB3]

TOPHER HANSEN: Thank you. [LB1 LB3]

SENATOR ASHFORD: All right. Now, Senator Chambers has asked if Diane...could you testify? Peter is next. [LB1 LB3]

DIANE KELLER: Hi. My name is Diane Keller, Keller. I work for Healthy Family Projects, and what I do is I help families that have mental health problems and behavioral problems and help find services for them. And the services out there for these families are hard to find if they have no resources like the income, Medicaid or a proper insurance for them. My son, for example, I had to call the police several times. And the police would do what they could do and to them it was no immediate danger. And then later on I found some evidence of him doing drugs and stuff. And I tried everything to find service. But since I didn't have the proper...enough insurance for them or he wasn't a state ward, they weren't accepting him. Okay. So I didn't get the mental health diagnosis. They took him to the mental health center, but they didn't do anything. They said there's no crisis problem here right now just because he threatened to commit suicide. So I had to...I went and filed ungovernable with the county attorney. And since my son didn't commit a crime at that time, there was nothing they could do to help me for service. So I just kept going and finding psychiatrists and doctors that would help me with medication. And I just kept putting out and putting out, but there was no service. And to get the service, you have to go referral. They call you up. You give them all your info. You have to go through every process. That could take anywhere from 48 hours to three weeks for someone to get back to you because of the list of people and the resources they have. I personally had to put my son to a state ward to get the proper help he needed because I didn't have the proper insurance or the proper...enough money to pay for it. It's the resources out there and the income for it all, so. I personally think that parents with low income, parents that don't have the money to pay for services, there should be something out there for these families to help them find places that's scaled for income. Like for example, pay their medication for these kids. They don't have Medicaid and Medicaid turns some of the medicine away because it's not

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one of their meds they use, you know, on their list. [LB1 LB3]

SENATOR ASHFORD: Senator Chambers. [LB1 LB3]

SENATOR CHAMBERS: So what you seem to be suggesting is that even though it might be said that some services are out there, they're really beyond the reach of some of the people who really need them. [LB1 LB3]

DIANE KELLER: Yes. [LB1 LB3]

SENATOR CHAMBERS: And you tried to jump through every hoop, go down every path that you think might work, and none of them produces a result. So you're left with a child that has problems. And even those who turn him away might say, well, yeah, he has problems but we don't help him. Then go over here and say he's ungovernable. And they say, well, maybe there's a problem, but he hasn't committed a crime so we can't help him. [LB1 LB3]

DIANE KELLER: Right. [LB1 LB3]

SENATOR CHAMBERS: And after you've gone the whole circle, you're back where you started from. And the child might be worse off now than before because time has passed and his condition hasn't improved. [LB1 LB3]

DIANE KELLER: Right. [LB1 LB3]

SENATOR CHAMBERS: So here's what I want to mention to you like I did when we were out in the hall, this setting is to try to get people a chance to become acquainted with the process. And in January, a bill will be offered, maybe several, that will deal with these kinds of problems apart from safe haven. Because not one of the issues that involved the children that were dropped off dealt with infants, and that's what safe haven was about. So if we talk only about safe haven, that's easy for the Legislature because we'll argue about whether it ought to be 3 days or 30 days. And then when something is done about safe haven, that's the end of the Legislature's responsibility and all these other problems are untouched. Yet there's no need for the safe haven bill because no infants have been brought. [LB1 LB3]

DIANE KELLER: Right. [LB1 LB3]

SENATOR CHAMBERS: So I don't want you to think that what you're saying is in vain just because we're not going to address it this special session. [LB1 LB3]

DIANE KELLER: Thank you. [LB1 LB3]

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SENATOR ASHFORD: Thanks for...yes, Senator Pirsch. [LB1 LB3]

SENATOR PIRSCH: Oh yeah, I was...and thank you very much for your testimony today. I'm trying to get a picture of...it sounds like you're describing a breakdown in the system. Now you're saying that your particular case was a case in which the county attorney did file a 3b or did not? [LB1 LB3]

DIANE KELLER: Did not at the time. [LB1 LB3]

SENATOR PIRSCH: Did not file a 3b. [LB1 LB3]

DIANE KELLER: No. I...at the time, they didn't do anything like that. [LB1 LB3]

SENATOR PIRSCH: Okay. [LB1 LB3]

DIANE KELLER: I went through the school system first, try to get the...because my son wouldn't go to school. So I tried to go through the school and work my way through the system and nobody...the school kept saying, oh, he didn't do too many trancies. And then I went and filed ungovernable because he refused to go to school. [LB1 LB3]

SENATOR PIRSCH: And when you say ungovernable, you mean a no-fault action? [LB1 LB3]

DIANE KELLER: Yes, against me, yeah,... [LB1 LB3]

SENATOR PIRSCH: Okay. [LB1 LB3]

DIANE KELLER: ...where they can...where they can get him in the system to help him. [LB1 LB3]

SENATOR PIRSCH: Sure. [LB1 LB3]

DIANE KELLER: To get the mental health he needed help. You know, the...he has bipolar. [LB1 LB3]

SENATOR PIRSCH: Okay. And that was done then, the no fault. [LB1 LB3]

DIANE KELLER: Now it's done, yes. [LB1 LB3]

SENATOR PIRSCH: Okay. And...okay, but it wasn't at the point in time that you're describing. [LB1 LB3]

DIANE KELLER: No. [LB1 LB3]

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SENATOR PIRSCH: Okay. [LB1 LB3]

DIANE KELLER: Because I had to call the police several, several, several times on several occasions. [LB1 LB3]

SENATOR PIRSCH: I see. Okay. Thank you for clarifying that. I appreciate it. [LB1 LB3]

DIANE KELLER: Thank you. [LB1 LB3]

SENATOR ASHFORD: Thanks, Diane. [LB1 LB3]

DIANE KELLER: Thank you. [LB1 LB3]

SENATOR ASHFORD: Peter? And after Peter, Bruce. Now, Bruce, when we get to you, we see you all the time so you've got to be really, really short and to the point. But we don't see Peter very often, so...or ever. (Laugh) [LB1 LB3]

PETER MEYER: Hi. My name is Peter Meyer, M-e-y-e-r, and I'll try to make this as quick and to the point as I can. When I was about seven years old, my parents adopted several children from the state of Nebraska. My mother is an attorney or she was an attorney by trade and my father was a doctor, very smart people, loving people. They just wanted to help some kids. Department of Health and Human Services failed to inform my parents about the psychological condition of the children that were being adopted into our home and it became very apparent not long after they started living with us that they were seriously disturbed. And they, my mom and dad, took them to every kind of counselor, got them every kind of help you could possibly hope to attain. They were diagnosed with severe reactive attachment disorder. For those of you who don't know what that is, what it comes down to is the inability to form any kind of attachment with any human being. They are incapable, quite literally, of loving. And after this it became really clear that my...to my parents that they were in over their head, they tried to see what they could do to get these children taken from our home and re-placed somewhere else. And when that happened, Department of Health and Human Services said to my parents, well, if you try to get these children out of your home, we will accuse you of child abuse and all of those...and all of the children in your home, including myself, a biological child, and my biological brother for several years were at very real risk of getting taken away from my parents. The therapist that my parents were working with went to, you know, whoever the head guy was at HHS and said, why is this happening, why are you doing this to this family. And to which whoever it was responded to him, off the record, someone along the line screwed up big time and we are trying to basically cover our ass so that we do not get a major lawsuit filed against us. Several years passed. My dad, you know, couldn't handle the responsibility of having children in our home that needed to be watched every moment of every single

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day. They had all sorts of criminal behavior, shoplifting, stealing from friends, family, stealing cars, everything else, and he split. And my mom, you know, she suffered from severe juvenile rheumatoid arthritis from the time that she was 14 years old. She as forced to put off surgery after surgery after surgery to deal with these children and try to get them the help she needed. She took them to just about every group home, every...the psych ward at Lincoln General, every...you know, every month it was some place different and they all told her, you know, we...the same thing, we can't help you. And it's just really upsetting to know that a law like this that, you know, open-ended with no age limit like this could have helped my family. You know, my mom died this past...at the beginning of this past July due to complications following a knee replacement surgery that she had and it just...it's really upsetting to think that if she had been able to get that surgery, you know, a decade ago or something like this that she would still be here today if she wouldn't have had to have been dealing with criminal children that were forced upon us. And, you know, the point being, my opinion is if they shorten the age limit on this, they're going to be hurting a lot of people. It could have saved my family and it could have saved my mom. And... [LB1 LB3]

SENATOR ASHFORD: Peter, thank you. Any... [LB1 LB3]

PETER MEYER: ...that's all I have to say. [LB1 LB3]

SENATOR ASHFORD: Thank you for sharing that with us. Any questions of Peter? Thanks for waiting around and thank you very much. [LB1 LB3]

PETER MEYER: Yeah, it's... [LB1 LB3]

SENATOR ASHFORD: Bruce? Karen. Is Karen here from Nebraska Children's Home? There. [LB1 LB3]

BRUCE RIEKER: (Exhibit 11) Thank you, Chairman Ashford, members of the committee. My name is Bruce Rieker. I'm vice president of advocacy for the Nebraska Hospital Association. And very quickly and to the point with regard to LB1, we are here testifying in opposition to LB1. Collectively, the 85 members of the Nebraska Hospital Association contend that the appropriate age restriction for children subject to the safe haven act should be 30 days for many of the reasons that were already laid out by the clinicians and other individuals from our hospitals. I won't go though that again, but that is our collective opinion. What I would like to do..oh, and attached to our testimony for LB1 is also the model policy that we as an association developed for our member hospitals. Not saying that all of them had to take that verbatim, but we developed this for our hospitals to give them guidance. And as you will see in there, one of the things we do have is the HHS 800 number, which has not been that well publicized, not that the 211 number isn't appropriate as well, but we believe that that number should be more readily available to those people seeking service. [LB1 LB3]

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SENATOR ASHFORD: Why is that? Why should that be more readily available than the 211 number? [LB1 LB3]

BRUCE RIEKER: I'm not saying more readily than 211 but more readily than it is right now, not to mean, I mean, not that we've done any survey, Senator, but... [LB1 LB3]

SENATOR ASHFORD: No, no, I'm just...is there...the difference between the two I'm just asking. [LB1 LB3]

BRUCE RIEKER: Well, the 800 number is directly to HHS and they have the...Health and Human Services, by its name, has, in our estimation, much more in-depth information about both the public and the private resources that are available across the state. So we believe that that would be an important component to helping those people in these dire situations seeking help. [LB1 LB3]

SENATOR ASHFORD: Okay. [LB1 LB3]

BRUCE RIEKER: With regard to LB3, we are also testifying in opposition to that only on the basis that is outside the scope of the special session. We believe that it brings forth many unique ideas and we think that it ought to be part of the comprehensive conversation going forward. What I do want to also draw your attention to is I believe that we have a partial road map that we've attached to this testimony which is the final report of the Behavioral Health Oversight Commission that was issued in June. And in that they recognize several accomplishments of HHS and the providers of these services, behavioral health services, but they also illustrated or noted many goals and high priorities that have not been accomplished yet, including such things as transparency on the Department of Health and Human Services, pay...adequate payment methodologies. I'm not going to read that whole report to you, but we believe that that is a very critical, well-thought-out document that we hope that the Legislature will take very seriously. [LB1 LB3]

SENATOR ASHFORD: Well, you're going to take that document and you're going to meet with... (Laughter) [LB1 LB3]

BRUCE RIEKER: You know what, Senator? Exactly. Thank you for that lead in. [LB1 LB3]

SENATOR ASHFORD: I mean here's my point. Here's my point. We don't want to piecemeal this any more. We want you to meet with all the...and you don't have to. [LB1 LB3]

BRUCE RIEKER: We...no. [LB1 LB3]

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SENATOR ASHFORD: You know, I don't have any power to (laugh) tell you to do it, but I'm asking you as a favor to please get your...all these people together, take the report, get a plan. You've got six weeks to do it and I know you can do it. Any other questions? [LB1 LB3]

BRUCE RIEKER: May I offer one thing to that comment? [LB1 LB3]

SENATOR ASHFORD: I guess. [LB1 LB3]

BRUCE RIEKER: One, we as the Hospital Association would be happy to facilitate that meeting. [LB1 LB3]

SENATOR ASHFORD: Okay. [LB1 LB3]

BRUCE RIEKER: Last one: As you will look at the final recommendation of the Behavioral Health Oversight Committee,... [LB1 LB3]

SENATOR ASHFORD: Okay. [LB1 LB3]

BRUCE RIEKER: ...it says that there has to be active involvement of the Legislature. [LB1 LB3]

SENATOR ASHFORD: Now, listen,... [LB1 LB3]

BRUCE RIEKER: Right...no. [LB1 LB3]

SENATOR ASHFORD: Time out. [LB1 LB3]

BRUCE RIEKER: Yeah. [LB1 LB3]

SENATOR ASHFORD: Time out. Just meet with everybody and you'll get very active participation by the Legislature, I promise you. [LB1 LB3]

BRUCE RIEKER: But may I share this scenario? We would like to have some of you at this meeting because this is like having... [LB1 LB3]

SENATOR ASHFORD: No. No, this is your deal. [LB1 LB3]

BRUCE RIEKER: ...arbitration without an arbitrator. [LB1 LB3]

SENATOR ASHFORD: This is your deal. You go do it and then we'll have active participation. [LB1 LB3]

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BRUCE RIEKER: How much money do we have to work with? [LB1 LB3]

SENATOR ASHFORD: You've got plenty of money. Don't ask us. (Laughter) You've got plenty of money at the Hospital Association. [LB1 LB3]

BRUCE RIEKER: (Laugh) Great. [LB1 LB3]

SENATOR ASHFORD: Thanks, Bruce. [LB1 LB3]

BRUCE RIEKER: You bet. [LB1 LB3]

SENATOR ASHFORD: You're good guys, too, so don't take me wrong. [LB1 LB3]

BRUCE RIEKER: Oh no, that's fine. [LB1 LB3]

SENATOR ASHFORD: All right. Is Karen...? And then April after, after that. Is April here? [LB1 LB3]

KAREN AUTHIER: (Exhibit 12) My name is Karen Authier, A-u-t-h-i-e-r, and I'm executive director of Nebraska Children's Home and I'm offering some suggestions and observations on the safe haven legislation. Our organization took the position of saying, before the original safe haven bill was passed, that we think there are better ways to go about preventing untimely child death, in similar content to what Senator Chambers talked about. I think we're all working toward the same goal. We all want to protect vulnerable children from abuse, neglect, and abandonment. We're in the spotlight because LB157 has created a unique situation to protect children at risk. Parents and legal guardians who have used LB157 in the hope of accessing behavioral health services for older children are signalling their frustration and desperation with roadblocks and dead ends in behavioral health delivery systems, not in a lack of resources, I would want to emphasize, but in those delivery systems. It would be a mistake to ignore those signals. Nevertheless, the focus in this special session is the need to separate the issue of services for older children from the issue of risk to newborns whose parents want to abandon them in unsafe situations. The underlying factors differ and a single solution will not fit both. Therefore, we need to make a commitment to deal with the issues related to behavioral health resources for older children in the next session of the Legislature and focus on the needs of infants in the safe haven debate. And we would offer that infancy is generally defined as the period from birth until the child walks, which is about one year of age. That said, we believe it's very important that changes to LB157 go beyond changing the age limit. LB157 provided immunity from prosecution for individuals who abandon children in hospitals, but it does not focus on the needs of the child. There are no provisions for what will happen to the infant after the infant is left at the hospital, so we would like to see some

additional provisions included. We would like that the person who leaves a child be specified to be a parent, that the time frame and process would move the child to permanency so that the child is not left in legal limbo regarding parental rights for an extended period of time. Beyond that period of time, the bill would provide a presumption that, by leaving the infant at the hospital, the parent is consenting to termination of parental rights. And then finally language that would provide that the child be placed in the physical custody of a licensed adoption agency to expedite the permanent placement. Florida and Illinois both have laws with language to that effect that are working very effectively. We as a licensed adoption agency, any adoption agency in the state can take that child, immediately place that child in the home of an adoptive couple where all of the home studies and background checks are completed. There is other information in my written testimony about the history of safe haven and I'd encourage you to look at that. This is nothing new. Last statement is that I would like us to not turn back the clock by encouraging women to abandon their newborn babies. I think we are better than that as a society. I think we have the resources. For this population of young mothers and their babies, we do have resources. We need to reach out, publicize those resources, and do a better job of getting information out to those who could be affected. [LB1 LB3]

SENATOR ASHFORD: Thank you, Karen. Any questions of Karen? Thanks, Karen. April? Is April here? And then Jeanne Marquardt, who is here, I believe. [LB1 LB3]

APRIL BLEVINS: (Exhibit 13) Good afternoon. My name is April Blevins and I'm president for the Nebraska Adoption Agencies Association. NAAA is a coalition of nonprofit adoption agencies licensed by the state of Nebraska. Our mission is to promote communication among adoption agencies so as to provide quality services for all persons involved in adoption proceedings and to act as advocates for children and families in issues pertaining to adoption and/or out-of-home care. One of our main goals is to educate the public about adoption issues. The licensed agencies have worked with mothers and fathers experiencing untimely pregnancies over dozens of years and we have seen the laws of Nebraska shaped to secure the lives of the children. As such, adoption agencies have acted as safe havens for these children. Specifically, confidentiality is guaranteed, statewide 24-hour emergency services are provided, and the parents are treated with the care and respect they deserve when facing this heart-wrenching decision. We would be in support to a three-day age limit. The initial purpose of the safe haven law was to protect the so-called dumpster babies. These infants are abandoned within the first 24 hours of life. It is usually an impulse and a response to a crisis situation by the parents. This three-day limit would cover those circumstances. We feel that when you extend the law to include older children, you open the door for many more issues. These issues could include individuals seeking a way to circumvent adoption law and processes, attachment and bonding issues, and trauma, to name a few. Right now, Nebraska is the only state with no age limitation. Seventeen states cap at 72 hours old, which is the most critical time for a newborn.

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Fifteen states cap at one month, two states at 60 days, and one state at 90. Although NAAA is in support of a 72-hour age limit, we continue to share a few concerns regarding safe haven law that we feel need to be addressed. These concerns include creating the possibility for upset family members, disgruntled boyfriends, or others who have no legal rights to abandon babies without mothers' consents; sanctioning abandonment by women who otherwise would not have done so because it is perceived as easier than receiving parenting counseling or making an adoption plan; depriving biological fathers of their rights; ensuring that children who are abandoned can never learn their family or medical histories; precluding the possibility of contact or exchange of medical or personal information; and sending a signal, especially to young people, that they do not necessarily have to assume responsibility for their actions and deserting one's child is acceptable. I have listed in my testimony a list of recommendations as adoption agencies that we would like to include in an appropriate safe haven law. In closing, I want to thank you for this time to provide this testimony and I also don't want us to forget the 35 children that have been affected by this law and all of the issues that have been revealed regarding the needs of parents in parenting older children in Nebraska. Thank you. [LB1 LB3]

SENATOR ASHFORD: Very good. Any questions of April? Seeing none, okay, thank you. [LB1 LB3]

APRIL BLEVINS: Uh-huh. Thank you. [LB1 LB3]

SENATOR ASHFORD: And, you know, we have all the comments for the record, too, so they're not going away anywhere. Okay. I think I had asked is Jeanne here? Oh, okay. [LB1 LB3]

JEANNE MARQUARDT: Thank you for...I know it's getting late and I will make it brief. My name is Jeanne Marquardt, M-a-r-q-u-a-r-d-t, and I'm from Omaha. My husband and I have seven children. Our oldest son is a licensed house appraiser in Arizona. I have a daughter who's a bank auditor for the FDIC. We have a son who is an artist and the resident artist at Marshall University in West Virginia. We have a daughter who's an administrative assistant and an office manager for an engineering firm. I have a son who's a nurse. We have a son who is an apprentice journeyman with an electric company, and our youngest daughter is a freshman at UNO. Four of our children are married. We have two grandbabies and a third one on the way. Why am I here? Six years ago I had a son in crisis and I couldn't find anybody to help. At this point I would have to say my suggestion would be to leave the law the way it is until further legislation can be looked at and seen what can be done to help the adolescent children with mental health and other issues. What started with us, he was 15 years old and on his 15th birthday I got a call and my son was expelled from school for language to a teacher. On his 16th birthday he celebrated in Douglas County Youth Center. What happened in between was a very, very long year. We ended up dealing with a

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behavioral...severe behavioral problems, alcohol and drug abuse. The programs are out there; it's just getting into them. We were told on two different occasions by police officers that the only way we could get help for my child was to make him a ward of the state. I was devastated. I thought by doing this would mean that I was giving up on this child and I could not do that. I was told by numerous agencies: one agency told me that he was not eligible because we made too much money; another one told me that he hadn't committed a crime, he could not get in; I had another agency tell me he wasn't bad enough; I had another agency tell me he was a flight risk, they weren't a closed or a locked facility. One program wouldn't take him because he hadn't completed a drug and alcohol abuse program. Another program would not take him because his last two tox. screens came back negative. I finally found a facility that would take him. Our insurance was not going to cover it and the minimum stay was six months and most patients stayed nine months. The cost, a mere \$205 a day--\$55,000, and the child had to agree to go into this program. I remember sitting at my kitchen table crying: What was I going to do; how could I come up with that kind of money to help my child who so desperately needed help and how was I going to convince him that he had to go? Two days later my son's girlfriend stole a car and he went along for the ride. They were arrested in Illinois and by that act he became a ward of the state. The programs were made available for him and he got the help he needed. He was diagnosed bipolar with drug and alcohol abuse. He was able to complete and graduate from drug and alcohol programming and counseling. It was too bad it took an arrest to get help for this child. Everyone here today has a story and it's no different than mine. We are all here for that same purpose, and that same goal is to help kids whether they are a newborn infant or 19 years of age. I am not sure what steps need to be taken to help these parents and their children who are so in desperate need, but I do know we do need programs. We do need something in between to help our children. Thank you. [LB1 LB3]

SENATOR ASHFORD: Thanks, Jeanne. Will you help us work through this? [LB1 LB3]

JEANNE MARQUARDT: I'll do anything. My son has even... [LB1 LB3]

SENATOR ASHFORD: (Laugh) Do we know how to get ahold of you? [LB1 LB3]

JEANNE MARQUARDT: I gave your address. [LB1 LB3]

SENATOR ASHFORD: Okay. [LB1 LB3]

JEANNE MARQUARDT: My son also said...coming to this was kind of...okay, but anyway, he's even willing to come and talk if that's what it takes. [LB1 LB3]

SENATOR ASHFORD: I think we need your help. [LB1 LB3]

JEANNE MARQUARDT: Okay. [LB1 LB3]

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SENATOR ASHFORD: That's what we do. We need your help. [LB1 LB3]

JEANNE MARQUARDT: Okay. [LB1 LB3]

SENATOR ASHFORD: So thank you. That will conclude the testimony for the day. I'm going to ask...but I'd like to say this. This is not over and this is not over and we're going to be coming...yes. [LB1 LB3]

ANGELA ZUROSKI: I think that there's one point that hasn't been...I'm Angela Zuroski. I'm the operations director for Bergan Mercy Emergency Department. [LB1 LB3]

SENATOR ASHFORD: Okay. [LB1 LB3]

ANGELA ZUROSKI: And I was personally involved in both the cases that came there, and I think there's one point that hasn't been covered today that is very important (inaudible). [LB1 LB3]

SENATOR ASHFORD: Okay. Well, okay, let's hear your point. Jeanne. No, not there. You have to come up. (Laughter) [LB1 LB3]

JEANNE MARQUARDT: Thank you. [LB1 LB3]

SENATOR ASHFORD: Thanks, Jeanne, and you're going to hear from us. [LB1 LB3]

JEANNE MARQUARDT: Okay. [LB1 LB3]

SENATOR ASHFORD: Yes. [LB1 LB3]

SENATOR ASHFORD: Give us your name. [LB1 LB3]

ANGELA ZUROSKI: I'll make it...I'm Angela Zuroski, Z-u-r-o-s-k-i, director at Bergan Mercy Emergency Department. There's been a lot of talk today about the kids that have the behavioral problems, the parents that so desperately want to help, but I'll tell you what. That wasn't the case on either of the kids that came to our hospital. The kids that came to our hospital were children that were in an unsafe environment. And I guess that definition is determined by the person that defines it, but I would say that in both cases they were in much better hands in our hospital than they were in the environment than they were in. And I think absolutely I want to help tremendously as much as everybody else wants to help in this room, but I think it's very important that from today, although it's not a safe haven issue, that there is something that allows the public to know and believe that we are going to continue helping or doing something until we get to that point in January or however long it might take to provide this program. So whether it be

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LB3 or keeping the safe haven as it is today, I just...I think there has to be something there for those children that are in an environment that they absolutely don't belong in. [LB1 LB3]

SENATOR ASHFORD: Yes, Senator Schimek. [LB1 LB3]

SENATOR SCHIMEK: Yes. May I ask you a question? You may not be able to answer, but I do recall reading at some point that someone remarked that this is the tip of the iceberg. And I don't know if you would have any way of having any knowledge of that or not, but, you know, there are lots of people in this room today who have stories to tell who are affected. But my fear is that there may be even more, more out there... [LB1 LB3]

ANGELA ZUROSKI: Absolutely. [LB1 LB3]

SENATOR SCHIMEK: ...that we haven't heard from. [LB1 LB3]

ANGELA ZUROSKI: And I'll tell you that, as talking from an ER's position, we welcome them because I do think Nebraska is loving and caring and the people here are, and I just don't want that to go away. One of the circumstances, and I hope I'm not overstepping boundaries that I shouldn't, I spent a lot of time with both the children and the mother of one child and three years ago when this law was not available...sorry, it's very emotional if you're involved. She put the hands of her child with someone who was a known molester because she had nowhere else to go with that child. And he's definitely in better hands today. I just don't want to leave without everybody understanding, Nebraska discovered a big thing by accident maybe, but we cannot put it on the back burner until a plan is in effect. We need to continue doing what we're doing until we have that plan. [LB1 LB3]

SENATOR ASHFORD: Yes, Senator Chambers. [LB1 LB3]

SENATOR CHAMBERS: We all in the Legislature are adults, we all are politicians and we all know what reality is. I've listened to things that people said here today and if I had a magic wand and could wave it and all those problems would be solved, the wand would have been waved before they even spoke. We are well aware of the fact that these problems exist. We know, those of us who get complaints from parents, guardians and others, lawyers representing, even some judges that adequate services are not there. It's why I want to stop talking about safe haven. We have not had an infant, contemplated by those bills, dropped under this legislation. If we talk about safe haven in the Legislature, it's an easy thing for the Legislature because if we would argue it all session, then pass a safe haven bill, our job is done. We did what the public wanted. But this much bigger issue that is pressing right now goes unattended. I think the public would be better--it's known that I don't like the safe haven bills--to say it looks like in the

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Legislature it's going to be either or. Let the safe haven go because infants are not what the problem is that everybody has talked about today, that everybody sees. Make the Legislature focus on the types of things that were brought here today. And I wish that all of these professionals who know what these problems are will unite and keep that pressure on the Legislature. Learn how to take advantage of the media. They're under that media spotlight now. Don't let them get out from under it. Keep the heat on. Write to your senator. Write to the Governor. Let the Governor know that you don't want to hear the statements that there are plenty of services when, from your experience, you know there are not. And I don't mean you as an individual have to do all this, but if you are working with these families and these individuals, your hospital is not going to be able to take these children in and these families and provide all the services they need for as long as they need them. So if a point is reached where you kind of stabilize them but they leave and they're still fragile, they go back into a broken system, they're broken people, and we're right back where we started from. So the value that can come from today I think is if people are energized and make up their mind that they're not going to let it go. Don't trust the Legislature. Don't trust us. I wish you could, but we have to be realistic. And emotion is not going to change a senator's mind. Crying is not going to do any good. I'm not criticizing you. I'm just saying that the senators can...we can look like we really care but in the back of our minds we're saying they will talk today, they'll get tired, they feel that they've done all that needs to be done so we'll just sit back and it will go away and nothing will change. So if the people who came here today, even those who didn't have a chance to speak, really want to help, keep the pressure on. You have momentum. If you have an object that's moving, even physics will tell you it's easier to keep it moving than to take a stationary object and start it moving. So keep the momentum. Your anecdotal cases, if that's the way people want to look at them, will be a concrete example of what needs to be done and what the nature of the problems are. So I hope you all will keep going. I said I'm glad out of the Legislature in January. Really, if I were to be totally honest, I hate leaving the Legislature at this time more than I would at any other because you're going to need somebody who will stand up to the Governor, who won't accept cock-and-bull stories from HHS or anybody else, and will push until the Legislature does what our job is. When we take that oath, we don't take an oath to the Governor, we don't take it to HHS. Our oath, I don't even remember what it says, but they usually say (laughter), okay, that it's to serve the interests of the people to the best of our ability, so make us do it. And I appreciate your coming here. It's obviously difficult, but I'm glad you persevered and you talked to us anyway. [LB1 LB3]

SENATOR ASHFORD: I think we're going to... [LB1 LB3]

(WOMAN): Can I just say, as a family member and a parent, if you could involve more families? I didn't hear hardly any families talk, but I heard a whole afternoon of professionals, and that bothers me. [LB1 LB3]

(MAN): This fellow wants to talk about his family. [LB1 LB3]

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SENATOR ASHFORD: What we're going to do now is we're going to...we're going to go ahead and stop the hearing now. [LB1 LB3]

LYMAN WOSTREL: There a one-sided story that's been said here, and it needs to be heard the other side. All of the responsibility has been placed on children who have mental health issues. I disagree and I have a personal story that says the opposite of that. I think it needs to be heard. Would you give a moment, please? [LB1 LB3]

SENATOR ASHFORD: We'll have one more and then that's it. Why don't you sit up here and then we'll...and then we will conclude the hearing. [LB1 LB3]

LYMAN WOSTREL: I appreciate you giving me the opportunity to speak. [LB1 LB3]

SENATOR ASHFORD: You got to give us your name. [LB1 LB3]

LYMAN WOSTREL: Yes, my name is Lyman Wostrel. My last name is spelled W-o-s-t-r-e-l. I was a former...well, I am a former ward of the state of Nebraska. And if I'm a little bit nervous it's because these are things that are close to me and they do cause emotional harm to a person. They hurt. I was taken away from my family when I was nine, along with my brothers and sisters. During that time...after that, I was raised in foster homes, group homes, and boys' homes, and during that time my goal and my hopes in my life was to be able to go home and live with my mother. After on and off attempts of that, after moving about 15 times, the opportunity to go home to my mother was presented to me and I went home to live with her in the state of Wyoming. My brothers and I had been sent away numerous other times--I'll try to keep this as short as possible--but eventually the event came up where my mother got rid of my brothers and I and sent us back to the state of Nebraska, where I was a state ward. During that process of being abandoned by my mother, I can remember exactly what this woman who spoke of, who is the CEO of the hospitals here. She talked about a child who begs her mother not to do what has been done to that person, who begs and says I will be a good son. The truth was is my brothers and I were good sons. I was a straight A student. I was never involved with law breaking or any of that matter. I was an active member of a youth group. My mother was not a good parent. My mother is repentant over what she has done now and, because of God's grace in my life, she has been able to express her sorrow for what she has done. But for the good people of this state and the foster parents that were given to me by the state, the Burdens (phonetic), I would have been ruined by what happened to me as my heart was shut down by abandonment. I want you to know that abandonment is a very serious issue and it leaves a scar on a person's life. For all my life I know I'll bear this cross that what is in my heart hurts, to know that what is said when a child is abandoned is exactly what it is--I do not love you. And as much as a person says that I do love you or whatever, they try to justify that action, it is not the case. A child is smart enough to figure it out. I know

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that there is a complex problem here, as a person who very much values life and very much supports the idea of protecting infants. I understand the good intentions of what has been said here on protecting children, but I do not think abandonment and making a drive-by abandonment an option is something that can be done. I understand we're short for time. I am very appreciative of you giving me an opportunity to speak. [LB1 LB3]

SENATOR ASHFORD: Thank you. We appreciate you speaking. Thanks very much and appreciate it. (Applause) Speaker Flood. [LB1 LB3]

SENATOR FLOOD: First of all, Mr. Chairman, members of the committee, thank you for giving these issues related to the safe haven a fair hearing. These are difficult issues. I've been watching in my office. Certainly, beyond the issue of limiting the safe haven to infants, there's a much larger issue regarding access to appropriate care, and this larger issue must be addressed in the upcoming 90-day session. I remain convinced that's where it belongs. As Speaker and as a senator and as a friend to all of you, I respect the job that you have as committee members. I also understand that you have to do at the end of the day what you think is right. Thank you for resolving to make a decision tonight. I know it's not easy to force a action from the committee on such short notice. Given the special session, obviously, our plan hinges on a bill going to General File tomorrow for discussion. By way of reference, I guess I would tell folks that want to know what was advanced that you can check the Unicam's Web site tonight for our agenda at NebraskaLegislature.gov, and you can see what we'll be discussing tomorrow. Thank you. [LB1 LB3]

SENATOR ASHFORD: Thank you, Speaker Flood. LB3. Senator Dubas. [LB1 LB3]

SENATOR DUBAS: Senator Ashford, members of the committee, thank you so much for your very intent attention to the testimony this afternoon. What became clear to me is there is a disconnect. There's a disconnect between what HHS is saying is available and what the people who actually work in the trenches, deliver the services, see things first hand are able to do. And I think it's, as a Legislature, that's our responsibility, to make sure that that disconnect is reconnected. I appreciate Senator Chambers' comments about keeping the fire burning and making us be accountable, and for us to make the agencies that are responsible to answer to us, make them be responsible. So I think the things that we heard here this afternoon have indicated that this is about a lot more than a place to take babies. This is about our children and their future and the type of future that we want them to have. And for us, I believe someone said this afternoon, services may be available but they are rarely obtainable, and I take that as a personal challenge. I intend to pursue this issue for as long as it takes me. I think we have a legislative responsibility. We opened this door with the safe haven legislation and I don't think we can slam it shut and walk away in any good conscience. So I, too, appreciate the decision that you have ahead of you. I'm willing to be supportive in any

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way that I can be in helping us move this issue forward and finding resolution for it. [LB1 LB3]

SENATOR ASHFORD: Thank you, Annette, for your comments. For those of you who did not testify, I apologize. We have...if you have written materials, please don't leave before we get those written materials collected. (See also Exhibit 13.) Also, my message to all of you is, no matter what this committee does on this day or what this Legislature does this week, we have a big job ahead of us in the next 60 days to come up with a plan and I implore you all to work together and with HHS to come up with a plan that we can...that the Legislature can...and we shouldn't say, no, we can't. We must say, as our new President says, that we can, and we can do this if we work together and follow that theme. So thank you all very much and we appreciate your attention. (See also Exhibits 14-30) [LB1 LB3]

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Disposition of Bills:

LB1 - Advanced to General File, as amended.

LB3 - Held in committee.

Chairperson

Committee Clerk