

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

[LB917 LB933 LB993 LB1165]

The Committee on Judiciary met at 9:30 a.m. on Monday, February 13, 2012, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB993, LB917, LB933, and LB1165. Senators present: Brad Ashford, Chairperson; Steve Lathrop, Vice Chairperson; Colby Coash; Brenda Council; Burke Harr; Tyson Larson; and Amanda McGill. Senators absent: Scott Lautenbaugh.

SENATOR ASHFORD: Good morning, everybody. Welcome to the Judiciary Committee. We've never met at 9:30 in the morning so hopefully we can...it will do for us. But let me tell you, we're going to do a little different format today, especially on the three bills involving truancy and absenteeism. What we're going to do is we're going to take all three bills at the same time. And what that means is that I have a bill, I'll introduce mine, Senator Cornett will introduce her bill, and then Senator Fulton will introduce his bill. And what we'd like to do is have...and I'm not sure where everybody is, whether they're for or against or neutral or whatever, but you can simply come up and give us your name and tell us whether you're...you could do all...this is a little bit different, but tell us if you're for any of the three bills, if you're against the three bills, or if you're neutral, and we can...we'll record all that. So that way, I think, my hope here is...and I do appreciate you all coming. I know this is a difficult issue for everybody, a lot of you, and it's a bad day with the snow, so I do appreciate you coming here today. But I'm kind of trying to promote a little bit of a dialogue here even though it's a formal hearing, so if you're all okay with that, that's what we're going to do. But the first bill, however, is another bill that I'm going to introduce and then we'll get on to the other three bills. We're going to need to be done by noon but that's plenty of time. I think we should have plenty of time. We do have a three-minute rule on testimony, but because we have the three bills together we're going to extend that to five minutes. So everybody will have five minutes to talk about the bills, all three of them, one of them, two of them, whatever you want to do. But we are going to quit at 12:00 because we have to have an Exec Session and then move on to our other hearings. So does everybody understand that? Okay. Let's start with...let's see.

SENATOR MCGILL: LB993. [LB993]

SENATOR ASHFORD: Madam Vice Vice Chair, Senator McGill, I'm here to introduce LB993, which relates to the child advocacy centers, the seven child advocacy centers that we have throughout the state of Nebraska. And I am introducing this bill on behalf of the Alliance of Child Advocacy Centers. The centers are located in Lincoln, Omaha, Norfolk, Kearney, Scottsbluff, North Platte, and Grand Island. And as most of you know or all of you know here on the committee, the centers provide a child-friendly place for interviews, medical exams, and investigations that happen in response to child abuse. All of the critical decision makers gather at the center to coordinate the investigation and response. I might interject here that when I was in the Legislature in the '90s, early '90s,

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

this was a very important issue and it has developed over the years to be a very important process for these children and families. The bill would expand the scope of the centers and the child abuse and neglect investigation teams to include noncourt-involved cases and status offense cases. The bill would also strengthen the protocols for the teams to reinforce the communication, coordination, and collaboration which already does exist among team members in child abuse and neglect cases, and I do thank you for your consideration. I would add, Senator Rasmussen, who was here at that time, was really the motivator behind this, Jessie Rasmussen, behind this initiative which has been so successful. Thank you. [LB993]

SENATOR MCGILL: Thank you, Senator Ashford. Any questions? Nope, I don't see any. [LB993]

SENATOR ASHFORD: Okay. [LB993]

SENATOR MCGILL: If the first proponent would like to come forward. Hello, Lynn. [LB993]

LYNN AYERS: (Exhibit 1) Hello. Good morning. Senator Ashford did such a good job of explaining centers. My name is Lynn Ayers and I'm the director of the Child Advocacy Center here in Lincoln. I'm here to testify in support of LB993 and to support the efforts of our state senators on child welfare reform. I'm not here to tell you what's broken, what doesn't work, and who isn't doing their job, because we've had enough of that. I'm not coming to you with problems. I'm coming to you with some solutions. So my purpose today is to highlight the work of the centers and to talk about the increased utilization. I have worked in child welfare system for 34 years and what I've come to understand is that it really does take a team approach to protect kids. It's not about one agency and never really was. Child abuse is a complex issue. Our response requires a multidisciplinary team response that consists of law enforcement, Health and Human Services, prosecutors, medical providers, and mental health therapists. Those working on the front lines understood this and worked to establish child advocacy centers across the state. There are now seven in Nebraska in Omaha, Lincoln, Kearney, Grand Island, Norfolk, Scottsbluff, and North Platte. Every day at the center, members of the multidisciplinary team come together under one roof and they coordinate their response to allegations of child abuse and neglect. It's really not rocket science, it just took us a while to figure that out. The child and the nonoffending caregiver come together under one location and the professionals who work together come there to coordinate their response. Senator Ashford mentioned we provide forensic interviews, medical evaluations, advocacy and support, and case coordination. A study that was conducted in 2005 by the University of Alabama really looked at the cost-benefit analysis of CAC versus non-CAC investigations, and it's estimated that a child advocacy center investigation saves up to \$1,000 per case through the coordinated response. And that's largely because of the reducing of the duplication of efforts across agencies, and also

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

the child advocacy center's ability to leverage private dollars in support of this. So I'm here to testify in support of LB993 that cleans up the language from 1992, and expands the utilization of Child Advocacy Centers to include cases of child sexual abuse, serious physical abuse, children who witness a violent crime, those found in a drug-endangered environment. It's a model that's proven and it works, and I urge you to support LB993 and the team approach to child abuse. [LB993]

SENATOR ASHFORD: Thanks, Lynn. Any questions of Lynn? Thank you. Gene. [LB993]

GENE KLEIN: Good morning. My name is Gene Klein, G-e-n-e K-l-e-i-n, and I'm from Papillion, Nebraska, and I am here to support LB993. And in particular, I'd like to address the components of this bill that describe the case coordination aspects of the bill. In 1992, this bill was passed by the Legislature known even today as LB1184. That statute had a very positive impact on how we as a community respond to child abuse. In fact, we continue to call the teams that are organized today to respond to the investigation of child abuse as the LB1184 teams. The child advocacy centers across the state were essentially established based on the components of this bill back in 1992. These teams today are comprised of law enforcement, child protective services, prosecution, mental health, medical providers, schools, and other professionals responding to child abuse. In 2004, the Legislature funded coordinators as a response to serious child death cases that were not being coordinated across the disciplines. Today, all seven child advocacy centers assist all counties in the state of Nebraska to facilitate these teams. This legislation clearly has had a positive impact. This effort continues to be supported by many national organizations as the best practice model for the response to child abuse. Today, protocols are developed across counties in how the agencies must work together in this response. However, there is much more to do. The urgency and relevance of this effort cannot be overstated. The roles and responsibilities of agencies today are fluctuating, definitions continue to change, there's confusion and uncertainty across these disciplines. For the children and families we collectively serve, our protection system must be stable, the work between the agencies must be coordinated, and the communication of these critical case decisions must have a collaborative approach. Given all this uncertainty, this bill ensures that the front end of the system is strong and that the right children are getting the right level of response at the right time. This bill expands the team's role and allows for improved coordination. It requires that protocols between agencies be strengthened, that specific cases must be reviewed, and training across disciplines be conducted. I've been in this business for 25 years, not quite as much as Lynn. If you read the headlines, you would think that there's nothing positive going on in the Nebraska child welfare system. I'm here to say that this team approach on the front end of the system is working and it needs to be strengthened, especially at this critical time. When I started in my role as the executive director at Project Harmony, a police lieutenant approached me who sat on our team and said, there will be many days when it may appear that we do not agree, that we

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

have heated discussions or disagreements, but at the end of the day, know that really everyone is here for these kids. If we don't work together, we have failed them. Today, I'm asking you to make a greater impact on LB1184, today known as LB993, and strengthen this bill that has proven itself to be a wise and helpful policy for more than 20 years. Our children need your support and your leadership to work together to move this bill forward and I encourage you and your colleagues to do the same. I'd be happy to take any questions. [LB993]

SENATOR ASHFORD: Any questions of Gene? And thanks for all the hard work, and I do remember when Jim Jansen, then county attorney, and when Senator Rasmussen and all of those leaders at that time made such a difference in getting this started and you've done a great job, so thanks. [LB993]

GENE KLEIN: Thank you. [LB993]

SENATOR ASHFORD: Any other testifiers on this bill? Yes, Nicole. [LB993]

NICOLE GOALEY: Thank you. Nicole Goaley from Omaha, Nebraska, testifying today on behalf of the Douglas County Attorney's Office as well as the County Attorneys Association in wholehearted support of LB993. I echo the comments of Lynn Ayers and Gene Klein. I agree with everything that both of them said. The team decision and team approach has worked well in Douglas County. I've been participating in the juvenile justice child welfare system for almost 17 years and have actively sat on almost every single LB1184 meeting that's taken place in the last seven years. There is a checks and balance to the approach. It's very productive. There's a transparency. Voice is heard from every single agency involved within the community. And the model, as Gene said, has proven to be effective. I also want to note that it is very real. When these meetings occur, they are dynamic. All the facts come out. Oftentimes one agency doesn't have all the information that another agency had, so it's all put on the table. Everything is worked through and team decisions are made in the best interest of children. Again, 200 percent support for this bill on behalf of the Douglas County Attorney's Office and the County Attorneys Association meeting. I, as well, would be happy to answer any questions. [LB993]

SENATOR ASHFORD: That's a very high percentage. (Laughter) Thank you, Nicole. Appreciate it. Appreciate all you do. [LB993]

NICOLE GOALEY: Thank you. [LB993]

SENATOR ASHFORD: Sheriff. [LB993]

TERRY WAGNER: Thank you, Senator Ashford. Members of the committee, my name is Terry Wagner, W-a-g-n-e-r. I'm the sheriff for Lancaster County. I'm here today on

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

behalf of LB993. I want to provide you with a quick law enforcement perspective of the CACs and the LB1184 teams as you know them to be, as we know them to be. It really has changed the way we do business. Our policies are based upon the protocols that have been established in the LB1184 team meetings, and so our policies reflect the investigation of child abuse and child sexual assault cases in a child-friendly manner contrary to how we interview adult victims and adult suspects. So it's been a great concept. I don't want to repeat what everybody else has said. They've done a great job, continue to do a great job. And I would answer any questions that you might have from a law enforcement perspective. [LB993]

SENATOR ASHFORD: Any questions of the sheriff? Thank you, sir. [LB993]

TERRY WAGNER: You bet. [LB993]

ALICIA HENDERSON: Good morning. My name is Alicia Henderson. It's A-l-i-c-i-a, Henderson, H-e-n-d-e-r-s-o-n. I'm from the Lancaster County Attorney's Office and I'm here on behalf of Joe Kelly, who could not be here today, and we are testifying in favor of this bill for all of the reasons really that the other proponents have stated that. I would also add that it cleans up a little bit some of the law about the fact that we can review status offense cases, but there is no actual protocol for how to...how we can do that. And I think that's important to protect the children as well as the school districts and others that are involved in the treatment team meetings about status offenders. And I would answer any questions if you have any. [LB993]

SENATOR ASHFORD: Seeing none,... [LB993]

ALICIA HENDERSON: Thank you. [LB993]

SENATOR ASHFORD: ...any other testifiers for, or how about against the bill? Neutral? Against? Okay. How many other testifiers do we have today on this bill? Okay, so we have a few. All right. (See also Exhibit 2) [LB993]

MELANIE WILLIAMS-SMOTHERMAN: Good morning, Senators. My name is Melanie Williams-Smotherman, M-e-l-a-n-i-e, Williams, Smotherman, S-m-o-t-h-e-r-m-a-n. I'm the executive director of the Family Advocacy Movement, which is an organization...a grass-roots organization that has family and professional and family-advocacy collaboration, and we advocate for families whose children are caught up in the child protection and juvenile justice systems. I am coming to speak against this bill for one reason and that is that in the work that I do, I recognize that families experience something different than is reported to this committee. And I think that it's really important for senators to understand what is really happening on the ground, and we can talk all we want about collaboration and, you know, visualize the opportunities for all of these different departments to come together, but what we see it as is the reduction

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

of oversight, the reduction of checks and balances. I didn't come to speak officially on this bill today. I'm here for another reason. But since we raised status offenders, truancy falls in that category. So this is very applicable to those bills as well that are coming up. I hope that what I'm about to say will inspire this committee to tell me to go dig out the proof and send it to you. But one example that concerns me greatly, and I would not have known about this serious aspect of the child advocacy centers if I had not been given this bit of evidence, one of the parents that we advocate for gave me an intercepted e-mail or an a copy of an e-mail that her attorney had given her between a caseworker and a forensic interviewer at Project Harmony, which, by the way, has another name that families who have experienced it use and that's called Project Harm Any. Now, I think that's important for you to understand that that is what has been talked about on the front lines with families. This letter that was provided to the forensic interviewer from a caseworker, about a little boy who reported that his grandmother had been abusing him, and that his father was living in the house where he was placed by DHHS, in violation of a protection order, was not credible. He was interfering with the forensic interviewer's summary and report to the judge by asking her, in no uncertain terms, whether or not she really thought his testimony was credible during the interview. And that testimony would have been what corroborated the mother's concerns about where DHHS had placed her child. I think that it is essential to understand that the level of checks and balances are not as prevalent when you have people all working together as entrenched just like, you know, the reporters in Iraq. You know, it sounds good but when they're there, they're not necessarily providing the same sorts of oversight that we need. [LB993]

SENATOR ASHFORD: Thank you, Melanie. And as you've mentioned, you're testifying on other bills as well. [LB993]

MELANIE WILLIAMS-SMOTHERMAN: Yes. [LB993]

SENATOR ASHFORD: So thank you for your comments. I don't see any questions. Next testifier. Scot, and Scot... [LB993]

\_\_\_\_\_: Senator, I'm sorry, just one question, please. [LB993]

SENATOR ASHFORD: Okay. [LB993]

\_\_\_\_\_: Is this LB993 or LB933? [LB993]

SENATOR ASHFORD: LB993. [LB993]

\_\_\_\_\_: Okay. [LB993]

\_\_\_\_\_: Not one of the truancy bills. Okay, sorry. [LB993]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

SENATOR ASHFORD: No. This is not one of the ones where we're doing the what I explained earlier process. [LB993]

\_\_\_\_\_: Okay. Thank you. [LB993]

SENATOR ASHFORD: Okay. [LB993]

SCOT ADAMS: (Exhibit 3) Thank you. Happy day before Valentine's Day. Good morning, Senator Ashford and members of the Judiciary Committee. My name is Scot Adams, S-c-o-t A-d-a-m-s, and I am...serve as the interim director for the Division of Children and Family Services, and am here today to provide testimony in opposition to LB993. Let me first say that we support and commend the work of the child advocacy centers statewide in their primary role of aiding in the investigation of child abuse and neglect. They do great work. We consider them vital partners and collaborate with them in the work we all do to protect children. The department currently contracts with seven child advocacy centers at a cost of more than \$1,200,000. However, I need to point to two significant issues that serve as the basis for our opposition to LB993 this morning. The first concerns building additional service capacity and mission within the child advocacy system beyond their primary function to support investigations of child abuse. We are simply concerned that additional layers of review are likely to further diffuse decision making that may result in longer stays in the state system through the LR37 process. Secondly, our concern is that the building of capacity has not been identified as a priority within the Legislature's own review of the state's child welfare system. In my opinion, the additional nearly \$400,000 of state funds that we estimate the cost to accomplish the changes proposed by LB993, an increase of about 30 percent, cannot compete with the level of urgency in the use of resources currently needed to improve our child welfare system in other areas. I appreciate the opportunity to voice our concerns. Happy to respond to any questions that you may have. [LB993]

SENATOR ASHFORD: Any questions of Scot? Senator Harr. [LB993]

SCOT ADAMS: Yes, Senator. [LB993]

SENATOR HARR: Thank you, Senator Ashford. And thank you, Mr. Adams, for coming in here. I guess my question is, you said your first concern is building additional service capacity in children advocacy centers. What is this additional service capacity you were talking about? [LB993]

SCOT ADAMS: We believe that it speaks to a greater involvement in some of the voluntary cases and so that there is additional mission, if you will, given to the child advocacy centers. [LB993]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

SENATOR HARR: Can you give me an example? [LB993]

SCOT ADAMS: Yeah, in the bill, it speaks to the expansion, in Section 1, item (3), identifies the defining of assigning of roles and responsibility between enforcement in the department for the initial response. As an example, and subsequent to that, then goes on with an extensive protocol of activities. [LB993]

SENATOR HARR: Where are you? What page? [LB993]

SCOT ADAMS: On page...bottom of page 3 and following. [LB993]

SENATOR HARR: Okay. And who currently assigns the role and responsibility between law enforcement and DHHS? [LB993]

SCOT ADAMS: Call comes into the hot line and then that is assessed. People go out with regard to the investigation. [LB993]

SENATOR HARR: So it's currently being done. [LB993]

SCOT ADAMS: It's currently being done. [LB993]

SENATOR HARR: It just would move from one area to another. [LB993]

SCOT ADAMS: It would. It looks like it would involve others in a process overall and expands that particular role. We're not necessarily horribly opposed to that, but it looks like it adds some confusion to the overall process at this point in an area that has a great deal of players already. [LB993]

SENATOR HARR: Okay. Thank you very much. [LB993]

SCOT ADAMS: Yes, sir. [LB993]

SENATOR ASHFORD: It's an early intervention strategy, though, isn't it? [LB993]

SCOT ADAMS: And we're open to...we're open to those kinds of things. [LB993]

SENATOR ASHFORD: Yeah. That's fine. No, I know you are, Scot, and you're an advocate of that so I understand your point though. Thank you for that testimony. That's fine. Thanks. [LB993]

SCOT ADAMS: Okay. Thank you very much. [LB993]

SENATOR ASHFORD: Any other testifiers on this bill? We are at the opponent group

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

here, so do we have neutral testifiers too or...? Okay. Good morning. [LB993]

MONIKA ANDERSON: (Exhibit 4) Good morning, Senator Ashford, Senator McGill. My name is Monika Anderson and I am...I'll spell my name. That's M-o-n-i-k-a, Anderson, A-n-d-e-r-s-o-n. And I'm the legal counsel for Nebraska Families Collaborative or NFC. The Nebraska Families Collaborative is a nonprofit corporation made up of five Omaha area organizations with over 400 combined years of experience and expertise in caring for children and families. Currently, NFC provides care in case management, service coordination and delivery to two-thirds of the child welfare and juvenile justice population in Douglas and Sarpy Counties. Nebraska Families Collaborative opposes LB993 for the following reasons, and we also echo the concerns that Mr. Adams just related. We believe that this bill requires the child abuse and neglect investigation teams to revise their protocols in such a way that it would result in more children and families being needlessly brought into this system. As a factual background, Nebraska removes children from their homes at one of the highest rates in the nation. In 2010 there were 28,666 reports of child abuse and neglect made to the Child Abuse and Neglect Hotline. Of those, 49.4 percent were accepted for investigation and initial assessment. And of the assessments completed, 25.3 were substantiated. Physical neglect is by far the most common form of substantiated child maltreatment. In 2010 in Nebraska physical neglect accounted for 79.4 percent of the total substantiated allegations. The fact is we harm children when we remove them from their homes and families even when the removal is necessary for their safety and protection. So that's the background. As a system, we must balance the harm that we think a child is experiencing against the harm of intervening with the family, choosing the least detrimental alternative. We believe that requiring the cases that the Department determines to be high or very high risk to be further reviewed by the investigative team runs the risk of a misapplication of the structured decision-making system, which was recently implemented by the department and the lead agencies. Structured decision making is an evidence-based model of assessing risk and it is currently used by the department during initial assessment and also by the lead agencies in their ongoing case management. SDM is a model that reliably determines which children need to be removed. Enacting this language into state law could lead to a misapplication of the SDM model as the child advocacy centers and the teams seek to second-guess the reliability of an evidence-based, scientifically validated instrument with no standards or guidelines upon which to base their review. [LB993]

SENATOR ASHFORD: Monika, I'm going to ask you to sum up. You have some documents too. [LB993]

MONIKA ANDERSON: I do and they've already been passed out to the committee. [LB993]

SENATOR ASHFORD: Okay. [LB993]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

MONIKA ANDERSON: Just very quickly, we would encourage, rather than increasing the oversight role of the teams, we would encourage the Legislature to consider a differential response, legislation which would formalize the process of creating different pathways to investigation for families who, depending on the circumstances, don't need to be further involved in the system. And there's a report that I've included with your packet. [LB993]

SENATOR ASHFORD: Okay. Thank you. Thanks for your comments. Yes. [LB993]

SENATOR MCGILL: I will follow up on that because I am very interested in the...what you stated here about how we can do more harm sometimes by taking a child out of the system, because we do in Nebraska take too many out. So can you tell me when this SDM started to be used here in Nebraska and if we're...and maybe this is a question for Scot, but how we're tracking that and...? [LB993]

MONIKA ANDERSON: Well, Scot can correct me if I'm wrong, but I believe it started in the Eastern and Southeastern Service Areas on January 1 of this year. [LB993]

SENATOR MCGILL: So very recently. [LB993]

MONIKA ANDERSON: Very recently and my understanding, again I don't speak for the department, but my understanding is that they're currently revising their hot line screening instrument to be more in line with structured decision making. So we haven't even seen the impact of that yet. That hasn't started. [LB993]

SENATOR MCGILL: Because I had heard that in the past we weren't using an evidence-based plan for assessing kids and if they needed to be taken out of the home or not. So this is now more evidenced-based... [LB993]

MONIKA ANDERSON: It's evidence-based, it's scientifically validated, it's based on actuarial studies for assessing risk in the same manner that insurance companies use actuarial science to determine risk. [LB993]

SENATOR MCGILL: Now, so is this a thing you would rather see put in statute, or...? [LB993]

MONIKA ANDERSON: No, that's not what I'm recommending... [LB993]

SENATOR MCGILL: Okay. [LB993]

MONIKA ANDERSON: ...that it be put in statute. Structured decision making is currently being utilized... [LB993]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

SENATOR MCGILL: Okay. [LB993]

MONIKA ANDERSON: ...by the department and the lead agencies in the Eastern and Southeastern Service Areas. What I was referring to was differential response. [LB993]

SENATOR MCGILL: Okay. [LB993]

MONIKA ANDERSON: Currently, the department's only permitted response under the statute is investigation when a report is accepted for assessment. [LB993]

SENATOR MCGILL: Well, I'm very interested in seeing what the data shows and how effective that is because we do take some families...we do tear apart some families that we should be leaving whole. [LB993]

MONIKA ANDERSON: The report that I've included in your packet was prepared by the National Quality Improvement Center on differential response in child protective services with the assistance of the National Council of State Legislatures. [LB993]

SENATOR MCGILL: Well, I thank you and the department for moving to this route, a more evidence-based plan for when to take a child out of the home, so thank you. [LB993]

MONIKA ANDERSON: Thank you. [LB993]

SENATOR ASHFORD: Thank you, Monika. Do we have any other...anybody else wish to be opposed to this bill? Neutral? Okay, that ends the hearing on this bill. We're now going to go to the three bills that are dealing with truancy and absenteeism. I'm going to say a few more things here before we get started so we try to flow this correctly. There are a few people that we have worked with in the office, the young lady in the front row and Stephanie Morgan in the front row, Warren Whitted, Nicole Goaley, Kevin Riley, and Mary Ann, Commissioner Borgeson is here and she needs to go back and be a commissioner so we're actually going to let her speak at the very beginning. Let me see if there's anybody else that we've been working with in our office that I just want to...so we can frame the issues a little bit. Those people that I did mention, I'd like them to come testify first after we introduce the bill, and Senator Cornett is going to introduce her bill first and then I'm going to introduce my bill, and then we'll go to those individuals I named. We're going to have plenty of time, hopefully, to get to almost everybody here, so then we'll go through those that I didn't list. So let's start with Senator Cornett. Mary Ann Borgeson will testify after the three of us and then we'll go to those other people I mentioned. Senator Cornett. [LB993]

SENATOR CORNETT: Thank you, Senator Ashford. I didn't know how you were going

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

to handle closing but I will waive closing. I have to get to Revenue. [LB917]

SENATOR ASHFORD: Anything going on there? [LB917]

SENATOR CORNETT: No, nothing. [LB917]

SENATOR ASHFORD: Okay. [LB917]

SENATOR CORNETT: (Laugh) Thank you, Chairman Ashford and members of the Judiciary Committee. My name is Abbie Cornett, C-o-r-n-e-t-t, and I represent the 45th Legislative District. The reason that I brought the bill today is since the truancy bill was enacted I have been flooded with calls from concerned parents in my district. LB917 would exclude absences due to documented illnesses or absences related to deployment activities, as provided in the Interstate Compact on Educational Opportunity for Military Children, which we passed last year. In that compact, children that go to see their parents deploy, which can be for up to a year, receive an excused absence under the compact that the state entered into. Under the current truancy bill, that absence would be counted towards the 20 days, which violates the compact. I believe my school administrator will be here to explain that further. The Interstate Compact on Educational Opportunity for Military Children, like I said, passed last year and we had worked on it for two years. It has an implementation date of July 1, 2012, so the language included in the bill brings us applicable to that alignment. The second part is for excused medical absences, and I will explain that a little bit. I saw one of the worst things this year that I've seen and, you know, I've had parents call me, my child is sick, my child has mono, I'm going to get reported. I personally received a ten-day notice for one of my children that's had two sinus surgeries over the last couple years and has had repeated sinus infections this year. She's missed ten days. I'm not as concerned because I understand how the law works, but there are a lot of parents out there that truly believe they cannot keep their children home if they're ill. They're scared. The one woman that I'm referring to, whose child has cancer, she's in my school district and I saw her meltdown in the parking lot because she had received the letter because her child is undergoing chemo, and this is a child whose parent literally comes to school, picks up the homework. And I'm not saying that the county attorney would prosecute in cases like this, but what we're doing is putting families, that are already under huge emotional stress because of a sick child, under further stress. They are scared. Another issue which has been brought to my attention, which is not included in the bill but since this is an open dialogue I figured I would include it in my testimony rather than just mention it to Senator Ashford afterwards, each school district is interpreting things a little bit differently in regards to what is an absence, what isn't an absence. And the school district...the person called me this morning actually, said that school-sponsored events should be included as excused absences. Their child was counted absent, counting towards the 20 days, for a school-sponsored band event where they traveled to another place to participate, but because they were not in school it was counted as an absence. I think there needs to

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

be some clarification in the law in regards to what is an excused event or excused absence and what isn't. And further, to my first point, we need to clarify that the exemption for military students applies because otherwise we're in violation of a compact that we worked for two years to try to find the funding for. With that, I'd be happy to answer any questions and, again, I will waive closing. [LB917]

SENATOR ASHFORD: Thank you, Senator Cornett. Senator Harr. [LB917]

SENATOR HARR: Thank you. And I just have a couple of quick questions. If this bill were to pass, LB917, when would it take effect? [LB917]

SENATOR CORNETT: You know I'd have to go back and reread it. I'm sorry. [LB917]

SENATOR HARR: Okay. My one concern is... [LB917]

SENATOR CORNETT: It would probably have to have an E clause submitted for the enactment date for the military compact. [LB917]

SENATOR HARR: Well, but that is my issue, is we make reference to the interstate compact... [LB917]

SENATOR CORNETT: Military, right. [LB917]

SENATOR HARR: ...and that doesn't take effect till July, so we'd have something in statute referencing something that isn't law. So I would actually... [LB917]

SENATOR CORNETT: Until...I think we... [LB917]

SENATOR HARR: ...reverse it and say that we'd have to make the effective date July...of this bill July 1,... [LB917]

SENATOR CORNETT: July 1, which is... [LB917]

SENATOR HARR: ...which would still get us to next year. [LB917]

SENATOR CORNETT: Correct. [LB917]

SENATOR HARR: And that's just a friendly amendment. [LB917]

SENATOR CORNETT: No, and that's completely fine. I hadn't thought about that until actually when I was testifying. I went, you know, we're going to need an E clause or something else. [LB917]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

SENATOR HARR: That's when I heard it too. Yeah. [LB917]

SENATOR CORNETT: So I knew where you were going as soon as you said it. I was like... [LB917]

SENATOR HARR: Yeah. Okay, and then my other question is, and that's...and this one is also a friendly amendment and that is documented illness, and my question is, by whom? [LB917]

SENATOR CORNETT: Well,... [LB917]

SENATOR HARR: Is it...do we need a doctor's note? [LB917]

SENATOR CORNETT: Well, I don't know if it would be a doctor's note. This is another example. It's counted as an absence if the school nurse sends you home sick. [LB917]

SENATOR HARR: Okay. [LB917]

SENATOR CORNETT: That's not a doctor. [LB917]

SENATOR HARR: Okay. [LB917]

SENATOR CORNETT: That's how my one daughter, Cameron, hit her ten days this year. They thought she had pink eye but it was actually from a sinus infection,... [LB917]

SENATOR HARR: Uh-huh. [LB917]

SENATOR CORNETT: ...so they sent her home twice for what they thought was pink eye but it's a sinus infection. [LB917]

SENATOR HARR: Sinus infection, okay. [LB917]

SENATOR CORNETT: If the school nurse sends you home, you don't have a choice. [LB917]

SENATOR HARR: Okay. [LB917]

SENATOR CORNETT: And I believe there's school nurses that are actually keeping children in the office so they don't get absences. [LB917]

SENATOR HARR: Okay. [LB917]

SENATOR CORNETT: And someone else mentioned that to me also. [LB917]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

SENATOR HARR: So maybe we need to just clarify... [LB917]

SENATOR CORNETT: Clarify what documented is. [LB917]

SENATOR HARR: ...due to, yeah, what documented illness and by whom. [LB917]

SENATOR CORNETT: Well, I know that currently our...whenever we have a dentist appointment, we provide notes for the dentist appointment, we provide notes anytime they go to the doctor, and it was very interesting last time I was in the pediatrician, he commented that they had to have a special form printed up just for parents coming in and bringing their children in for the stomach flu. And he goes, these are parents that would never have brought their kid in before to get a doctor's note, and he goes, we've printed up a form now and we just sign it. And so I don't even...I imagine there's doctors out there that aren't even seeing these kids, to be honest with you. The parent stops by and picked up the note for the stomach flu... [LB917]

SENATOR HARR: Yeah. [LB917]

SENATOR CORNETT: ...because, I mean, the 24-hour stomach flu is not something you need to see a doctor for, but parents feel that they have to. [LB917]

SENATOR HARR: Okay. I appreciate it. Thank you. [LB917]

SENATOR ASHFORD: Thank you, Senator Harr, and thank you, Senator Cornett. I might take this opportunity to introduce my colleagues, sorry I didn't do that earlier. Stacey Conroy is my legal counsel and some of you have talked to Stacey. She's done a great job of working on this issue over the last several years and I appreciate everything she does. Senator Burke Harr has asked some questions, Senator Harr from Omaha; Senator McGill from Lincoln; Senator Larson from O'Neill, Nebraska; and Senator Colby Coash is a real expert in these areas, is from Lincoln; Oliver VanDervoort is our committee clerk. So thank you to all of them. Let me just introduce my bill and then...also, Roger Breed is here as well and, Roger, would you come up to the front so that we could ask you to testify, and Mark Young as well? Let me...Brad Ashford, Legislative District 20. Starting in 19...well, actually it would be almost five and a half years ago now, as we began dealing with juvenile issues in our communities across the state, we started, though we didn't have data, we started to see, as we were comparing juveniles who were either not succeeding in school or were getting into trouble with the juvenile justice system, we began to see patterns. And the one pattern that we saw pretty glaringly was that in almost all cases in the various bills we've dealt with, and obviously there have been many but several bills, is that in almost all cases these young people were not in school and that they had not been in school for some significant period of time. Beginning in...and Roger Breed will have to correct me if I get my dates

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

wrong but I believe in 2009-2010 school year, as we started to think about the connection between juvenile justice and education, was there a...to what extent were children out of school, how long were they out of school for, and we needed to get data from the schools through the department to find that out. And in 2009-2010 school year we received data that indicated that 22,000 children, young people, young adults had missed more than 20 days of school. And granted, those 20 days could have been for a variety of reasons, excused or unexcused. We also saw and knew that prior to the passage of LB800 that schools did have the obligation at five days to start working with parents who had unexcused absence. That obligation was...had been in statute for some time. We also know that in Nebraska we have and have had for some time a compulsory education law that does indicate that your children must be in school unless they are...there's a weather issue where they're excused by the school district or whether they...and if they're ill, and that's also been in statute for over 100 years. So we took all of these things into consideration, these various factors into consideration and started to think about, you know, what is it that we could do to address absenteeism in school. And the decision of the committee in LB800 was designed to bring the school and its policies in line with the juvenile justice and juvenile justice system approach to truancy and to see if there was a way of coalescing those and getting kids back into school. So we asked in LB800, the real...the substantive change was to ask the schools to work with the county attorneys at 20 days and report the 20-day absences. There have been so very few cases that had been reported, at least in Douglas County, prior to the passage of LB800 that it seemed to this committee that many, many children were falling through the cracks. And when they do fall through the cracks...I think Roger Breed will talk about the impact that has on their ability to learn and on their...in an educational framework. So that really was what LB800 was designed to do, was to create a collaborative point at 20 days. What has happened since that time is that the school...and I might also say I think Mark Young is going to be here today, is here today from Grand Island and talking about a program that they started some while ago, actually long before our passage of LB800, in the junior highs, in junior high in Grand Island, which did bring the county attorney at 20 days, or in some cases before that if there was unexcused absence, into the schools to talk to parents and children, and it has had a dramatic impact on absenteeism in Grand Island. I also know that many parents are here that are very concerned, and I understand that. We've had reports, as Senator Cornett suggests, of school districts that were not excusing absences for illness. There is confusion about what is an absence for illness and what happens at 20 days. One of the things, the positive things about the 20 days that I see having happened over the last couple of years since LB800 passed was school districts have developed fairly structured...the ones that we've dealt with, fairly structured programs at 5 days and 10 days and 15 days dealing with these children that are certainly unexcused, because...and I think Kevin Riley is here to maybe talk about what goes on in the metro area. So what I am proposing here today is sort of going back. I had talked to the...and I see Warren Whitted is here from the Nebraska Bar Association. When we originally introduced LB800 there was discussions with the Bar Association and the

courts about this 20-day review. It was never the intent of this committee that the 20-day review be some prosecutorial effort to bring unexcused students into one big group with excused absences and start throwing them into the juvenile justice system. That was not the intent of LB800. I think that we have heard from parents that have told us that that is, in fact, what has happened in some cases and we're mindful of that. But when our conversations with the Nebraska Bar Association a couple years ago, I believe they even passed a resolution that the Bar Association, as one organization in the state, would be very happy to look at bringing lawyers, working with the schools, into the schools to talk to parents and children, who have been absent for an extended period of time, to explain what the law is in Nebraska, to encourage school attendance. So that in a nutshell is where we are today. We have the three bills. My bill requests that when the county attorney works at 20 days with a family or discusses these absentee issues with a family, that that be done at the school and not in the courthouse. And that has, in effect, been the model in Grand Island and in Hastings and I also believe that in Douglas County, with the creation of the Goals Program, which has occurred over the last couple years, that that's the intent of the Goals Program as well. So this is a very important session. I'm going to stop talking now, but...certainly and listen to everybody. We want to get this right. We want our children to be in school if they are not ill and if they don't have an...if they have an appropriate excuse from the school then they do. But if they are...and we don't want to eradicate local control either. We don't want schools to be totally...I don't think there are enough words in the English language to write all of the possible exceptions that a school could come up with in their own policies to deal with absenteeism. So we need to make sure, as has always been the law in Nebraska, that schools be the determiner, really, of excused absence, but that the consultation with the county attorney be sensitive to the needs and the concerns of parents who have expressed to us the issues that they have expressed. With that, I will be happy to answer any questions. [LB917 LB933]

SENATOR MCGILL: Thank you, Senator Ashford. And Senator Fulton, is he in the room? Go for it. [LB933]

SENATOR FULTON: Okay. Thank you, Mr. Chairman, members of the committee. For the record, my name is Tony Fulton, T-o-n-y F-u-l-t-o-n, and I represent District 29 here at the Legislature. I bring to you LB1165. It is with great appreciation for the work this committee has already undertaken to address the issue of truancy while respecting the rightful authority of parents and guardians that I submit LB1165 for your consideration. LB1165 is intended to accomplish several goals: First, to afford school districts the authority to develop excessive absenteeism policies that are tailored to the needs of pupils within that school district. As such, Section 1 of the bill eliminates the requirement that the written policy necessarily involve a county attorney or set forth a certain number of days for absences. Second, to afford school districts and parents the opportunity to work collaboratively to solve excessive absenteeism issues prior to the involvement of law enforcement. Thus, 79-209 is amended in a manner similar to Senator Ashford's

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

LB933 where the school district reviews the case and, if needed, meets with parents or guardians. This bill differs from LB933 on this point to the degree that my bill does not involve the county attorney until after the meeting between the school district and the parents. Third, to differentiate between truancy and excessive absenteeism. In LB1165 we use the existing standard of five days per quarter as the temporal standard for absences, but here this is the standard for school district review and not the written policy standard for excessive absenteeism. Further, subsection (4) of Section 1, found on page 5 of the bill, redefines excessive absenteeism as either excused or unexcused absences in excess of the district policy but truancy as absences in excess of the district policy that are unexcused. Certainly this committee is not unfamiliar with the occurrences which give rise to this and the other bills heard today. LB1165 represents an attempt to work with parents to develop a truancy policy that builds on the good that we accomplished previously while ensuring the greatest respect for parental involvement in the education of their children. [LB1165]

SENATOR ASHFORD: Thank you, Tony, very much for your statement. Any questions of Senator Fulton? Seeing none, Tony, are you going to stay around? [LB1165]

SENATOR FULTON: I will stick around and we'll see. I probably won't close though as I know your time. [LB1165]

SENATOR ASHFORD: Okay. Okay. Commissioner Borgeson. It's very good to see you. [LB917 LB933 LB1165]

MARY ANN BORGESON: You too. Good morning, Senators. My name is Mary Ann Borgeson, M-a-r-y A-n-n B-o-r-g-e-s-o-n, and I'm here today myself, not as a member of the county board, because the county board has not taken a position on this bill. But I have to tell you, as a county commissioner, I have received more calls and e-mails on this subject from concerned parents within my district than I have from any issue going back to when I first started, the Ak-Sar-Ben issue. That's how big this is. And I do appreciate the work that the committee has tried to do on truancy. We have a truancy issue in our school systems and in our communities. Unfortunately, the bill that was passed I think there's many unintended consequences that came out of it that I think need to be addressed. The bill, as I see it and as I've listened to these parents, is really very intrusive of government into the lives of our families in Douglas County and the state of Nebraska. It's taking away their parental rights in order to...for them to decide what's best for their children. We gripe that parents aren't involved in their children's lives but yet here we are currently stripping their rights every day from them to decide what's best for their child. This goes beyond trying to repair the bill through medical purposes for excused absences. I think the parent should have the right to decide what is best for their children. Regardless of whether it was a military issue, an illness issue, they have the right. All you have to do is go on the Family Policy Forum blog and read the stories that have affected our Nebraska families with this law and you can see how

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

dramatically this...and detrimental this has been to the families and their children. We claim we want to keep the children out of our bureaucratic system but yet here we are passing a law that throws not only the children but the entire families into our bureaucratic mess. And I think that speaks again just of the stories that you've read and I'm sure you've gotten them all, the e-mails and calls as well. Some claim that home problems are causing truancy. Have we thought maybe the reason is, to kind of switch it around, is that maybe the school systems are causing truancy? It can't be a one-sided issue. We have to look at both sides of the issue. So today I'm basically glad that there are options on the table for the committee to look at in making this wrong or right by doing some kind of amendment to this bill, and whatever I can do in support of moving that along, I'm here to offer my services. [LB917 LB933 LB1165]

SENATOR ASHFORD: Thank you, Mary Ann. Any questions of Mary Ann? Thank you very much for coming. [LB917 LB933 LB1165]

MARY ANN BORGESON: Thanks. [LB917 LB933 LB1165]

SENATOR ASHFORD: And Senator Council has joined us, Brenda Council from Omaha. Roger, would you like to comment next? And then we're going to go to Stephanie next after that. Is that okay? And then Warren after. I'll try to do the best I can here and get everybody. Okay. [LB917 LB933 LB1165]

ROGER BREED: (Exhibits 5-6) Morning, Senator Ashford, members of the Judiciary Committee. My name is Roger Breed, R-o-g-e-r B-r-e-e-d. I'm the Commissioner of Education. I'm here representing the Nebraska Department of Education and the State Board of Education and speaking in opposition to LB917, LB933, and LB1165. I'd like to make a few comments and then review some data that has been collected, and then respond to any questions that you might have. Nebraska has had a compulsory school attendance law, which has been mentioned here, since 1901. That law calls upon all adults in charge of children to get them to school each day the school is in session, except when excused by school authorities or when illness or severe weather conditions make attendance impossible or impracticable. LB800 in 2010, LB463 in 2011 modified the procedures with regard to the compulsory school attendance law and basically said to school authorities and to county attorneys to do your job with regard to attendance at school. I was skeptical about the work of LB463 and LB800 because it called upon the department to collect data with limited resources, and we talked about that. But the results that we gathered were striking and it is pretty clear on two fronts that Nebraska across the state has issues with regard to school attendance and that the changes made in LB800 and LB463 are working to reduce excessive absenteeism in our schools. I would like to call attention to the sheet that has the data. I think it's been distributed to you, looks like this, and just go to the bottom three lines. More than 10 days absent in one year has dropped from 29 percent to 26 percent of Nebraska's public school students. More than 15 days absent dropped from 14 percent to 12.29

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

percent of Nebraska's public school students. And more than 20 days absent, students more than 20 days absent went from 21,980 students in 2009-10 to, 2010-11, the amount being 18,100, from 7.76 percent, almost 8 percent of our students, to 6.3 percent. It is clear that the attention of school authorities, the attention of parents, the attention of county prosecutors, county attorneys on school attendance is making a difference. Now the other thing the data shows us is that our mothers were all correct. Our mothers said that school attendance matters. And the data is pretty clear. Using the statewide measure of learning that we have in NeSA, the Nebraska state assessment system, of reading and math results, in 2009-10 for reading and 2010-11 for reading, and math for 2010-11, the results are clear, strikingly clear, that students, because we can attach test results, statewide test results to individual students and the results are extremely, extremely clear that school attendance matters. When you divide students into two groups, and I'll just call attention because time is short, to the grade 11 NeSA in math, when you tie or tag students with state test results and divide the students into two groups, those students that miss less than 20 days, those students that missed more than 20 days--because it is excessive absenteeism that is the problem--you find that students who were absent less than 20 days had a 98 scale score. Students that were absent greater than 20 days, missed more than 20 days of school, had a scale score of 58--a 40 point difference. We would conclude that this shows the cumulative effect of excessive absenteeism at school and therefore it would call upon the State Board, the Nebraska Department of Education, this committee, and the Legislature to let stand the issues and the efforts put into place in LB463 and LB800. Give us a couple more years to work to track the data and I think we'll all be better served and our students will be better served for that effort. [LB917 LB933 LB1165]

SENATOR ASHFORD: Thank you, Roger, very much. Any questions of Roger? And I will say to you, without any equivocation, that the department in starting to gather this data so that we...it is a lot of work and it's a lot of work by the school districts and I know that your group has put in a lot of time to gather this data and to get it, but we have it now and it's coming in quarterly I believe, is it not? [LB917 LB933 LB1165]

ROGER BREED: Yes, it's monthly. [LB917 LB933 LB1165]

SENATOR ASHFORD: And...monthly now, so it's very helpful that we have information upon which to make policy and I applaud you for that effort. Thank you. Thanks, Roger. I don't see any questions. [LB917 LB933 LB1165]

ROGER BREED: Okay. [LB917 LB933 LB1165]

SENATOR ASHFORD: Stephanie. And then we'll go to Warren Whitted next. Then we'll come over here to the...morning. [LB917 LB933 LB1165]

STEPHANIE MORGAN: (Exhibit 7) Good morning, Senator Ashford and members of

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

the Judiciary Committee. My name is Stephanie Morgan, S-t-e-p-h-a-n-i-e M-o-r-g-a-n. As many of you are already aware, I have spent the last year learning about the impact of the 2010 truancy law and its subsequent amendments on the innocent children and their families who have been caught in a broad legal net cast by the law. It's very difficult to describe what I've experienced this past year. This year has been difficult and heartrending for me. I have received numerous e-mails and phone calls from families who have seen their lives turned upside down and who have reached out for help, who have volunteered their time and energy in an effort to find a solution that would honor the original intent of the law and their God-given rights as parents to direct the upbringing and education of their children. I'm just going to skip over here. [LB917 LB933 LB1165]

SENATOR ASHFORD: Yeah, you're fine. [LB917 LB933 LB1165]

STEPHANIE MORGAN: It's my impression, as I have talked to lawmakers, to community leaders and state officials, that the purposes, the intent and the goals meant to be addressed by the law are varied, which is good. There are educational aims and there are aims within juvenile justice to reduce delinquency, which are good aims. We want to increase our children's effectiveness in school. We want to reduce the likelihood that they get into trouble. All parents want that too. My concern, I have many concerns, but the concern I'd like to talk to you most about today is that we believe it's acceptable in the pursuit of educational excellence, strong standardized testing results, and even near-perfect attendance to throw a wide legal net over all families in our state and diminish the natural rights of parents to direct the upbringing and education of their children and to make judgments about what is best for their children. Under a school attendance policy, as we've talked about school attendance policies today, but under school attendance policies prior to this law most parents, like myself, whose children are well-adjusted and happy, enjoy their school life, enjoy their education and have...are not at risk of dropping out of school or becoming delinquents and also perform pretty well on standardized tests, didn't have any trouble with their school district's attendance policies. You know, the absences that we would incur were excused. I have never had an unexcused absence, my children, in their lives. And so that's got me asking, you know, why is this primary change taking children like mine, who have all their absences excused, and thrown them in to review at a county attorney's level by lawyers and judges? That's what parents are most concerned about. We talk about the fear. They're afraid of being entangled in a legal apparatus, a legal system. When we think of lawyers and judges, county attorneys, we think of being in trouble. Okay? And that...I know that there are some that want that to change. They want us to think of that, of county attorneys and judges, kind of with a happy, easygoing-type feel, but that's never going to happen, nor do I think it should happen in our society. I think that there's a reason why those agencies are punitive. I believe that today you're going to hear a compelling case from parents that there needs to be changes. As far as the changes that need to happen, I believe it's critical that our state truancy law distinguishes between excused

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

and unexcused absences, as do most state truancy laws. LB1165 will do this and it is not a step backward but a step forward. This bill is a strong, clear truancy statute that designates appropriate control over attendance policy to school districts and the communities who fund and govern them. There is a clear point of legal intervention which provides essential protections to the innocent but does not cripple the ability of schools to expose serious educational neglect. It empowers legal authorities to reach truant students early while ensuring that children with excused absences will never be punished under the law. If the Fulton bill is adopted by this committee, you will have established a law that is just, known, and predictable, a law that places appropriate restraints on government and will prevent the arbitrary use and abuse of its power. [LB917 LB933 LB1165]

SENATOR ASHFORD: Thank you, Stephanie, and thank you for all the work you've done with Stacey in our office in informing her of all of you concerns. I appreciate that. [LB917 LB933 LB1165]

STEPHANIE MORGAN: Thank you. [LB917 LB933 LB1165]

SENATOR ASHFORD: Any questions of Stephanie? Okay. That's good. Warren, can you come next? And then we're going to go over here and then to Kevin Riley and then Mark Young, I think, and then we'll start, Nicole and then back, okay, back only figuratively, only because you're sitting behind those in the front. Okay. Warren. [LB917 LB933 LB1165]

WARREN WHITTED: Good morning, Senator Ashford, members of the committee. My name is Warren Whitted, W-a-r-r-e-n W-h-i-t-t-e-d. I am president of the Nebraska State Bar Association and I am here to express the Bar Association's support for LB933. Legislation passed last year implemented new guidelines for the treatment of the truancy issue. In its implementation, there were unintended consequences that arose by virtue of the manner in which the process was implemented. While well-intentioned and reportedly effective, as indicated by the director of Education, Senator Ashford believes, as does the Bar Association, that some modification of that law may be necessary. LB933 makes subtle changes in the law making the process of dealing with truant students less intimidating while mimicking successful programs that existed before the enactment of LB800 in Grand Island and Hastings. The bill, as proposed, requires that after 20 days the school district will review each case with the county attorney. Together, the county attorney and the school will then decide what, if any, action is required to address a particular student's case. Finally, if further action is required, a meeting will be held between the parents, the school, and the county attorney or his designee at a location to be determined by the school. The feeling here is that this would get this out of the courthouse. And recognizing that lawyers and judges just took the heat and prosecutors just took the heat in the previous testimony, we think getting it out of the courthouse is a good idea. A year ago the Bar Association adopted a

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

resolution supporting efforts to reduce truancy. The NSBA renews its support and offers to assist in any way in any reasonable manner to implement this new process if, for example, members of the bar could act as the county attorney's designee to preside over and mediate the issues with regard to specific students. The Nebraska State Bar Association also supports LB933 because we recognize that truancy is a gateway to delinquent behavior. The reasons for truancy are often indicative of larger family dysfunction, whether it be domestic violence, substance abuse, mental illness, poverty, unemployment, or abuse/neglect. Truancy is the initial red flag in many of these cases. We believe that the enactment of this statute and the continued enforcement of LB800 as it was previously enacted, subject to these modifications, will serve our communities well and serve our state well. I'll be happy to answer any questions. [LB917 LB933 LB1165]

SENATOR ASHFORD: Thank you, Warren, and thank the Bar Association for its involvement in looking at these matters and giving us your thoughts. Thank you. We're going to go to the next and then Mark and then...is there someone after Mark? Is there someone here and I'm not...who is for the bills, someone in the back? There's got to be somebody that would be for some of these bills, Senator Fulton's bill, anybody? Okay. Go ahead. [LB917 LB933 LB1165]

CHRISTINE BATES: Hi. My name is Christine Bates, C-h-r-i-s-t-i-n-e B-a-t-e-s. I'm actually going to read a letter that I wrote approximately four months ago and it was about 2:00 in the morning because I could not sleep due to the anxiety I've been having about this bill. I am the mother of three school-age children that are enrolled in Millard school district in Omaha, Nebraska. Both my husband and I are very concerned about the school attendance law passed in 2010 and its expansion in 2011. From what I have read, the intent of this law was to improve educational outcomes by implementing policies that shoot for near-perfect attendance. My 8th grade daughter is a straight A student. She is two years ahead in math and in honors English. Two years ago, at age 12, she took the ACT through the TIP Program with Duke University and scored a 28. This is the regular ACT with all the kids at the high school. That is an amazing score because it is a higher score than most 11th graders let alone a 12-year-old in 7th grade. In no way are any of my three children falling behind in any subject. All three of my children are very good students. The fear of being prosecuted or coming under scrutiny from any state agency has caused me and all of my friends to change the way, in Nebraska, the way we parent our children. I believe it is in the best interest of children to allow their parents to be parents and to make decisions for the family unit. There have been times when I have determined that it will benefit my children more to be at an educational opportunity outside of school. Education and becoming a well-rounded individual just doesn't come from sitting in a classroom taking tests, doing worksheets. I believe that a child's education is enriched by having hands-on experiences with museums, cultural events, speaking and spending time with their elders, learning from them, traveling and having family time. The best educational experiences in life rarely

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

are provided by public schools. My family took additional days two years ago to travel to visit our family, attend a wedding. We witnessed a birth of my nephew. We participated in a religious conference. We were exposed to uplifting messages. We visited an art museum. We hiked in a national park. We took a tour of a humanitarian center so that we could learn how to better serve in our community. These were experiences that were well worth a few days of missing the classroom, and they will become better upstanding citizens because of this experience. I think public school is the best way to educate our children. Generally, it offers great scholastic, quality opportunities and social learning experiences. I hope to continue to educate my children in the public school system. However, because of this law, homeschooling may become our only option. I do not believe I am an irresponsible parent or neglectful to my children in any way, especially in their education. My children's academic standing should be adequate proof of that. If my children miss school, both me and my student, we make sure they get the necessary work either beforehand or after and make sure it's all taken care of. My children do not skip school. They are not ever truant, ever. If they miss school, they have my permission. They may be absent but they are not truant. Why should I feel anxiety about winter and the possibility of my children being absent from school because of the common cold or the stomach flu? Why should we miss family reunions, Thanksgiving or Christmas with grandma? Where did common sense go? I am very sad that we are becoming a country where micromanaging our everyday lives by government is acceptable. Nebraska's attendance law has gone too far and taken away the natural rights of parents of our state. Please, restore what we have lost. I am in support of Senator Fulton's LB1165. [LB917 LB933 LB1165]

SENATOR ASHFORD: Thanks, Christine. Senator McGill. [LB917 LB933 LB1165]

SENATOR MCGILL: Are those your kids with you behind you? [LB917 LB933 LB1165]

CHRISTINE BATES: This is my daughter, Dominique, right behind me. She actually has something to say also. [LB917 LB933 LB1165]

SENATOR MCGILL: Okay. Wonderful. [LB917 LB933 LB1165]

CHRISTINE BATES: And then next to her is Teddy, which is Stephanie's son,... [LB917 LB933 LB1165]

SENATOR MCGILL: Okay. [LB917 LB933 LB1165]

CHRISTINE BATES: ...and they are both in 8th grade. [LB917 LB933 LB1165]

SENATOR MCGILL: Well, I do feel that this is a good experience for them to be here at the Capitol, so I appreciate you bringing them. [LB917 LB933 LB1165]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

CHRISTINE BATES: I agree. Thank you for having us. [LB917 LB933 LB1165]

SENATOR ASHFORD: Why don't we have Dominique come up? Is that okay? Are you ready to say some things? Okay. And then come on up here and I wish this wasn't so imposing with all these people here and you there, but go ahead and tell us what you have to say. And then Mark and then actually Kevin is here and he can come up next after that. So go ahead. Thank you for coming. [LB917 LB933 LB1165]

DOMINIQUE DOUTRE: Okay. I'm here to speak on behalf of my friend, who couldn't come because she's home sick. She gave me a couple things to read. Here's what she had to say: I was living a normal kid's life until 6th grade. Then everything changed. First, the headaches and illnesses, then the surgeries, and the worst--I received the letter. The letter said I was truant and had to appear in front of a judge. I felt like I was a bad person for being sick. I lived in fear that I was going to be taken away from my parents, who are already extremely worried about my sickness. I have worried so much about this. I have an ulcer which requires surgery. I'm not a bad person. I can't help that I get sick. This has been a nightmare. I'm missing school today but I'm not truant. I want everyone to know my story. I don't want any more kids to feel this way. Thank you, Madison Marie Chambers (phonetic). I just want to say thank you for the opportunity today to see how our great government works. I'm absent from school but I'm not truant. What a great experience I'm having being here. Just last week I was away from school at a mock trial with my HAL group, which is high ability learners. This experience is just another part of my education. One day I hope to be an attorney so I can protect the rights and freedoms we enjoy in this country. There are educational opportunities, along with illnesses, that happen outside of school. Please restore the classic definition of truant and exempt kids with excused absences from legal actions. Thank you. Oh, by the way, my name is Dominique Doutre. (Laughter) [LB917 LB933 LB1165]

SENATOR ASHFORD: That was wonderful, wonderful job, and thank your friend... [LB917 LB933 LB1165]

DOMINIQUE DOUTRE: Uh-huh. [LB917 LB933 LB1165]

SENATOR ASHFORD: ...for letting...giving us their comments. Yes. [LB917 LB933 LB1165]

DOMINIQUE DOUTRE: Happily take questions. [LB917 LB933 LB1165]

SENATOR MCGILL: So are you the one who scored the 28 on the ACT? [LB917 LB933 LB1165]

DOMINIQUE DOUTRE: Yes. [LB917 LB933 LB1165]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

SENATOR MCGILL: Bravo! [LB917 LB933 LB1165]

DOMINIQUE DOUTRE: Thank you. [LB917 LB933 LB1165]

SENATOR MCGILL: That's incredible. So thank you for coming and being so articulate and sharing your thoughts with us. [LB917 LB933 LB1165]

SENATOR ASHFORD: Thanks, Dominique. I don't see any other questions. Thank you. [LB917 LB933 LB1165]

DOMINIQUE DOUTRE: All right. [LB917 LB933 LB1165]

SENATOR ASHFORD: Mark. [LB917 LB933 LB1165]

MARK YOUNG: That's a tough act to follow. [LB917 LB933 LB1165]

SENATOR ASHFORD: Yeah, that is a tough act but... [LB917 LB933 LB1165]

MARK YOUNG: Good morning. My name is Mark Young, M-a-r-k Y-o-u-n-g. I'm the county attorney in Grand Island, Hall County, Nebraska. In about 2007, actually in 2006, we began exploring with the local Grand Island Public School ways to reduce truancy in our community. By way of background, Grand Island's Public School system is very diverse in terms of the population and relatively poor. What we came upon and what we've been able to fund to date is a process where the school and my office split one attorney position and that attorney actually is housed in one of the junior highs, and for kids from 1st grade to 8th grade, if there are attendance issues, they can choose voluntarily as a family to participate in a, if you will, a problem-solving court. It has dramatically reduced absenteeism and referrals to my office. I carefully updated my statistics and left them on my desk back home. I will e-mail them. But the bottom line is I'm here to tell you that most parents who have kids who are struggling with attendance actually want the help and that's particularly true in some of our immigrant communities and this is a way to get someone other than Mom or Dad saying going to school is important and using positive reinforcements primarily, almost exclusively in the model in Grand Island or Michelle Oldham's program down in Hastings to encourage attendance. I'm in support of...I was in support of the bills that have been passed and I continue to support them and I support the attempts to clarify some of the issues that Senator Ashford has brought forward in LB933. We...there's an almost infinite number of possible scenarios with kids and families and I think having the...what I'm here to tell you, the bottom line is, is that communication works and if you get everybody involved you can dramatically reduce the problem. It's tough listening to stories where there's been specific misapplication, if you will, of the law. I never took LB800 as being a mandatory filing. We have most of the cases where the 20-day letters are being sent to my office, there's a cover letter from the respective school district, the five school

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

districts in my county, that says we got it covered, kid is doing fine, and that's the end of it. I think we can continue to modify or to improve the process but I wholeheartedly support the idea that we need to keep attendance in school as a priority for all families. Thank you. I'd be happy to answer any questions. [LB917 LB933 LB1165]

SENATOR ASHFORD: Senator Coash, then Senator Harr. [LB917 LB933 LB1165]

SENATOR COASH: Thank you, Chairman. Thanks, Marty (sic). I just wanted to be clear here. Are you representing the County Attorneys Association today or just talking about your Hall County experience here? [LB917 LB933 LB1165]

MARK YOUNG: I'm here on behalf of the County Attorneys Association. I believe we are neutral on this as an organization. [LB917 LB933 LB1165]

SENATOR COASH: Oh, okay. [LB917 LB933 LB1165]

MARK YOUNG: I'm here in behalf of my office. [LB917 LB933 LB1165]

SENATOR COASH: All right. So with the broad group of county attorneys, you're neutral on all these bills, but you've given us the experience of Hall County. [LB917 LB933 LB1165]

MARK YOUNG: Right. [LB917 LB933 LB1165]

SENATOR COASH: Let me then just ask you about your Hall County experience. Within the current statutory framework, if nothing else changed with any of these bills, do you think your office has the latitude it needs to continue to work with school districts in your county to refine the processes that are in place to make sure that we're not catching up kids that we don't want to and we are catching the kids at the stage that we do? [LB917 LB933 LB1165]

MARK YOUNG: I actually do think that we have the framework as we sit here today. The law gives us that framework. On the excused/unexcused issue, for example, if there's a problem with a parent inappropriately excusing kids, we have the ability to address that either in the school or, worst-case scenario, in court, but that's very rare. I do think having something in the statute that says people can talk to each other is a good idea, but I do think we have the tools, we have enough discretion. I never took LB800 as taking away the discretion of my office to say, no, if the school has got this covered we're fine with not filing something. [LB917 LB933 LB1165]

SENATOR COASH: Can I...I want to dig into that just for a second. [LB917 LB933 LB1165]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

MARK YOUNG: Sure. [LB917 LB933 LB1165]

SENATOR COASH: You described you'll get a letter from the school district with a cover sheet on it and you said nine times out of ten, or I don't know, those are my words but... [LB917 LB933 LB1165]

MARK YOUNG: Yeah. [LB917 LB933 LB1165]

SENATOR COASH: ...but you said most times the note will say the school will say we've got this covered... [LB917 LB933 LB1165]

MARK YOUNG: Right. [LB917 LB933 LB1165]

SENATOR COASH: ...and then your office does nothing for...you don't send a letter to the parents? [LB917 LB933 LB1165]

MARK YOUNG: No. [LB917 LB933 LB1165]

SENATOR COASH: Okay. But the letter that you're getting from the schools, is there also a letter that's going from the schools to that parent saying we've informed Marty (sic) at the county attorney's office that your child has been absent but we're also telling him not to do anything? Or what is your understanding of...with those cases, what message are the parents getting in those cases? [LB917 LB933 LB1165]

MARK YOUNG: Senator Coash, that's a great question and I don't...I can't give you a definitive answer. I think in the 1st through 8th grade that...where my office is primarily involved, the parents have had that communication throughout. As I understand it in Grand Island, and I think all the school districts in Hall County, the parents are being told if there's going to be a request made for a specific referral, if there's going to be a request for a petition to be filed or if there's a request for criminal complaint against the parent for violating mandatory...the form of that communication may be personal or it may be by letter. I'm not sure. [LB917 LB933 LB1165]

SENATOR COASH: Oh, okay. Thank you. [LB917 LB933 LB1165]

SENATOR ASHFORD: Senator Harr. [LB917 LB933 LB1165]

SENATOR HARR: Thank you, Senator Ashford. And Senator Coash asked a lot of the questions I had but I guess I want to...I'm a little unclear on how this whole process works. You do not become involved now until the 20th absentee? At what point do you become involved? [LB917 LB933 LB1165]

MARK YOUNG: We have it set up to be as flexible as possible. If the school

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

district...let's say you have a 3rd grader who is struggling with attendance and the school has been, through their social workers, has been in contact with the parent and the parent is expressing the desire to get some help, that case can get moved into the...what I'll call the problem-solving court, even though it's not a court, it's through the school, with my office faster than waiting for the 20 days, because we don't want to keep the parent from getting the help they're reaching out for. Or similarly, if you have a case, and they're rare, but you do have the cases where the problem is basically the parent won't get out of bed to get the kid to school and that's what the kid is reporting on the days when the child does make it to school. You know, we do try and intervene earlier then. The 20 days I think is good for making sure there's some sort of definitive place, definitive line where there has to be communication, but we don't, nor would I advocate, waiting that long if there are specific issues already apparent. [LB917 LB933 LB1165]

SENATOR HARR: Well, that draws a couple other questions I guess then. So this early intervention program, is it somewhat of a diversionary program, I would assume? No criminal charges are filed, are there? [LB917 LB933 LB1165]

MARK YOUNG: No. [LB917 LB933 LB1165]

SENATOR HARR: Okay. And it's not adversarial? [LB917 LB933 LB1165]

MARK YOUNG: No. [LB917 LB933 LB1165]

SENATOR HARR: Okay. [LB917 LB933 LB1165]

MARK YOUNG: The attorney in my office, Marty Klein, kind of robes up because the formality of that actually helps the process, helps the conversation, but it's not adversarial. It is really a problem-solving arena. It is. [LB917 LB933 LB1165]

SENATOR HARR: But by definition, juvenile court is not adversarial. Is that correct? [LB917 LB933 LB1165]

MARK YOUNG: Well, you'd think. [LB917 LB933 LB1165]

SENATOR HARR: By statute though it is, right? Correct? [LB917 LB933 LB1165]

MARK YOUNG: Right. Right. [LB917 LB933 LB1165]

SENATOR HARR: Okay. [LB917 LB933 LB1165]

MARK YOUNG: But I mean you do have...it's much more formal. [LB917 LB933 LB1165]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

SENATOR HARR: Disagreements. [LB917 LB933 LB1165]

MARK YOUNG: Yeah. [LB917 LB933 LB1165]

SENATOR HARR: Sure. But best interest of the child is what you're looking out for. [LB917 LB933 LB1165]

MARK YOUNG: Exactly. [LB917 LB933 LB1165]

SENATOR HARR: Okay. And let's say we get to day 20 and it's...it would have to be referred to you, and you get a letter from the school that says little Jane has done very well in school, continues to do well in school, and we have been working with the parent and it turns out that they've been going to, let's say hypothetically, based on earlier testimony, to religious events, to family weddings, to whatever it may be. But the school is aware of them and says we don't think prosecution, we don't think a meeting is necessary. What do you do with that? [LB917 LB933 LB1165]

MARK YOUNG: Well, I think in my office we still say we're declining it, just so there's some way of keeping track of it, but we don't do anything. [LB917 LB933 LB1165]

SENATOR HARR: And you're familiar with other county attorneys around the state. Is that correct? [LB917 LB933 LB1165]

MARK YOUNG: Most. [LB917 LB933 LB1165]

SENATOR HARR: Most. And have you heard of any other county attorneys, in the situation I've given, filing in that situation? [LB917 LB933 LB1165]

MARK YOUNG: Senator Harr, not from talking to county attorneys. Now I've been here where I think Senator Larson mentioned one about somebody that was a rodeo participant, but... [LB917 LB933 LB1165]

SENATOR HARR: Well,... [LB917 LB933 LB1165]

MARK YOUNG: ...I've not heard of a lot of those. [LB917 LB933 LB1165]

SENATOR HARR: Yeah. [LB917 LB933 LB1165]

MARK YOUNG: I've not heard of any where the county attorney...as a rule, I think we've got plenty of work to do and we're not going to go file a petition unless we think that's absolutely what we've got to do. [LB917 LB933 LB1165]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

SENATOR HARR: Yeah. And the Senator Larson one you referred to, it's...I hate to use the word but it's hearsay. You don't know what she missed all 20 days for, do you?  
[LB917 LB933 LB1165]

MARK YOUNG: No. [LB917 LB933 LB1165]

SENATOR HARR: Okay. [LB917 LB933 LB1165]

MARK YOUNG: And that's, I think, very important to keep in mind. You know, you might miss 3 days for a very good reason but there are 17 other days that might not a...  
[LB917 LB933 LB1165]

SENATOR HARR: Okay. Well, I guess I do have one other question. Have you read the bills as introduced, those, for instance Senator Fulton's bill? [LB917 LB933 LB1165]

MARK YOUNG: I have. [LB917 LB933 LB1165]

SENATOR HARR: Okay. Senator Fulton's bill, I believe, kicks in...well, it says five days a quarter or ten days a semester. Is that correct? [LB917 LB933 LB1165]

MARK YOUNG: That's my memory of it, yeah. [LB917 LB933 LB1165]

SENATOR HARR: Okay. So let's say hypothetically a kid first semester misses nine days and then when it's time to come back for the first day of second semester misses a tenth day. There wouldn't be a letter that goes out, would there? [LB917 LB933 LB1165]

MARK YOUNG: I don't believe there would be. [LB917 LB933 LB1165]

SENATOR HARR: Okay. So there would be no intervention, no interaction that would take place. [LB917 LB933 LB1165]

MARK YOUNG: Not till you got past that. [LB917 LB933 LB1165]

SENATOR HARR: So you'd have to start all over. [LB917 LB933 LB1165]

MARK YOUNG: Right. [LB917 LB933 LB1165]

SENATOR HARR: All right. [LB917 LB933 LB1165]

MARK YOUNG: And if I may, Senator, I think that's a concern when you think about, you know, the school year ending in May and if you've had a bad pattern developing April, May, you know, you're resetting the shot clock. Under this bill you'd reset the shot clock come August. I think under current law we can interpret it in such a way that if you

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

have that pattern it carries over year to year. [LB917 LB933 LB1165]

SENATOR HARR: Thank you very much. I appreciate your testimony. [LB917 LB933 LB1165]

SENATOR ASHFORD: Thanks, Mark. [LB917 LB933 LB1165]

MARK YOUNG: Thank you. [LB917 LB933 LB1165]

SENATOR ASHFORD: Thanks for always participating and coming from Grand Island. I was there Friday and saw the school, the career academy, and it's very impressive. [LB917 LB933 LB1165]

MARK YOUNG: Neat thing. [LB917 LB933 LB1165]

SENATOR ASHFORD: Yeah. Now someone who is for the Fulton bill is next, okay? I have a lady in the black dress...top and then Kevin or...well, yeah, Kevin is next after you, yes. (See also Exhibits 8-10) [LB917 LB933 LB1165]

BRENDA VOSIK: After me. I'm going. Okay. [LB917 LB933 LB1165]

SENATOR ASHFORD: I'm sorry. I just want to make sure everybody gets a shot here. [LB917 LB933 LB1165]

BRENDA VOSIK: (Exhibit 11) That's fine. Hi. My name is Brenda Vosik. I'm from Omaha. I'm in the Millard Public School district. And the first thing that I want to say, which I wasn't intending to say, is that Senator Fulton's bill, which I'm here to support, is ten unexcused absences per year, not per semester, five unexcused per quarter or ten per year. I just want to clarify that. So that you're talking about it ending at the semester and starting over; that's not the way the bill reads. [LB917 LB933 LB1165]

SENATOR ASHFORD: Okay, that's a good point. [LB917 LB933 LB1165]

BRENDA VOSIK: Okay. [LB917 LB933 LB1165]

SENATOR ASHFORD: That's a good. Thanks for clarifying that. [LB917 LB933 LB1165]

BRENDA VOSIK: Okay. I'm here, again, to support LB1165 and to oppose LB933 and LB917, and I'm going to tell you my reasons for that. Although I think that Senator Cornett's amendment is a very laudable goal to help these kids that are seriously ill with documentation by a doctor and also kids who are visiting with their parents who have been deployed, that's a great goal but it doesn't protect all the children that are being thrown into the system unnecessarily and unfairly. It seems that what we parents know

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

for a fact but public officials are choosing to ignore is that there are many legitimate reasons to be absent from school. Children in our state who are absent for good reason, with their parent's permission, are regarded as truants under our current law and they would still be targeted under LB917 and LB933. And I'm going to give you a few real-life examples from people that I've met over the last six months. Students attending funerals are not protected under our current law or under LB917 or LB933. Those funeral attendances are thrown into the pot with the 20 absences and counted against those students. Many of you might remember the tragic car accident that killed the Omaha South High School teacher in November of 2010. What you probably don't know is after that horrible accident and funeral the widower of that teacher received a threatening letter. His 8th grade daughter had been gone too long after her mother's funeral and he was threatened with legal action. Those days missed for her mom's funeral were counted toward the child's truancy tally. I think that everyone in this room can agree that that is really wrong. Under our current law, that child was not protected from legal action even though she was attending her own mother's funeral. She would not be protected under LB917 or LB933. She would be protected under LB1165 because it defines excused and unexcused. Another example I'm going to give, you may have seen this on the front page of the World-Herald in November. That group of talented young ladies who were chosen to perform at the Macy's Thanksgiving Day Parade, they had to miss three days of school and they are considered truant under our current law. What really troubles me is that at the Executive Session of this committee in December Roger Breed stated that students like these young ladies, who aspire to high-level athletics or other exceptional achievements, cause a resource issue for our schools. In other words, their success is a problem for our state rather than a source of pride. And what I'm afraid of is that we won't have to worry about this problem for very long. It's going to eventually solve itself, as our high-achieving students and athletes move to other states that treat them with respect instead of as truants. An honor student from Lincoln High School responded to the earthquake in Haiti by joining a National Youth Service trip to go down there and help build sustainable housing. This young lady, even though she missed a whole week of school, she's not running around committing crimes, doomed to a life of failure because she was absent for a week. In fact, she's sitting here today. She's still an honor student. She has a 3.82 GPA. She's 12th in her class of 357. This is an example of another of Nebraska's resource problems who, according to our law, should have been seated at her school desk instead of helping her fellow human beings that week. Something tells me our Creator would disagree with that position. This young lady is clearly not truant but she's regarded as such under our current law. LB917 and LB933 would not change that but LB1165 would. A young man who earned a perfect 36 on his ACT went...took two days off to go on a college visit in Princeton. Based on our current law, there's no excuse for that and those days counted toward his truancy tally. What is that telling our highest achieving students? Maybe the message is that Nebraska students can only aspire to their local community college under threat of legal action. Is that really the message we want to send? That young man was clearly not truant but he's regarded as such under our

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

current law and under LB917 and LB933. LB1165 would protect a young man like that. And then finally, as Senator Cornett discussed, hundreds of students across Nebraska have minor illnesses every day, everything from colds and flu, vomiting, pink eye, head lice, and per school policy and common sense these kids are supposed to stay home and a lot of them are sent home by the school nurse, and it's so ironic that when they're sent home then the absence counts in their truancy tally. It's more than ironic. It's ridiculous and it's really appalling. Many parents, including me, are now sending our kids to school sick, against our better judgment, against our doctor's orders and contrary to the pleadings of school nurses. There's a situation that happened in... [LB917 LB933 LB1165]

SENATOR ASHFORD: Brenda, I'm going to ask you to... [LB917 LB933 LB1165]

BRENDA VOSIK: Okay. [LB917 LB933 LB1165]

SENATOR ASHFORD: I'm sorry, because we have to get through the group. [LB917 LB933 LB1165]

BRENDA VOSIK: Okay. [LB917 LB933 LB1165]

SENATOR ASHFORD: But we have your comments and that we... [LB917 LB933 LB1165]

BRENDA VOSIK: Okay. Thank you. [LB917 LB933 LB1165]

SENATOR ASHFORD: Okay. Any questions of Brenda? Seeing none, thank you very much. [LB917 LB933 LB1165]

BRENDA VOSIK: Thank you. [LB917 LB933 LB1165]

SENATOR ASHFORD: Well, actually I asked if Kevin could come next and then...and then we'll go...we're going to go next, just so we get this set, the next testifier will be someone who supports Senator Fulton's bill. Is that...are there some...okay, we have someone right up here. And then we will come back to someone, some of the other officials. Kevin. [LB917 LB933 LB1165]

KEVIN RILEY: Chairman and committee members, my name is Kevin Riley, K-e-v-i-n R-i-l-e-y. I'm the superintendent of the Gretna Public Schools and I'm testifying on behalf of the superintendents of Douglas and Sarpy Counties in a neutral status. During the 2011 Legislative Session, the superintendents of Douglas and Sarpy Counties were statutorily directed to develop and participate in a plan by August 1, 2011, to reduce excessive absenteeism. Much work went into our plan. The mission of the superintendents' plan is to address absenteeism and at-risk behavior prior to the 20-day

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

threshold without the creation of additional government bureaucracy. Our plan focuses on prevention, early intervention, and collaboration between schools, families, and child-serving agencies. We want to prevent children from ever being referred to the county attorney's office. Initially, schools, school districts, and families work together to improve school attendance. If there is a problem, we exhaust all district processes and resource. If the problem continues, we can refer a child to the Goals Team. The Goals Team consists of school personnel, child-serving agency personnel, family advocates, and advisors. The family advocates respond quickly to these referrals, less than two days, by contacting the family and the school administrator that filed the referral. If the family is interested, this is voluntary, the advocate begins to intervene with a variety of services for the child and family. Remember, this intervention occurs prior to the 20-day threshold. In our first year since mid-October, there have been 88 referrals from eight school districts. Three families refused services. The referral profile looks like this. They are children ages 6 to 18. Roughly one-third are elementary-age children. They are predominantly male, 66 percent. Six percent have attended ten or more schools. Forty-five percent are causing serious disruptions at home. Sixty-three percent have been referred for attendance issues in previous years. Not one referral was due to illness. In terms of family situations that we're dealing with: families in transition, divorce, illness, unemployment, underemployment, and frequent moves and mobility. Family advocates report that the attendance for the children in the Goals Program is improving. The children are behaving better at home and many parents have been very appreciative of the assistance, interventions, and support. After all of this, if a child does hit the 20-day threshold the superintendents and the county attorneys have agreed to a common referral form. On this form school administrators can check three boxes: box one, the absences are documented illnesses that make attendance impossible or impractical, leave them alone; box two, the undersigned requests additional time to work with this student prior to court intervention, again this child is making progress, they might be at 20 or 22 days but they're doing well, leave them alone; and box three, the undersigned believes that the school has used all reasonable efforts to resolve this student's absences without success and recommends court intervention. There's really no reason for a misunderstanding to occur. We're off to a good start. Never before have we had this level of collaboration and cooperation between families, schools, and child-serving agencies. Some of our service provider partners: Region 6, Juvenile Assessment Center, Capstone Behavioral Health, Lutheran Family Services, Family Professional Partner Services, Nebraska Family Support Network, Family First, Impact One, Boys Town Parenting, school-based health center, and the Nebraska Department of Health and Human Services. I think this is what the law was intended to do and I believe that that's what we're doing. [LB917 LB933 LB1165]

SENATOR ASHFORD: Senator Coash and then Senator Council and Senator Harr.  
[LB917 LB933 LB1165]

SENATOR COASH: Thank you, Chairman. Thank you, Mr. Riley. I had asked the Hall

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

County Attorney this question and I'm going to ask it to you just from your experience with Gretna or Douglas and Sarpy County schools. When you described that form with three check boxes and that refers to your...the school's communication with the county attorney. [LB917 LB933 LB1165]

KEVIN RILEY: Correct. [LB917 LB933 LB1165]

SENATOR COASH: Can you tell me a little bit about the school's communication with the parent within that as well? [LB917 LB933 LB1165]

KEVIN RILEY: Yeah. If we feel that we're running into one of these children that we need to refer on, we're talking to the parent every absence. Quite often, the parent is requesting help and we're trying to work together because of what's going on in that child's life, for whatever reason. In terms of sending this form to the county attorney, if we have a child that gets to 20 and we check box one or two, leave them alone, we make a personal phone call to the parent saying, look, we have to send the letter but we have checked box one, there's no reason for them to be involved. [LB917 LB933 LB1165]

SENATOR COASH: Can I stop you there? [LB917 LB933 LB1165]

KEVIN RILEY: Yeah. [LB917 LB933 LB1165]

SENATOR COASH: When you say we have to send the letter, are you referring to we as the school and the letter going to... [LB917 LB933 LB1165]

KEVIN RILEY: The school district is required by law to send the letter to the county attorney reflecting the 20-day absences. [LB917 LB933 LB1165]

SENATOR COASH: So describe for me that letter if the box one and two are checked. [LB917 LB933 LB1165]

KEVIN RILEY: What happens in Sarpy County is the county attorney then responds back to us that they have received the referral and that they are going to respect our recommendation and not pursue. [LB917 LB933 LB1165]

SENATOR COASH: So you...the school district then sends a letter to the parents stating we have by law referred this to the county attorney but we've asked them not to do anything. [LB917 LB933 LB1165]

KEVIN RILEY: Correct. [LB917 LB933 LB1165]

SENATOR COASH: Is it... [LB917 LB933 LB1165]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

KEVIN RILEY: And also a phone call. [LB917 LB933 LB1165]

SENATOR COASH: Okay. Is it...every family situation is different. I mean illness... [LB917 LB933 LB1165]

KEVIN RILEY: Right, all kinds of things. [LB917 LB933 LB1165]

SENATOR COASH: In the letters that you send, are they, oh, cognizant of...are they specific enough that you're addressing it to that parent or is it a form letter? In other words, are you sending to one set of parents, we understand your child is very ill with this illness and this is going on? [LB917 LB933 LB1165]

KEVIN RILEY: The phone call is personal. The letter is a form letter... [LB917 LB933 LB1165]

SENATOR COASH: Okay. [LB917 LB933 LB1165]

KEVIN RILEY: ...and we just tell them you're going to get this, don't worry about it, it's not going anywhere. [LB917 LB933 LB1165]

SENATOR COASH: All right. Thank you. No other questions. [LB917 LB933 LB1165]

SENATOR LATHROP: Thank you. Senator Council, you're recognized. [LB917 LB933 LB1165]

SENATOR COUNCIL: Yes. Thank you, Senator Lathrop. And thank you, Mr. Riley, for attending because my questions are kind of along the lines of Senator Coash's question. I'm fairly confident in the working relationship and the communication between the districts and the county attorneys on whether any further action should be taken. The question, though, comes down to the communication between the school and the parents leading up to the 20 days. And I know that some districts have a policy of notifying parents, you know, after the ten days or after five days. And you've heard the testimony of a couple of parents and the letter is described variously as threatening. And it appears to me that some of the angst around the current legislation could be addressed in the communication that occurs between the district and the parent under the current law when five absences during a quarter or whatever the threshold is that parents need to be notified. Because in a situation where the youngster has missed...let's say have missed 12 days and all 12 of those days the district...the school district knows that all 12 of those days, for lack of a better descriptor, were excused. They've been in communication with the parents. They know they're excused. Does that letter need to go out at that time to the parent, I mean that's...in the case where the school district knows that if that child does miss 21 days they would be checking box

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

one or two? I mean that appears to me to be where all of the problems under the current law arise out of the form of the communication to the parent when the child is approaching 20 days. And if that communication could be framed differently so that it's just, you know, we're required by law to just put you on notice, you know, we know that your child has not...because I'm reading from one sample letter, okay? And this is one where the school district knows that the child's absences are due to a medical condition, because it says, I am aware that your child's absences are medically excused, but prior to that it says, blank schools is very concerned about Megan's attendance pattern. That language suggests a problem. And then...but then later it says, but we know that it's 12...that these 12 absences were due to medical concerns. It would appear to me that rather than having the language say, you know, the school, in that case...because the school is really not concerned about that student's attendance pattern. They know the reason for that student's attendance pattern. That sentence, we're concerned about your child's attendance pattern, is the letter that goes to the family where you don't have medical excuses, they're not going to the museum, they're not going to funerals, that those are the parents that need the letter to have that kind of language in it. But if it's simply to notify parents, I mean, and by law you have to send the notification, I would think there would be a better way to craft these communications so as not to send a signal to parents whose children aren't missing school for reasons that would not be excused or that they're not approving or authorizing. But that's...I mean from the...  
[LB917 LB933 LB1165]

KEVIN RILEY: Yeah. [LB917 LB933 LB1165]

SENATOR COUNCIL: I'm just telling you, from the correspondence I've received in my office, from the testimony I'm hearing here today that the concern is, you know, why am I getting this letter. But if people understand that you're getting the letter only because we have to notify you that your child has missed X number of days of school, why can't we frame this correspondence in a way that it doesn't appear as a threat to those families whose children's absences that the school district is aware of, the school district knows the circumstances, and if they end up at a point where they would have to be referred that the referral would be with the check box of one or two? [LB917 LB933 LB1165]

KEVIN RILEY: When parents are surprised, they get angry. And I did this for 17 years as a building administrator. And so whenever they're surprised, they become offended. That's the responsibility of the building administrator that deals with absences. Remember, on a 12-day absence, you've talked to the parents 12 times. Okay? I mean you've talked with them 12 times, at least I did. And they haven't...they're verifiably ill. Some districts have a lockstep 10 day, make sure they get that letter at 10 days at least or 5 days or 15 days so it's not a surprise at 20 days. But we shouldn't surprise them at any level and I think that's key to all of this. It's communication between schools and parents, schools and the county attorney. If you look at what we're dealing with right

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

now in Douglas and Sarpy, we're really focusing in on the kids that we know really need the assistance and the families that need the assistance. They're good people. I've never met a parent that didn't unconditionally love their child. It's a partnership when you're dealing with these things, but I don't think there's any doubt that there have been probably some black-and-white situations that have surprised some people. And again, when parents are surprised, they get angry. [LB917 LB933 LB1165]

SENATOR HARR: Thank you, Senator. [LB917 LB933 LB1165]

SENATOR ASHFORD: Senator Harr. Sorry. [LB917 LB933 LB1165]

SENATOR HARR: Thank you, Senator Ashford. I think I need to clarify the record for a second first. On Senator Fulton's bill, LB1165, were you in here when I gave the example earlier of a kid who misses nine days per semester and then misses the first day back from winter break in January? And there was conversation about whether it was...the next testifier said it was ten days per year. My question to you, have you had a chance to read LB1165? [LB917 LB933 LB1165]

KEVIN RILEY: Uh-huh. [LB917 LB933 LB1165]

SENATOR HARR: Okay. And due to the unorthodox manner of this hearing, I can't ask the introducer this question so I'm going to ask you. It says five days or... [LB917 LB933 LB1165]

SENATOR ASHFORD: Well, you can. [LB917 LB933 LB1165]

SENATOR HARR: Well, is he going to testify? I will and I'll ask him too. But I guess my question is, you're an administrator, how would you read this then? It says five days in one quarter or ten days per year. Would you interpret that to be calendar year or would you interpret that to be academic year? What is your definition of "per year"? [LB917 LB933 LB1165]

KEVIN RILEY: That's one of the difficulties with trying to develop a semantic sequence that's going to make certain that someone in the equation doesn't make a mistake. I don't look at it that way, Senator. Simply, I would say it's five days unexcused, you have a child that's missed five days unexcused. Now when I say unexcused, it means they really shouldn't be gone. It's not a vacation. It's not a funeral. It's not an illness. It's not any of those types of things. It's a kid that refuses to come to school and the parent is having trouble getting them there. I don't wait till five days. It's day one that we have to intervene. That's the beauty of our plan. But I guess I would see that to the advantage of the child. If we have to intervene right away with that child, I believe it gives us the parameters to do so. If we're waiting till five, ten days to deal with the kids that are refusing to come to school, either with our own response as a school district or assess

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

assistance if the family needs it from us or the Goals Team, we're waiting way too long. And those are the kids we're losing and I think that that's what this law is about. [LB917 LB933 LB1165]

SENATOR HARR: And let me ask you, why do we even need a truancy law at all? Can you address the underlying public policy... [LB917 LB933 LB1165]

KEVIN RILEY: Yeah. [LB917 LB933 LB1165]

SENATOR HARR: ...behind why we have a truancy law? [LB917 LB933 LB1165]

KEVIN RILEY: Yeah, I think Stephanie mentioned something about educational abuse or whatever it is. One, it's we know children have to be in school, generally speaking, to do well in school, not every child. There's some that are so smart it doesn't matter how many days they come to school; they still ace everything. That can happen. But generally that's not the case. That's like the rock star that dropped out of high school and he's making millions. Generally, that doesn't happen. We know for most children that being in school is very, very important and that's an expectation. If not, you go back to the days years ago when you had about a 50 percent graduation rate. We didn't hit 50 percent till 1950 in this country, and there were lots of reasons for that, people working on the farm and that. But a mandatory attendance law is really to make sure that school is a priority for an educated populace. You know what Thomas Jefferson said about a democracy. If it's not an educated populace, you have no democracy. So it's important for children to be at school and at school regularly, and that's been on the books for over 100 years in this state. And so we need it in order for our democracy to continue, because if you look at the aristocracies in the world, they don't want their people educated and we do and we place a high priority on that. [LB917 LB933 LB1165]

SENATOR HARR: Thank you, Dr. Riley. [LB917 LB933 LB1165]

SENATOR ASHFORD: Let me...we want to keep going here so...but, Kevin, I do have...I'm compelled to ask this question. Everybody in this room makes sense to me, everybody that's testified so far. I get it. I get both sides of this issue, or there may not be sides but I get it. I understand. Why...and I think what is bothering me personally and maybe to some degree the committee as a whole because we deal with the at-risk kids that whether they're, you know, not going to school ever or whether they get into trouble with the juvenile justice system or it gets real bad and, you know, they're at YRTC-Kearney and we're trying to fix that this year as well as, you know, what happened, why? You know, what happens when these young people come out of YRTC-Kearney and there's no place for them to go? We deal with that every single day in this legislative committee and we have a group of committed senators here who are trying their best to make sure that every kid gets a good shot at an education. Why, why, if we had a law in effect for 100 years with a five-day unexcused absence

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

provision, how did the truancy get so bad? Here's my point. What you've done in Sarpy County, and I get it, at Gretna and you've been a leader in doing this for 20 years and working with their families and working with the county attorneys and so forth and so on. Day one, absence, boom, call the parent. That's what you do. Okay? That's what Jacquie Estee does at Westside. I know that. Then tell me, tell me why we have, when we got into this issue three years ago and we saw the numbers that were, in my view, off the charts where thousands of kids every year are not in school on a regular basis, how did it get so bad? What happened? [LB917 LB933 LB1165]

KEVIN RILEY: Well, I don't want to throw anybody under the bus. [LB917 LB933 LB1165]

SENATOR ASHFORD: No, and I'm not asking (laughter)...listen, I'm not asking...it's all of our...I guess maybe it's all of our problem. [LB917 LB933 LB1165]

KEVIN RILEY: But I can address it and I've said it before and I don't mean to be disrespectful toward anyone. I think there were good reason but... [LB917 LB933 LB1165]

SENATOR ASHFORD: There can't be a good reason for 24,000 people not going to school for 20 days. [LB917 LB933 LB1165]

KEVIN RILEY: Well, like I said, I did this for a long time and you're sitting at your desk as a school administrator and you have a child that refuses to come to school. Now you can go to the house and you can try and get them out of bed and bring them to school but you physically can't take them. And when I'm thinking about truancy, those are the kids I'm thinking of. [LB917 LB933 LB1165]

SENATOR ASHFORD: Is that...should that be the definition, a child who refuses to go to school? Should that be the definition? [LB917 LB933 LB1165]

KEVIN RILEY: I think you have to be careful how you define it. I think you have to be careful how. [LB917 LB933 LB1165]

SENATOR ASHFORD: No, but I mean that's the first time,... [LB917 LB933 LB1165]

KEVIN RILEY: Yeah. [LB917 LB933 LB1165]

SENATOR ASHFORD: ...that's the first time in three years where someone has actually come up with a definition, not...I mean to me that makes sense. [LB917 LB933 LB1165]

KEVIN RILEY: Right. [LB917 LB933 LB1165]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

SENATOR ASHFORD: If you refuse to go to school, that means you have been approached by the school district and the school district has tried. You aren't here. [LB917 LB933 LB1165]

KEVIN RILEY: Right. [LB917 LB933 LB1165]

SENATOR ASHFORD: You haven't be here for five days. Well, and you determine that that child refuses to go to school; you got a problem. [LB917 LB933 LB1165]

KEVIN RILEY: But I also would give you three or four different examples that I dealt with that don't fall under that category. [LB917 LB933 LB1165]

SENATOR ASHFORD: Well, I mean... [LB917 LB933 LB1165]

KEVIN RILEY: Okay? There are, but... [LB917 LB933 LB1165]

SENATOR ASHFORD: ...what's another example of somebody who doesn't refuse to go to school? [LB917 LB933 LB1165]

KEVIN RILEY: Well, you have...you have...we found out years ago of...and we didn't know it at the time, great mom, great kids, but they were missing a lot of school. And it seemed like they were missing...the oldest was missing every Monday, Wednesday; the next oldest was missing Tuesday, Thursday; the youngest in school was missing Friday every week. And after seeing this for a few weeks it was, what's wrong? Dad had left. There's no money. She's working. She can't afford a baby-sitter for the two-year-old. The kids are baby-sitting. [LB917 LB933 LB1165]

SENATOR ASHFORD: But... [LB917 LB933 LB1165]

KEVIN RILEY: So intervention from Region 6 is what we do and that... [LB917 LB933 LB1165]

SENATOR ASHFORD: Isn't that another issue? Isn't that an issue of neglect? [LB917 LB933 LB1165]

KEVIN RILEY: But we've got to remember, this mom is struggling. She can't even make ends meet. [LB917 LB933 LB1165]

SENATOR ASHFORD: Yeah, but, Kevin, what I'm trying... [LB917 LB933 LB1165]

KEVIN RILEY: We have to help her. [LB917 LB933 LB1165]

SENATOR ASHFORD: What I'm trying to get at, isn't that abuse and neglect if a

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

child...of some degree if a child isn't in school because they are having to be home to take care of younger siblings, which happens? Is that... [LB917 LB933 LB1165]

KEVIN RILEY: If you have the choice... [LB917 LB933 LB1165]

SENATOR ASHFORD: Is that... [LB917 LB933 LB1165]

KEVIN RILEY: If you have the choice between a roof over your head or food or school, what are you going to do? [LB917 LB933 LB1165]

SENATOR ASHFORD: Well, I'm not... [LB917 LB933 LB1165]

KEVIN RILEY: I'm just saying that parents get... [LB917 LB933 LB1165]

SENATOR MCGILL: Yeah, Senator Ashford, I think it's the language "abuse and neglect" that just doesn't seem appropriate. [LB917 LB933 LB1165]

SENATOR ASHFORD: Well, I don't know what the language is but I'm just trying to arrive at a... [LB917 LB933 LB1165]

KEVIN RILEY: Yeah. And there's also situations and I think everyone understands that. There are times when a child takes control of the home and parents are doing everything they can to keep peace in the home, but the child is in control. They love them but for all kinds of different reasons the child is in control. [LB917 LB933 LB1165]

SENATOR ASHFORD: Okay. All right. I appreciate that. [LB917 LB933 LB1165]

KEVIN RILEY: And I have, you know, and so...yeah. [LB917 LB933 LB1165]

SENATOR ASHFORD: And I'm not arguing. I'm just...I appreciate your testimony. I'm trying to...I think we're trying to... [LB917 LB933 LB1165]

KEVIN RILEY: Right. [LB917 LB933 LB1165]

SENATOR ASHFORD: Could we just, I don't want to be disrespectful but I've got to add just a little. I think what we're trying to do is get to the bottom of the problem here and so when I ask these questions I'm not meaning to be argumentative. I just don't understand. [LB917 LB933 LB1165]

KEVIN RILEY: Right. [LB917 LB933 LB1165]

SENATOR ASHFORD: As a policymaker, I don't see how it could get so bad that we have 24,000 kids... [LB917 LB933 LB1165]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

KEVIN RILEY: Here's why. We've always had the turn it into the attorney, county attorney, at 20 days, I mean as long as I've been around and that's been 30 years now as an administrator. [LB917 LB933 LB1165]

SENATOR ASHFORD: Right. [LB917 LB933 LB1165]

KEVIN RILEY: We've always had that. [LB917 LB933 LB1165]

SENATOR ASHFORD: Right. [LB917 LB933 LB1165]

KEVIN RILEY: But in the past what would happen is a county attorney would deal with it as a criminal case, which is all...you know, that's what they do. They deal with criminal cases. [LB917 LB933 LB1165]

SENATOR ASHFORD: So you didn't want...so there was a lack of desire to turn it in then. Is that...? [LB917 LB933 LB1165]

KEVIN RILEY: Well, that's what happened because when they're dealing with murderers and rapists and people like that, a truant is down the list in terms of importance. And so what happens is they treat it like a...and this came from Lee Polikov. He explained it to me so well, the county attorney in Sarpy. He said it would take month to process, take a month to set a date, and then a month for the date to happen. [LB917 LB933 LB1165]

SENATOR ASHFORD: Okay. [LB917 LB933 LB1165]

KEVIN RILEY: Three months down the road, we were losing all those kids because they were dropped out by then, they would miss that much time. [LB917 LB933 LB1165]

SENATOR ASHFORD: Okay. And so when...and so... [LB917 LB933 LB1165]

KEVIN RILEY: And so what happened with this law, Senator, is it forced us to work closer together. In the process were there mistakes made? Probably. [LB917 LB933 LB1165]

SENATOR ASHFORD: Okay. And that's a fair answer. And when the...and in fact when this...when the schools did start sending cases, and I think specifically of OPS, sending, you know, hundreds and hundreds of cases to the county attorney and the county attorney had to deal with all of those at one time, my only question, maybe it should be of OPS, it's a much bigger district though, is to say why were all those cases sitting on somebody's desk and why weren't they at the county attorney's level? I mean if you have kids of 40, 50, 60 days not in school, they are...maybe refusing is the wrong word

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

but they aren't in school somewhat through no fault of their own and sometimes through a fault of their own, but they're not there for a long period of time and there were lots of those kids in that situation. And that I think is what we were confronted with a couple years ago. But anyway, I appreciate your testimony. I'm not...and I'm very respectful of what you've done, but thank you for that. [LB917 LB933 LB1165]

KEVIN RILEY: Thank you, Senator. [LB917 LB933 LB1165]

SENATOR ASHFORD: Yes, Senator McGill. [LB917 LB933 LB1165]

SENATOR MCGILL: I just have a quick question. Can there be a box on there for those that are the high-achieving students, you know, when it comes to the three boxes and...yeah. [LB917 LB933 LB1165]

KEVIN RILEY: Well, the reason...the reason we don't... [LB917 LB933 LB1165]

SENATOR MCGILL: Have you really seen any cases of hitting 20 that involve high-achieving students? Because like that group does concern me because I would want... [LB917 LB933 LB1165]

KEVIN RILEY: Well, I would hope that we would not think that our low-achieving children are the only ones that need to be at school every day. We need to have gifted programs that are outstanding for our kids of those gifts that make them want to be in school every single day. [LB917 LB933 LB1165]

SENATOR MCGILL: Oh, for sure, but... [LB917 LB933 LB1165]

KEVIN RILEY: And so I...you have to remember, if you have a child that's very gifted but they...and I could read a letter from one,... [LB917 LB933 LB1165]

SENATOR MCGILL: Uh-huh. [LB917 LB933 LB1165]

KEVIN RILEY: ...okay, that had taken control of her family and wasn't coming to school and she would not have graduated had we not intervened. [LB917 LB933 LB1165]

SENATOR MCGILL: And I completely...I understand what you're saying because some are... [LB917 LB933 LB1165]

KEVIN RILEY: ...and now is a child psychologist so... [LB917 LB933 LB1165]

SENATOR MCGILL: ...some are, yeah, yeah, some are so smart that they're bored by school and those things. [LB917 LB933 LB1165]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

KEVIN RILEY: Well, but we had to make sure she stayed in school, you see? In order to reach her dream someday, she had to stay in. [LB917 LB933 LB1165]

SENATOR MCGILL: I know, but... [LB917 LB933 LB1165]

KEVIN RILEY: So I don't like to differentiate and... [LB917 LB933 LB1165]

SENATOR MCGILL: And maybe I'm putting it the wrong way then, but I personally believe that some of the examples we've been given of these kids who do perform well, they're not the ones who are performing so badly on the MAT test at 11th grade that, you know, they're at that end of the curve. I would personally like to see something for those. [LB917 LB933 LB1165]

KEVIN RILEY: And that's a local issue, it really is. It's a local issue between parents and their school district. [LB917 LB933 LB1165]

SENATOR ASHFORD: But, Kevin, if it's a local issue then why are all these people here? I mean if it's a local issue then it should be resolved at the local level. [LB917 LB933 LB1165]

KEVIN RILEY: I would agree. [LB917 LB933 LB1165]

SENATOR ASHFORD: Okay. Okay. Okay, fair enough. Okay. Okay, just, okay, Kevin, you're done. Okay, we're going to go... [LB917 LB933 LB1165]

KEVIN RILEY: Okay. Thank you. [LB917 LB933 LB1165]

BETH MEYER: I'm going to go. [LB917 LB933 LB1165]

SENATOR ASHFORD: Okay, you've been... [LB917 LB933 LB1165]

BETH MEYER: ...because it's follow-up to his... [LB917 LB933 LB1165]

SENATOR ASHFORD: Okay. [LB917 LB933 LB1165]

BETH MEYER: ...or all of it, though you guys are going the right direction. [LB917 LB933 LB1165]

SENATOR ASHFORD: Oh, good. [LB917 LB933 LB1165]

BETH MEYER: I'm excited about that. [LB917 LB933 LB1165]

SENATOR ASHFORD: All right. And then, okay, I want to speak next to somebody who

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

is...would like to have things remain the same, and I think, yeah, so why don't we...is Nicole Goaley, are you going to testify today? Are you prepared to testify? [LB917 LB933 LB1165]

NICOLE GOALEY: Well, I can answer any questions... [LB917 LB933 LB1165]

SENATOR ASHFORD: Well, I'm going to want you to come up at some point. But go ahead... [LB917 LB933 LB1165]

NICOLE GOALEY: I can wait. [LB917 LB933 LB1165]

SENATOR ASHFORD: Okay. Go ahead. [LB917 LB933 LB1165]

BETH MEYER: Okay. Hi. I'm a mom. My name is Beth Meyer, M-e-y-e-r. I'm from Lincoln. I'm glad that they're touching on what the main issues is with LB933 or the current law. Basically, what's happening is every school district, every county attorney is reading the law how they see fit. So you have Douglas County district attorneys, they're doing...their county attorneys are handling these cases totally different than Lincoln. Like my case specifically would not be in the court system in Omaha but it is in Lincoln. So that's the main issue, is I guess everybody is reading what's documented illnesses different from there. So to be more specific, since we don't have a couple senators here, my county attorney behind me... [LB917 LB933 LB1165]

SENATOR ASHFORD: They can listen. They can actually listen in their offices... [LB917 LB933 LB1165]

BETH MEYER: Okay. Well,... [LB917 LB933 LB1165]

SENATOR ASHFORD: ...so sometimes they're doing that at the same time. [LB917 LB933 LB1165]

BETH MEYER: ...to get to the point, my county attorney,... [LB917 LB933 LB1165]

SENATOR ASHFORD: Yeah. [LB917 LB933 LB1165]

BETH MEYER: ...who happens to be behind me,... [LB917 LB933 LB1165]

SENATOR ASHFORD: Yes. [LB917 LB933 LB1165]

BETH MEYER: ...would mark them truant until they brought a doctor note, which would not happen in Omaha or Douglas County, Sarpy, or even Grand Island, from what he said, but it would here. That's the main issue. Now last year...I'm going to go ahead and read from this so I don't get too lost, and then I'll get out of your way: 2010-2011 school

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

year our family was taken to truancy court. Yes, I did say the whole family because it's really affecting everybody. So we had five court dates over a nine-month period, five court dates just to determine if she was truant or not, five court dates. Well, the county attorney finally dropped the case three days before the actual trial, which was November 23 of 2011. The way this has affected my daughter has been really profound. Her trial date was for November 23 of 2011. Three weeks before her trial date her attorney called to say the county attorney will not drop the case and we would be going to trial. Right before the trial, a week before, her science teacher had called to see what was going on with her. She went from an A student to an F student. He's like, I don't know what's going on but she has not passed this test, you know, two times. So I told him I would talk to her and see what was going on. Then I went to school that Monday to see if it was affecting her in her other classes and, come to find out, she went from A's and B's, straight F's. So you're taking my child, who was legitimately sick, through the court system and taking her from an A-B student to an F student. So I would really like the law to clearly state what is documented. You know, I do have documented illnesses. That's the funny part. I'm sorry. I do have them and I'm still being taken to court. And again, if the...I'm not going to read all this, get to the point. Again, if you guys don't change this, I'm going again to court this year. She's behind me, going to take me to court. First week of school of this year my daughter got meningitis. What can I do? There's nothing I can do. It's out of my control. So that's the main issue. The law just needs to be changed. And I'll throw someone else under the bus. You want to know why the truancy is so high? It's not because of the county attorneys. They care. You care. You want to make a difference. There is kids who need the help. It's the schools who are not doing their job. In her case alone, the school...I have never talked to our principal about her truancy; 79-209 hasn't happened yet. Counselor? I don't even know their names or what they look like. So if the school would start doing their job, government wouldn't have to step in. [LB917 LB933 LB1165]

SENATOR ASHFORD: Senator McGill. [LB917 LB933 LB1165]

SENATOR MCGILL: Just to clarify, so... [LB917 LB933 LB1165]

SENATOR ASHFORD: Then Senator Coash. [LB917 LB933 LB1165]

SENATOR MCGILL: Well, how many days did your daughter miss? [LB917 LB933 LB1165]

BETH MEYER: Twenty-two last year. [LB917 LB933 LB1165]

SENATOR MCGILL: Twenty-two. And you weren't getting calls from an assistant principal or a vice principal communicating with you about those? [LB917 LB933 LB1165]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

BETH MEYER: Uh-uh. We've got counselors. We even have an attendance...uh-uh. No, the only person I had talked to that year was the first week of school, not this past year but the year before, to her and to the principal. It was the first week of school and she informed me that my child will be marked truant unless if I bring in a doctor note,... [LB917 LB933 LB1165]

SENATOR MCGILL: And you were turning in doctor notes? [LB917 LB933 LB1165]

BETH MEYER: ...even though I'm not in the...I was not in the court system. [LB917 LB933 LB1165]

SENATOR MCGILL: Did you end up turning in doctor notes for those? [LB917 LB933 LB1165]

BETH MEYER: Yeah. Yeah. Yeah, and we still went to court, five court dates, nine months, you know? [LB917 LB933 LB1165]

SENATOR MCGILL: Thank you. [LB917 LB933 LB1165]

SENATOR ASHFORD: Senator Coash. [LB917 LB933 LB1165]

SENATOR COASH: Thank you, Chair. Beth, I peeked at your sheet here. You marked that you're opposed to these bills. Is that correct? [LB917 LB933 LB1165]

BETH MEYER: I wouldn't say I was opposed because there is children who need this. It's just that it needs to be, I don't know, clearly defined. You know, when he in May said that, him and Governor Heineman, said that they were amending it to include documented illnesses, I thought, okay, our case would be dropped. No, four more court dates. [LB917 LB933 LB1165]

SENATOR COASH: Okay. [LB917 LB933 LB1165]

SENATOR COUNCIL: I have a question. [LB917 LB933 LB1165]

SENATOR ASHFORD: Senator Council. [LB917 LB933 LB1165]

SENATOR COUNCIL: And thank you for coming because your testimony is kind of getting to the issue... [LB917 LB933 LB1165]

BETH MEYER: Right. [LB917 LB933 LB1165]

SENATOR COUNCIL: ...as I see the greatest part of the issue. But correct me if I'm wrong. You said that you received...the county attorney you provided documentation of

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

your daughter's illness. [LB917 LB933 LB1165]

BETH MEYER: No, what happened is our school is part of the federal program. Our school received a grant for a truancy program for...instead of going to court you can participate in this program, and our county attorney happened to be at school when I was talking to the attendance officer that day and the principal. I had received a letter stating that I need to bring my child to school and have the nurse decide if my child is sick versus my doctor, and that's when I had talked to them, you know? [LB917 LB933 LB1165]

SENATOR COUNCIL: Okay. But was this after I mean a number... [LB917 LB933 LB1165]

BETH MEYER: This was before I went to court. [LB917 LB933 LB1165]

SENATOR COUNCIL: Okay. But did your daughter have a history of illnesses? [LB917 LB933 LB1165]

BETH MEYER: She missed 20 days the year before. It was all documented. [LB917 LB933 LB1165]

SENATOR COUNCIL: Okay. So again... [LB917 LB933 LB1165]

BETH MEYER: It was documented by a doctor, not...unfortunately she gets... [LB917 LB933 LB1165]

SENATOR COUNCIL: Again, I agree with you,... [LB917 LB933 LB1165]

BETH MEYER: I know. [LB917 LB933 LB1165]

SENATOR COUNCIL: ...the problem is at the school district level, because for me hearing from what Mr. Young said, the county attorney in Hall County,... [LB917 LB933 LB1165]

BETH MEYER: Yeah, I like what he's doing. [LB917 LB933 LB1165]

SENATOR COUNCIL: ...and hearing from what Mr. Riley, Dr. Riley, said that if the district knows what the situation is, what occurred to you shouldn't have occurred. Okay. In terms of what the objective is here, the objective is to get kids to attend school. [LB917 LB933 LB1165]

BETH MEYER: Uh-huh. [LB917 LB933 LB1165]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

SENATOR COUNCIL: Okay. And unlike my learned colleague, who I love to death, I don't think you should make a distinction between bright kids and not bright kids. [LB917 LB933 LB1165]

BETH MEYER: No, I don't either. [LB917 LB933 LB1165]

SENATOR COUNCIL: The question is whether their absence is something that the school district has seen value to or there's a documented illness. [LB917 LB933 LB1165]

BETH MEYER: Uh-huh. [LB917 LB933 LB1165]

SENATOR COUNCIL: And I'm hearing...I've got a letter here before me that says 20 years ago this person's school district would send a letter to parents after ten days. [LB917 LB933 LB1165]

BETH MEYER: Uh-huh. [LB917 LB933 LB1165]

SENATOR COUNCIL: Okay. And when, according to the letter, when the parent called the principal and said, hey, why did I get this letter after ten days, and the principal laughed and said, oh, don't worry about it because they knew, the principal knew that the absences were for, and I quote, for very good reasons. Now in this author's opinion, under current law... [LB917 LB933 LB1165]

BETH MEYER: Uh-huh. [LB917 LB933 LB1165]

SENATOR COUNCIL: ...that principal would be required to turn the child over to the county attorney. That's not what the...should... [LB917 LB933 LB1165]

BETH MEYER: Exactly. [LB917 LB933 LB1165]

SENATOR COUNCIL: ...is not what should be occurring. Now... [LB917 LB933 LB1165]

BETH MEYER: That's what is occurring here in Lincoln. [LB917 LB933 LB1165]

SENATOR COUNCIL: ...now, okay, notifying the county attorney is one thing,... [LB917 LB933 LB1165]

BETH MEYER: Right. [LB917 LB933 LB1165]

SENATOR COUNCIL: ...because the law does say if you've missed more than 20 days the county attorney shall be notified. [LB917 LB933 LB1165]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

BETH MEYER: Uh-huh. [LB917 LB933 LB1165]

SENATOR COUNCIL: But what Dr. Riley was saying, the notification can take a variety of forms. One is this child has missed 20 days but there's no problem with this child; this child has missed more than 20 days and there's no problem with this child; this child has, however, has missed 20 days and you need to take some action. [LB917 LB933 LB1165]

BETH MEYER: Exactly, and the principals know what's going on with these children. [LB917 LB933 LB1165]

SENATOR COUNCIL: Okay. So I mean if the law were applied as I just laid it out to you,... [LB917 LB933 LB1165]

BETH MEYER: Uh-huh. [LB917 LB933 LB1165]

SENATOR COUNCIL: ...would you object to the law? [LB917 LB933 LB1165]

BETH MEYER: No. [LB917 LB933 LB1165]

SENATOR COUNCIL: Thank you. [LB917 LB933 LB1165]

SENATOR ASHFORD: Senator Coash. Oh, I'm sorry, thank you. Thank you for your candor. [LB917 LB933 LB1165]

BETH MEYER: Thank you so much. [LB917 LB933 LB1165]

SENATOR ASHFORD: Now Lincoln Public Schools and then, I'm sorry, then...okay. We are going to keep going here for a little while after 12:00 so don't worry. We do have to meet as a committee so I'm going to have to maybe at 12:15 so...I know this is difficult to jam all this in here but it's been very helpful, so go ahead. [LB917 LB933 LB1165]

RUSS UHING: (Exhibit 12) My name is Russ Uhing. I'm the director of student services for Lincoln Public Schools, R-u-s-s U-h-i-n-g. We've taken a neutral stand towards these three laws. What we would like to see is kind of a continuation of where we're at to see how it plays out. Last year we saw a 15 percent reduction in students with 20 or more absences and the intent of the law getting students to school is what we are bound to do. What I've shared with you is some information of processes that we use to work with families and with the county attorney to help with the communication process, as, Senator Council, you had just mentioned. The first cover is a process chart that we use at various stages. It's a...at each stage again it's a problem-solving communication with parents, with families, and with students, and various options that we have available to us. I've also given you two examples of two of our high schools, Lincoln Northeast and

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

Lincoln High School, that they do at what we call different tiers at a 5 to 10 absence level, 11 to 19, and then a 20 or more absence level as well. Many of those things are maybe in education speak so, you know, but I could, you know, address those as needed. I've also provided letters that go out at different stages from the schools at 5 absences, 10 absences, 15 absences. And then I've also provided to you something that we use for a county referral level and on that you'll see that there are two boxes. The first box is that the school is requesting that the county attorney not file a juvenile case. Those are...would be done in some of the instances that we're talking about where there are legitimate reasons, I guess what we would consider absences such as illness. You know a child, maybe a student parent perhaps, or a child that has had an operation, is out for a specific period of time. We try to work very closely on an individual basis with the county attorney on whether the county attorney would pursue that or not pursue that. I believe that we work very closely with our county attorney to try to determine which ones would be filed that we have kind of exhausted our resources in trying to help the student and the family, and that it should be filed. I think that Alicia could give you some statistics based on the actual number of students that are filed upon. Last year we had over 2,700 students that had 20 or more absences, and I think that a very low percentage of those were actually...did we file. We work towards and will continue to work towards problem solving. Our office and the county attorney is working on a process of again a problem-solving situation where we take a look at reasons for, once they get to 20, and again some of the documents that I've provided you is to show some of the things that are done on the school level, but sometimes there are additional resources and things that need to be done. Perhaps HHS is involved and a caseworker needs to be a piece of that. It's actually modeled a little bit on what Superintendent Riley had mentioned that they do in Douglas County. And so that, again, we would like to be able to continue to work on that problem-solving ability to be able to do that. Then the last handout again is just an example of some procedures that we would do along the way at various stages to work with the student and work with the family prior to it being sent to the county attorney. [LB917 LB933 LB1165]

SENATOR ASHFORD: Thanks, Russ. I do have just one quick...when was this attendance process put in place? Do you know? [LB917 LB933 LB1165]

RUSS UHING: Well, it was modified after the law but this, an example of this type of a flow chart has been in place for quite a long time. I don't know the exact amount of time but it has been in place for...prior to doing what I'm doing now as a school administrator and we were using a similar approach or process for ten or more years. [LB917 LB933 LB1165]

SENATOR ASHFORD: Okay. Then can you explain to me then very briefly if you can why the truancy rates or the excessive absenteeism, whatever you want to call it, got...over 20-day rates got so bad over the last 10 to 15 years? If these processes were in place in your school system and other school systems, how did...what happened do

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

you think? [LB917 LB933 LB1165]

RUSS UHING: Well, I think that there's probably many reasons, just as like each individual. You know, we've heard many individual cases on families and there's many individual reasons why that happens. I think part of it is, you know, the expectations that students stay in school past 16 plays a part of it. I think that family dynamics have played a part of it. I mean I think that there's many reasons why truancy rates have increased over the years. [LB917 LB933 LB1165]

SENATOR ASHFORD: And your experience of many years in education, would you opine that truancy has increased over the last 10 to 15 years to a significant degree? [LB917 LB933 LB1165]

RUSS UHING: Yeah, I would agree with that. Now having said that, prior to coming here I looked at our Lincoln Public Schools average daily attendance last year as compared to other years. We actually had the highest average daily rate of attendance last year that we have had. It was...I want to say a 10- to 15-year period of time. But last year for Lincoln Public Schools the average daily rate of attendance was the highest it had been during that time. [LB917 LB933 LB1165]

SENATOR ASHFORD: So there is a coming back, we're coming back to more attendance, at least that you're seeing. [LB917 LB933 LB1165]

RUSS UHING: That would lead us to believe that, yeah. [LB917 LB933 LB1165]

SENATOR ASHFORD: Okay. Thanks. Any... [LB917 LB933 LB1165]

SENATOR COUNCIL: And just a question. [LB917 LB933 LB1165]

SENATOR ASHFORD: Yes, Senator Council. [LB917 LB933 LB1165]

SENATOR COUNCIL: Yes, thank you, Russ. I'm looking at your flow chart... [LB917 LB933 LB1165]

RUSS UHING: Uh-huh. [LB917 LB933 LB1165]

SENATOR COUNCIL: ...and, again, sometimes the way we communicate, it creates more problems than we're trying to solve. [LB917 LB933 LB1165]

RUSS UHING: Uh-huh. [LB917 LB933 LB1165]

SENATOR COUNCIL: And for example, I'm just looking at stage one, five to ten absences. The school notifies the guardian, parent or guardian that the student has

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

reached stage one. That means they've missed five to ten days, correct? [LB917 LB933 LB1165]

RUSS UHING: Uh-huh. [LB917 LB933 LB1165]

SENATOR COUNCIL: And that's just a notification that they've missed five to ten days. Is that how it works or...? [LB917 LB933 LB1165]

RUSS UHING: Yeah, we do it various ways. One of the ways is through the letters that I had provided with you here as well. We also have what we call ConnectEd calls and those are set individually by student...or by various schools, but an example might be if a student was truant a period during that day, a ConnectEd call would automatically go out with that. [LB917 LB933 LB1165]

SENATOR COUNCIL: Okay. [LB917 LB933 LB1165]

RUSS UHING: So those would be two form ways that it would be done in addition to any personal contacts that would be made. [LB917 LB933 LB1165]

SENATOR COUNCIL: Okay. Now the final bullet point under stage one is, "Guardians are encouraged to provide documentation to verify illnesses or unavoidable absences." [LB917 LB933 LB1165]

RUSS UHING: Uh-huh. [LB917 LB933 LB1165]

SENATOR COUNCIL: What's the purpose of that? [LB917 LB933 LB1165]

RUSS UHING: Well, I think again it leads to the information that we are able to get. So if we know that, let's say, that a student was out last week because of they had mono,... [LB917 LB933 LB1165]

SENATOR COUNCIL: Uh-huh. [LB917 LB933 LB1165]

RUSS UHING: ...you know, that we have that on file so that once it gets to be a more serious point, if it gets to be a more serious point, we have that documentation then that we can communicate with the county attorney that they have had significant health issues during the course of the year, let's not file right now. Okay, let's see. Let's give it a chance to get better and improve. And so that would be the primary purpose of that. [LB917 LB933 LB1165]

SENATOR COUNCIL: Okay. And so just the example that you gave, then the letter, if that particular student who had the documented mono and then other absences, some may have been for verifiable illnesses, others may not have. But if Lincoln Public

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

Schools knew that at least 5 of the 15...5 of the 21 days had been for a documented illness, when the communication was made to the Lancaster County Attorney, and I'm looking at your letter,... [LB917 LB933 LB1165]

RUSS UHING: Uh-huh. [LB917 LB933 LB1165]

SENATOR COUNCIL: ...box number one would have been checked, the school is requesting that you not file a case in juvenile court? [LB917 LB933 LB1165]

RUSS UHING: If only five of the absences were attributed to illness and I guess depending upon what the other ones were for, if the student was truant meaning... [LB917 LB933 LB1165]

SENATOR COUNCIL: Okay. It would be a different story, right. [LB917 LB933 LB1165]

RUSS UHING: Right. [LB917 LB933 LB1165]

SENATOR COUNCIL: Okay. [LB917 LB933 LB1165]

RUSS UHING: Right. [LB917 LB933 LB1165]

SENATOR COUNCIL: But the point I'm making is that the school is looking at what the reason for the absence is. [LB917 LB933 LB1165]

RUSS UHING: That is correct. [LB917 LB933 LB1165]

SENATOR COUNCIL: Okay. And again, in terms of the language we use, you say the parent or guardian is encouraged to provide documentation to verify illnesses or unavoidable absences. [LB917 LB933 LB1165]

RUSS UHING: Uh-huh. [LB917 LB933 LB1165]

SENATOR COUNCIL: Now some of the testifiers have testified to events, activities that they decided that the child should be absent to participate in, so it's not quite unavoidable... [LB917 LB933 LB1165]

RUSS UHING: Uh-huh. [LB917 LB933 LB1165]

SENATOR COUNCIL: ...but I assume though that you ask for explanations for the absence. [LB917 LB933 LB1165]

RUSS UHING: Right. [LB917 LB933 LB1165]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

SENATOR COUNCIL: And maybe that's the better terminology, because there is the belief, and I think there's a misunderstanding, of how the process is intended to work,... [LB917 LB933 LB1165]

RUSS UHING: Uh-huh. [LB917 LB933 LB1165]

SENATOR COUNCIL: ...that if the absences, if there are justifiable explanations for the absences and there's communication between the school and the parents that in the event that child reached the referral threshold, all of that documentation would be forwarded along with the mandatory referral with the appropriate box checked. Correct? [LB917 LB933 LB1165]

RUSS UHING: That is correct. [LB917 LB933 LB1165]

SENATOR COUNCIL: Okay. Thank you. [LB917 LB933 LB1165]

RUSS UHING: Yeah. [LB917 LB933 LB1165]

SENATOR ASHFORD: Thanks a lot. Thanks for your comments. Okay. This young lady here is already...I know. I know. We're trying and...good. [LB917 LB933 LB1165]

CARRIE GROSS: (Exhibits 13-14) Good morning. My name is Carrie Gross, C-a-r-r-i-e, Gross, G-r-o-s-s, and I'm here in support of LB1165. I'd like to talk to you this morning about how this law would help my family but also how the other laws have impacted families at an emotional level. I've struggled with how best to communicate my family's experience with Nebraska's so-called truancy law. While my family has not been prosecuted under this law, both my children and I, as their mother, have most definitely been persecuted. As a result, I find it not only inadvisable but lacking in safety to provide documentation in a public forum when an adversarial educational relationship is present for my children with a school district whose administrators have admitted to multiple legal counselors on this case. In addition, I find it a further exposure and vulnerability to my children and family when documentation itself, and the validity of it, has been a source of controversy with Nebraska's educational system in terms of denial to complete parental access and the purity and honesty of documents. As a result, my ability to be heard as a parent through the avenues of due process have been amputated and, honestly, I believe such is the intent. My case is one, as the Commissioner spoke of, where the school has contributed to truancy. As a result, I'm left with a legitimate concern for the safety of my children while in the public educational system, as well as my entire family. That is a choice available to me as an American citizen and one which I do not have to defend or explain. I have placed my children in private schools and am doing so again because the school system refused to provide recommended services to my children. I have homeschooled my children, but to have government employees suggest I remove my children from public education because

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

they don't want to meet their individual needs in special education, to me, is appalling. There are no words to communicate the persecution my family has experienced in public education today. They lack emotion, dimension in the many simultaneous facets of our experience. I can assure you it is the very reason their father and I are being denied access to their complete educational needs. They also lack the history associated on any given topic with each member of my family, as well as the challenges any other member may be facing at the same time. Yet words are all I'm offered here today. The most effective testimony I can provide you as a mother on how this law has personally affected me is through a reoccurring nightmare I have had since this horrible experience began in September. Each time, certain aspects may be added or become more clear, but it never changes. The dream begins with a feeling of sheer panic to the point my chest hurts. My children do not arrive home from school. Frantically, I begin to look for them. What I encounter is indifference. Absolutely no one seems to care. My legs are amputated, yet I'm a mother so I begin to search for them by crawling. As I'm looking, I find a flier the school has posted saying my children are at our home, for authorities to look for them there. I'm angered by the lie and the cruelty, but I keep searching. It is always 18 hours before I find my children huddled in a corn field in the black of night. I am weak and bleeding from wounds and they are frail and sick. Their feet are bare and swollen, bleeding, and covered with blisters. We are all very tired. And while tears roll down my face as I arrive, they otherwise lack any expression or emotion. I can't help but notice this thick textbook they are each holding. The only words that I can seem to find is to tell them how very much I love them over and over again. I hesitantly ask them what has happened. My son explains he and his sister didn't have a book the other kids had at school so the teacher made them walk to another school to get it. It took them nine hours each way for them to walk, which forced them to miss the day of school. My son even had to carry his sister part of the way. Because they missed school, they were told they must go to a youth detention camp immediately. Instead, they tried to run away and come home, but they got lost. It's at this point in the dream I bury my head and I cry at the injustice. It's also at this point at which I often wake up, unable to breathe, often in tears, shaking, never certain if it's a dream or the reality in which I live. As soon as I am capable, I check on my children just to make sure they are where they should be. For me, I can't even escape the nightmare of this law in my sleep. It doesn't take Freud to understand the correlation in my dreams to my reality. This law has been used to harass, retaliate, persecute, and obtain political retribution against me and my family. It's also been used to communicate with other governmental agencies, as stated in an e-mail to my family. For the truly truant student, employees simply weren't doing their job with the mandatory attendance to begin with. I support LB1165 but I would be a greater support of repealing this so-called truancy law altogether. More importantly, a stand needs to be made for educating children with special needs rather than funding schools. The funding it has produced from those families who have been terrorized and tormented needs to be reincorporated into compensation and justice for those same families. Minimizing and defending actions for a group of individuals is discriminatory, and that is what I find this law is allowed to do

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

for students less able. Not only is that a violation of the Individuals with Disabilities Education Act, but if truth be known it is the rest of the story behind this law. Thank you for your time. Are there any questions? [LB917 LB933 LB1165]

SENATOR ASHFORD: Thank you, Carrie. Yes, Senator Council. [LB917 LB933 LB1165]

CARRIE GROSS: Yes, ma'am. [LB917 LB933 LB1165]

SENATOR COUNCIL: Thank you. And thank you, Ms. Gross, for testifying and... [LB917 LB933 LB1165]

CARRIE GROSS: My children also have testimony. [LB917 LB933 LB1165]

SENATOR COUNCIL: Okay. And I trust that... [LB917 LB933 LB1165]

SENATOR ASHFORD: Okay, and let me just say this. Those...we're not going to get everybody in today but...I know. We're just not going to be able to do it. So if you wish to express support for any of the bills, opposition or neutral, you can fill out your sheets or provide us with testimony or, you know, send us e-mails to the office and we'll make them available to the committee. So go ahead, Senator Council. [LB917 LB933 LB1165]

SENATOR COUNCIL: Okay. I want to be sure that I understand your circumstance and... [LB917 LB933 LB1165]

CARRIE GROSS: Please. [LB917 LB933 LB1165]

SENATOR COUNCIL: ...the document you submitted, your husband, that's been circulated, is that... [LB917 LB933 LB1165]

CARRIE GROSS: The father of the children also submitted one, yes. [LB917 LB933 LB1165]

SENATOR COUNCIL: Father, okay. [LB917 LB933 LB1165]

CARRIE GROSS: And mine is more extensive than what I read to you, yes,... [LB917 LB933 LB1165]

SENATOR COUNCIL: Okay, and that's... [LB917 LB933 LB1165]

CARRIE GROSS: ...and offers more detail. [LB917 LB933 LB1165]

SENATOR COUNCIL: Okay, and that's what I'm trying to get my hands, on the situation

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

that you're presenting. Now what school system are you? [LB917 LB933 LB1165]

CARRIE GROSS: Elkhorn Public Schools. [LB917 LB933 LB1165]

SENATOR COUNCIL: Pardon? [LB917 LB933 LB1165]

CARRIE GROSS: Elkhorn Public Schools. [LB917 LB933 LB1165]

SENATOR COUNCIL: Okay. And that's where you've had this experience. [LB917 LB933 LB1165]

CARRIE GROSS: Well, my children, we moved there in August. My children...my youngest child was told that the reading services, that both of my children are dyslexic and my youngest child was told that she would not receive...a district employee who there's information I choose not to share, but that she would not receive the reading services on her IEP and her...the school district was recommended to us by an expert, which is why we moved there, that she would not receive the reading services on her IEP and that the expert recommended. So we...she was terrified so we put her in a private school that we were paying for. My son, his experience at the high school in person appeared to be more amicable so we enrolled him there and face to face they agreed to provide the services but on paper they did not. And so on paper, documents have been altered, which is my concern. When you talk about attendance and everything, in fact, the referral that was sent to the D.A. on our case, they claim that my daughter was lost in the Department of Education system, which is why they filed truancy on her. We were threatened with truancy on my son but then they filed truancy on my daughter, and the referral that was made on her lacks truth. And I don't know how the system can be set up where documents that a school district has, no one has checked with me and my documentation. There's no investigation that has been done that is not someone trying to see my documentation so other documentation can be altered. No one has investigated our side of the story and no one has provided my children the services they need. [LB917 LB933 LB1165]

SENATOR COUNCIL: Okay. And maybe I can get to it...what were the reasons for your children's absences from school? [LB917 LB933 LB1165]

CARRIE GROSS: They weren't absent. That's the whole thing. [LB917 LB933 LB1165]

SENATOR COUNCIL: Okay. So they... [LB917 LB933 LB1165]

CARRIE GROSS: My children were absent two times at that point for sick, plus they have other health impairments as on their IEPs and they have IHPs, individualized health plans, so there should have been absolutely no truancy charges at all anyway because they have excessive absences written in there. So... [LB917 LB933 LB1165]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

SENATOR COUNCIL: Okay. Okay. Okay. And my question gets to the bills that are before us and the current state of the law. One of...LB1165, the practical effect of it is to go back to the way that the law was before LB800. But my point, Ms. Gross, is based on what you just stated and what you just testified to, there would be nothing that would have prevented the district that you're dealing with from doing the same thing under the old law. [LB917 LB933 LB1165]

CARRIE GROSS: Absolutely, and it's harassment to students... [LB917 LB933 LB1165]

SENATOR COUNCIL: Right. Okay, so...okay, so... [LB917 LB933 LB1165]

CARRIE GROSS: ...with special education needs. [LB917 LB933 LB1165]

SENATOR COUNCIL: Right. So your issue is really a special education issue as much as...or their handling of your children in terms of their special education needs... [LB917 LB933 LB1165]

CARRIE GROSS: Well, with this law there's no...the way the law is written, in my opinion, the special ed laws aren't being enforced and... [LB917 LB933 LB1165]

SENATOR ASHFORD: I think you've made your... [LB917 LB933 LB1165]

SENATOR COUNCIL: Okay. Okay. Yeah. [LB917 LB933 LB1165]

SENATOR ASHFORD: You really have been very clear in your point. We do get it. I think you've made it very, very clear. [LB917 LB933 LB1165]

CARRIE GROSS: And it needs to be clarified. [LB917 LB933 LB1165]

SENATOR ASHFORD: Yeah. Yeah. I get that. Thank you, Carrie, very much. Well, actually, Nicole, I want Nicole up here, if you would, please, Nicole, because a number of these parents are from Millard and from Elkhorn and in Douglas County. And if, Nicole, if you could give us a little background on what you're doing and how that's changed and so forth and so on. [LB917 LB933 LB1165]

NICOLE GOALEY: Nicole Goaley, Douglas County Attorney's Office. I've been before you before on this issue and I really just want to answer any questions that anyone has about how Douglas County is proceeding. We do not receive the referrals until 20 days. At that point, you've heard this before, as I said, they're screened by a multidisciplinary team, just like the teams we spoke of this morning, and those referrals are reviewed. Approximately one-quarter of them this year have already...we've gotten approximately 1,000 referrals this year. Approximately one-quarter of those are already in the juvenile

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

justice system, so they already have a court case for delinquency. Approximately one-third of the total referrals this year are participating in one of our level two or three diversion programs, have been assessed, or didn't need to be assessed and are working through a diversion program. Some of the things that I listened to today earlier, the referrals have increased from before this law to after this law by the number of 239 to now last year 3,000. When you ask why, I do know that a couple of years ago, before this law when we got the 239 referrals, that we were not receiving all 20-day absences, even unexcused. [LB917 LB933 LB1165]

SENATOR ASHFORD: Under the old law. [LB917 LB933 LB1165]

NICOLE GOALEY: Yes. [LB917 LB933 LB1165]

SENATOR COUNCIL: Even excused... [LB917 LB933 LB1165]

SENATOR ASHFORD: Even excused... [LB917 LB933 LB1165]

SENATOR COUNCIL: ...I mean even unexcused. [LB917 LB933 LB1165]

NICOLE GOALEY: Correct. [LB917 LB933 LB1165]

SENATOR COUNCIL: Okay. [LB917 LB933 LB1165]

NICOLE GOALEY: Correct. We were not receiving... [LB917 LB933 LB1165]

SENATOR ASHFORD: So there was a number of unexcused that far exceeded 239. [LB917 LB933 LB1165]

NICOLE GOALEY: Yes, they did. We were getting referrals at 80 days absences. And then as you already commented we were getting...when this law was passed and we started getting the referrals it was documented year after year after year of 80, 70, 60, 50. [LB917 LB933 LB1165]

SENATOR COUNCIL: Okay, I have a question for Nicole. [LB917 LB933 LB1165]

SENATOR ASHFORD: Yes, Senator Council. [LB917 LB933 LB1165]

SENATOR COUNCIL: Dr. Riley just described the form letter that the districts now or...in Douglas and Sarpy County have agreed to utilize on referrals. [LB917 LB933 LB1165]

NICOLE GOALEY: Yes. [LB917 LB933 LB1165]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

SENATOR COUNCIL: And that's the process that your multidisciplinary team...what if box number one is checked? Do you still go through an extensive evaluation of whether or not to pursue any further action, or do you accept the districts... [LB917 LB933 LB1165]

NICOLE GOALEY: The box that recommends not going forward? [LB917 LB933 LB1165]

SENATOR COUNCIL: Right. Right. [LB917 LB933 LB1165]

NICOLE GOALEY: I do want to point out, though, for we're in a different county than Dr. Riley. And although the form is common, we don't always have a box checked for us... [LB917 LB933 LB1165]

SENATOR COUNCIL: Okay. [LB917 LB933 LB1165]

NICOLE GOALEY: That's not...it's not necessarily the norm to have a box checked. [LB917 LB933 LB1165]

SENATOR COUNCIL: Okay. So... [LB917 LB933 LB1165]

SENATOR ASHFORD: And it comes late, too, doesn't it? I mean sometimes you're getting it at 25 days, at 30 days or... [LB917 LB933 LB1165]

NICOLE GOALEY: Well, it's supposed to come at 20. [LB917 LB933 LB1165]

SENATOR ASHFORD: Is it in the mail or how do you get it? [LB917 LB933 LB1165]

NICOLE GOALEY: I have our truancy coordinator here with us today, Beth Stranglen. [LB917 LB933 LB1165]

SENATOR ASHFORD: Yeah. [LB917 LB933 LB1165]

NICOLE GOALEY: Some are in the mail and some are sent via e-mail. [LB917 LB933 LB1165]

SENATOR ASHFORD: Right. [LB917 LB933 LB1165]

NICOLE GOALEY: Recently, I believe she's worked with a large district to have them via e-mail. So they come in a variety of ways and they are, as soon as we can get them staffed for the Thursday multidisciplinary team, so if that answers that question for Senator Council. If the box is checked, however, the team sometimes still looks at it but obviously the school has the best information about what's the situation. [LB917 LB933

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

LB1165]

SENATOR ASHFORD: Yes, Senator Harr. [LB917 LB933 LB1165]

SENATOR HARR: Thank you, Senator Ashford. Just quickly, you've read all three bills and you've read Senator Ashford's bill, I assume,... [LB917 LB933 LB1165]

NICOLE GOALEY: I have read Senator Ashford's bill. [LB917 LB933 LB1165]

SENATOR HARR: ...that leaves it up to the school districts. Do you, as a county attorney, have any comment on would you...I mean is it a huge inconvenience for you to go to the schools as opposed to having the parents come to you at the courthouse? [LB917 LB933 LB1165]

NICOLE GOALEY: We are not unwilling to do that. [LB917 LB933 LB1165]

SENATOR HARR: You what? [LB917 LB933 LB1165]

NICOLE GOALEY: We are not unwilling. [LB917 LB933 LB1165]

SENATOR HARR: Okay. [LB917 LB933 LB1165]

NICOLE GOALEY: We are willing to go to the school. [LB917 LB933 LB1165]

SENATOR HARR: Say it in the positive. There we go. [LB917 LB933 LB1165]

NICOLE GOALEY: Sorry. Yes. [LB917 LB933 LB1165]

SENATOR HARR: All right. I like that. Thank you very much. [LB917 LB933 LB1165]

SENATOR ASHFORD: Thanks, Nicole. Okay, here is what we're going to do. Thanks, Nicole. [LB917 LB933 LB1165]

NICOLE GOALEY: Okay. Thank you. [LB917 LB933 LB1165]

SENATOR ASHFORD: And thank you for always being very helpful to Stacey and the committee. So we're going to do two more testifiers. I'm very sorry, we're going to go right here on the end, and then this gentleman here, and then we are going to be done but not done done, just we're going to be finished for the day. Okay. (See also Exhibits 15-17) [LB917 LB933 LB1165]

MARTHA MYLES: (Exhibit 18) Thank you, Senator Ashford and the committee. I'll keep mine really brief because a lot of the people have said a lot of the things that I already

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

feel. I've submitted my statements to be passed out. I guess I should go back and state my name. Martha Myles, M-a-r-t-h-a, my last name is Myles, M-y-l-e-s, and I live in Millard school district. I'm from Omaha. My daughter is at Millard South. I guess the nuts and bolts of this was specifically--I'll go back to last year--my daughter missed extensive days all due to illness, all documented. We did get referred to Douglas County, although I live in Sarpy County, and even though it was all illness we do get referred. You go to a mass meeting at the courthouse. You go again. They want you to be in the diversion program. They want you to have your child in some sort of psychiatric treatment and counseling, which I'd already done all those things and had documented documentation for them. I guess what frustrates me is if it is documented, if they are ill, are you saying I'm lying? I have to prove all this? I'm her mother. I'm her parent. I want what's best for her. I want her in school. She loves school. She's an A-B student. Even though she missed all that school she finished in the honor roll. She made up work. So I guess my question is, why is it so difficult to just amend the law to allow that if you are ill, you have documented illness information, why should you be referred? Why is there need to be a box at the bottom--we're okay with this? Those absences shouldn't count to the 20 days. We all need to address truancy and we need to address those kids who aren't at school for reasons without an excuse, but when they are excused they ought to not even be referred. And I guess that's the nuts and bolts of mine. [LB917 LB933 LB1165]

SENATOR ASHFORD: When you...when you...and the school has excused the absence, how do they tell you that? [LB917 LB933 LB1165]

MARTHA MYLES: Well, on my...I attached... [LB917 LB933 LB1165]

SENATOR ASHFORD: Okay. [LB917 LB933 LB1165]

MARTHA MYLES: ...because today is day 20. [LB917 LB933 LB1165]

SENATOR ASHFORD: Okay. [LB917 LB933 LB1165]

MARTHA MYLES: Today is my daughter's 20th day. She's home sick. [LB917 LB933 LB1165]

SENATOR ASHFORD: Okay, and... [LB917 LB933 LB1165]

MARTHA MYLES: And I attached the letters for this year on the back of my statement so you can see the... [LB917 LB933 LB1165]

SENATOR ASHFORD: But how, when you call, do you just...what do you do? Do you call the school? [LB917 LB933 LB1165]

MARTHA MYLES: I call the school, tell them she's sick and how to reach me. [LB917

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

LB933 LB1165]

SENATOR ASHFORD: Okay. [LB917 LB933 LB1165]

MARTHA MYLES: And after the five days I got a letter. When she missed ten days I got a letter. I did get a phone call from the social worker between the 10 and 15 days, and I've been working with Susie Johnson, Kelly Latimer at Millard South... [LB917 LB933 LB1165]

SENATOR ASHFORD: Okay. [LB917 LB933 LB1165]

MARTHA MYLES: ...trying to schedule a meeting, that, you know, we've talked on the phone extensively but we've...back and forth on a meeting date so I can come in and actually physically meet with them in person and I worked with them last year. [LB917 LB933 LB1165]

SENATOR ASHFORD: Okay. And you have a...and there's a...is she under...I'm sorry, daughter, is that correct? [LB917 LB933 LB1165]

MARTHA MYLES: It's a daughter. She's... [LB917 LB933 LB1165]

SENATOR ASHFORD: Is she under some sort of doctor care? [LB917 LB933 LB1165]

MARTHA MYLES: I've got a couple appointments scheduled for this next week and... [LB917 LB933 LB1165]

SENATOR ASHFORD: Okay. [LB917 LB933 LB1165]

MARTHA MYLES: ...but she has chronic stomach, intestinal issues and... [LB917 LB933 LB1165]

SENATOR ASHFORD: Okay. [LB917 LB933 LB1165]

MARTHA MYLES: ...stomach migraines and... [LB917 LB933 LB1165]

SENATOR ASHFORD: Now I remember you letting us know that so... [LB917 LB933 LB1165]

MARTHA MYLES: And it's been inconclusive on some of her problems on why but it's... [LB917 LB933 LB1165]

SENATOR ASHFORD: Okay. I don't need to know the... [LB917 LB933 LB1165]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

MARTHA MYLES: Yeah. [LB917 LB933 LB1165]

SENATOR ASHFORD: ...I just wonder how that interaction happens. [LB917 LB933 LB1165]

MARTHA MYLES: Well, and so the school, I will say Millard South has talked with me and they have, you know, worked with us and I don't have an issue with that. My issue is when it is illness, they are documented and the school, quote, excused them, why are we being referred? That's the point that I'd like to see changed. [LB917 LB933 LB1165]

SENATOR ASHFORD: No, and you've made it very succinctly and I appreciate that. Thank you. [LB917 LB933 LB1165]

MARTHA MYLES: Thank you. [LB917 LB933 LB1165]

SENATOR ASHFORD: Okay, sir, I'm sorry to... [LB917 LB933 LB1165]

MICHAEL HORTON: (Exhibit 19) Thank you, Senator Ashford, members of the committee. My name is Michael Horton, M-i-c-h-a-e-l, last name H-o-r-t-o-n. I'm a resident of Douglas County, Elkhorn, Nebraska, specifically. My daughter is a student at Elkhorn South. I'll deviate from my prepared statement just a moment to bring up a couple of points. Number one, the federal Department of Education defines truancy as absent from class without permission, and we've modified that to absent, period. And I think one of the core problems that we're seeing, and it's come out today, is that there's no uniform application of this law from county to county, from district to district. Specifically, let me address a broader issue as it relates through my personal experience. I'm here today to address the committee and ask you to support LB1165. Specifically, I would like to discuss how LB1165 will be able to lower the stress and anxiety levels for parents and students by removing the concern of having to defend chronic or catastrophic illness on a continuing basis by discussing my family's situation. I would have liked to have introduced my daughter, Haley (phonetic), to you today, who is a junior at Elkhorn South, who is on the honor roll, who also was a participant in the Duke TIP Program and in 7th grade scored sufficiently high on her ACT to be able to enter college. But due to the change in the attendance policies resulting from the 2010 attendance bill, I risk again being turned over, and I stress again turned over, to the authorities in Douglas County because of the number of absences that she has and will experience throughout the rest of the school year, so I had to refuse her request today to come and testify before you. You've all been given a copy detailing my daughter's situation but, to summarize, she suffers from a chronic, untreatable, immunological disorder combined with nonspecific migraine disorder. These conditions make her highly susceptible to prolonged illness and severe, chronic pain. As a result, my daughter has been placed in the school district's special education program to ensure her educational success. And in deference to Dr. Breed and the other learned members

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

who have addressed today, no amount of intervention by anybody is going to change that. As a result of the current legislation, I, like many families, have experienced the burden of sending my daughter to school ill and are having to try and make a last-minute doctor's appointment to document my daughter's illness and subsequent absence from school. For a child with chronic health issues, for which there are many in Nebraska, this represents a strain on family budgets, the healthcare system, and most importantly the ill children. As silly as it sounds, I absolutely require that I have documentation for every absence my daughter has, as she is being monitored by the county attorney's office as a result of last year's state referral. By supporting and passing LB1165, you can say to my daughter and to the other ill children in the state of Nebraska, we care about you and your families. You can say this while still accomplishing the goal with decreasing truancy. No longer will parents be told that they need to wait eight months for an appointment that doesn't cause an absence from school or have to drag an ill child out of bed so they can get a doctor's note. No longer will parents feel obligated to send their ill and contagious child to school because they are too close to the cutoff on being reported to the authorities. No longer will parents like myself have to worry that today is the day my daughter is exposed to her virulent disease that will incapacitate her for weeks and possibly send her to the hospital. No longer will chronically ill children and their parents be made to feel like criminals by having to justify what are usually well-documented cases. No longer will a county attorney, child protective services worker, or a judge from the juvenile courts determine what is best for our children. We as parents, along with healthcare and school professionals, will decide. In closing, I ask each of you to exhibit the common sense that Governor Heineman discussed in his press conference from this summer and please support and pass LB1165. I'd be happy to answer any questions. [LB917 LB933 LB1165]

SENATOR ASHFORD: I don't see any. Thank you, sir. [LB917 LB933 LB1165]

MICHAEL HORTON: Thank you. [LB917 LB933 LB1165]

SENATOR ASHFORD: The young lady in the front row is next, and then the Lancaster County Attorney will be it. That's it, and we're going to...whoops, okay. (See also Exhibits 20-21) [LB917 LB933 LB1165]

SYDNEY WEDDLETON: We will stay within five minutes between the two of us. [LB917 LB933 LB1165]

SENATOR ASHFORD: Okay. All right. [LB917 LB933 LB1165]

SYDNEY WEDDLETON: (Exhibit 22) Hello. My name is Sydney, S-y-d-n-e-y. [LB917 LB933 LB1165]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

SENATOR ASHFORD: Do you want a chair? [LB917 LB933 LB1165]

KYLIE JACKSON: No, I'm good. [LB917 LB933 LB1165]

SENATOR ASHFORD: You sure? [LB917 LB933 LB1165]

SENATOR MCGILL: You're getting one. [LB917 LB933 LB1165]

SENATOR ASHFORD: You're getting one anyway. You don't have to sit in it if you don't want to. [LB917 LB933 LB1165]

SYDNEY WEDDLETON: Okay. Hello. My name is Sydney Weddleton, S-y-d-n-e-y W-e-d-d-l-e-t-o-n, and I'm here to testify in opposition to Senator Ashford's LB933. I'm a senior at Lincoln High School in an international baccalaureate program. I have a GPA of 4.34. I scored a 33 on my ACT and I've been a three-time academic letter winner as well as on the honor roll every semester of my high school career. I have been and continue to be involved in community service work in many areas, including volunteering every week for hours at a nonprofit dance academy. I compete in competitive dance and have a supportive family that keeps me on track and encourages my independence. On the surface, it seems as though I have no reason to worry about these truancy laws affecting my life. In previous laws and definitions of the word "truancy," this in fact would hold true. I've never skipped a class or even been late to one, so how could I be truant? The key to answering this question is in my absences. Throughout my life and especially in the last few years I've been given life-changing opportunities. The first week of my freshman year I was invited to an exclusive performing arts workshop in New York. A similar issue came up at the start of this year as well. I was accepted to go on a weeklong trip to Haiti to help build an eco-village for 40 Haitian families displaced by the earthquake in 2010. One of the aims of the school program I'm in is to foster intercultural understanding and respect. What better way to do this than to go and experience and work with a culture vastly different than my own? The education, academic and in terms of practical life knowledge and skills, through just these experiences is immense and could not be more hands on. Not only have I had these opportunities, but I also had unfortunate medical issues in the spring of my 7th grade year. I was suffering from incredible headaches, dizzy spells, and exhaustion and could barely walk without finding myself incredibly weak. I had an MRI, countless blood tests, and at last had my case upgraded to emergency status and was able to see a pediatric neurologist who diagnosed me. In the time that it took to get this diagnosis and for the treatment to start working, I had missed over 40 days of school throughout that year. I worked to stay dedicated to my education and, despite it all, I still earned all A's that semester and was able to skip the 8th grade and go straight to high school the following year. If the proposed amendment had been law when I was in 7th grade, my case could have been one to get involved with the county attorney, despite the fact that I had a doctor's note. It is not simply the times of sickness, however, but also those

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

amazing opportunities I had. Not only will I never get those chances again but they provided me guidance for what I want in my life and encouraged integration into my own schooling and community work. To be labeled as truant for those instances seems extremely lacking in terms of common sense. Though it may seem as though my case is the exception or if it were taken to the county attorney it would not result in a prosecution, I have met with countless other kids who that has not been the case, even though their excuses are completely valid. And in fact, that is not even the core issue at hand but rather that truancy and absences are not the same. There's no way to write every exception into a law, which is why this distinction is vital. Even me being here today participating in the legislative system as a responsible citizen, I am being labeled. Students deserve to be able to say with confidence and have it supported, I am absent today, I am not a truant, when in reality that is the case. I do agree that excessive absenteeism can be a problem for a very minimal number of students, but to aim to fix that by eliminating the differentiation between truant and absent ends up hurting many students rather than its intended purpose. It may look good on paper but it's not working out that way in practice. Support of LB933 goes against common sense and will end up harming the future of our community. [LB917 LB933 LB1165]

KYLIE JACKSON: (Exhibit 23) Read mine? Okay. My name is Kylie Jackson, K-y-l-i-e J-a-c-k-s-o-n. I am 12 years old, in the 6th grade at Pawnee Elementary School in Omaha. I am here to read my statement in support of Senator Tony Fulton's bill, LB1165. In order to be here today I am absent, not truant, even though this law wants to label me that way. I don't like that label pinned on my name. I'm a great student. I behave like I'm supposed to. I pay attention in class and I finish and turn in all of my assignments on time every day. And if I was sick my mom would always call the school office and ask them to get my work for the day so I wasn't behind when I came back to school. I am here today getting an educational experience I couldn't get in my class at school. During last school year I received two once-in-a-lifetime opportunities. In February I got to go to Kennedy Space Center to see one of NASA's last space shuttle launches. That was very important to me because I want to be an astronaut when I grow up. My mom and I tried really hard to see a launch, but this was the first and only time we were fortunate enough to. I missed eight days of school on that trip. I learned a lot about the space program and the history of the space shuttle. Then in April I got to go to the Bahamas for a family reunion on my dad's side of the family. There I met new relatives who I didn't even know existed. We went on a bus tour and learned about the history and culture of the Bahamas. I even got to swim with the dolphins, which is something I will never forget. I missed another four days. When I went to Florida, all the work I would be missing was made up before I left. My teacher gave me a fun project to do while I was there. She didn't give me any work to do when I went to the Bahamas in April because I was so far ahead of my class. I didn't go on these trips just for fun; I went for educational experience I couldn't get in my classroom. I was absent a total of 12 days by then. I was quite sick a few days last year and I was bullied frequently. By the end of April, I'd been gone 20 days. Then I missed one more day because I was sick

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

again. That got me up to a grand total of 21 days missed by the end of my 2010-2011 5th grade year. Even through my strep throat and sinus infections, staying home from getting bullied and my trips, I had spectacular grades. I was on the second honors honor roll for three quarters and the first honors for one. In June, my mom got a letter in the mail from the Sarpy County Attorney after school was over and done with. The letter said that my attendance would be monitored. Monitored? That put me under the impression that I did something terribly wrong and I wasn't allowed to miss any more school days in my 6th grade year. I started feeling nervous when I started missing school because I was sick. I've already missed 4.5 days this year and I am missing today for this. My older sister got married in Hawaii this past November and I was unable to go. That's wrong. I shouldn't have had to miss my own sister's wedding because of this law and possible consequences on my family and me. That disappointed my whole family. How would you feel if you were in this situation? This law simply can't define kids like me. I'm not going to have a horrible life when I grow up because I was occasionally absent from school. I've learned a lot while my seat has been vacant and my chair at school is cold, but the things I've learned on my travels were things I never could have learned while sitting in my seat at class. [LB917 LB933 LB1165]

SYDNEY WEDDLETON: Thank you for your time. [LB917 LB933 LB1165]

SENATOR ASHFORD: Thank you for your time. The last testifier and then we will be finished. (See also Exhibits 24-26) [LB917 LB933 LB1165]

ALICIA HENDERSON: It's now good afternoon. [LB917 LB933 LB1165]

SENATOR ASHFORD: Yeah. [LB917 LB933 LB1165]

ALICIA HENDERSON: (Exhibit 27) I'm Alicia Henderson from the Lancaster County Attorney's Office and, again, I'm speaking on behalf of Joe Kelly, who is the Lancaster County Attorney, and setting forth what I would describe as a neutral or a opponent to all of the bills. And the reason that we are opposing or at least being neutral toward all the bills is we believe at this point in time we need to let the system play out based on the law that we have now. We do believe that LB800, although it radically increased our office's workload, was something that brought well-deserved attention to the issues of truancy and excessive absences in public schools. And one thing I do want to say is that then last year's bill addressed the issue that there needs to be a policy about excess...or excessive illnesses and that is also working its way through. One of the things I wanted to show you with the little chart that I provided to you is you've learned, our office is told by the schools please file or please don't file, and the don't files, we actually look at them but, I mean, I'd say 99.9 percent of them we say we agree, we're not going to be filing those. But there are also ones where the school doesn't really know. Do we have good documentation about illnesses? Is this legitimate illnesses? I

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

was listening all morning to parents who are very worried about what I would say is overreaching of the school system into their rights of, you know, of how to raise their children. I will tell you that the schools at Lincoln are listing for us, so we know, parent says, you know, they're going to, you know, for instance, sister's wedding. I'm going to look at that and I'm going to say I'm not filing that. That's...you need to go to your sister's wedding, your grandparent's funeral, you need to do that. But there are other situations where we have had people who have forged doctor's notes, literally written things and forged on notes. So, you know, and I know none of those people are here, that's very clear, so the schools and the county attorney's office are trying to work together to figure out which one of these cases do we need further actions on and which ones do we not. And we need a little while longer to work under the current law to deal with that. I would also suggest, and I don't know, you know, I'm not as political as, you know, I'm apparently becoming, but many of the issues that I'm hearing parents talk about are issues that should be brought up to the school boards. Because at this point in time, school board policy could, I think, pretty much solve almost every problem that I've heard that parents have been talking about. I think Senator Council's idea of, you know, the letters, let's tweak those letters a little bit, put handwritten notes on them also so that we verify that we understand what the situation is. Those kinds of things I think could go a long way to assist. And so I'm asking really that we keep things at their status quo, at least for another year so we can see what happens. [LB917 LB933 LB1165]

SENATOR ASHFORD: One of the concerns that I have is that have we sort of tipped the scales here to the point where if the school...and every case is different and I grant you that, and there are people who don't...who fib to the schools. I get that. But if you...we have a child who is working with the school, receiving, as far as they are concerned, the parents are concerned, the child has been excused for whatever the reason is, is sending that even for a look-see, is...I have two concerns. One is, is that tipping the scale away from the family working this out with the school, because in fact it's going to you? That's, you know, that's a concern and I think that's what I'm kind of hearing here is...and then there's kind of the flip side of this is prior to the passage of LB800, which I'm still very concerned about, is why didn't...I mean and you don't have to answer this, but why were all these difficult cases where...not the cases we're hearing today, the going to Haiti and doing great work and going to the sister's wedding. Those are all fairly...those are family-oriented events. But these other things that were happening must have been happening over every year with kids that didn't have these excused situations and they didn't get to the county attorney. Where did they go? [LB917 LB933 LB1165]

ALICIA HENDERSON: I would like to say that LB800 raised the awareness again and raised the requirements, both so parents understood them and school districts understood them. [LB917 LB933 LB1165]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Judiciary Committee  
February 13, 2012

---

SENATOR ASHFORD: I understand that but... [LB917 LB933 LB1165]

ALICIA HENDERSON: I mean, you know I really...I can't say...our workload has increased so I know we have more students now that are being referred and being legitimately referred than we did prior to the law. So I'm going to...I'm not sure they were being sent, I guess is the best way to say it. [LB917 LB933 LB1165]

SENATOR ASHFORD: Well, I guess what I'm...I guess my question is has not the...shining the light on the problem of kids that didn't have excused absence and were out there without...they needed help, for whatever reason they weren't excused and they weren't coming to school, and we have I think helped in that regard obviously because these kids are now...there are stories upon stories that we're not hearing necessarily today but that I've heard where children were almost saved really by...and I'm not saying it was because of our law but they were saved. They were out of school for many, many weeks and now they're back in. I've heard so many stories in my area of Omaha of kids that literally, I didn't know people cared about me. And that is a human...that's sort of the flip side of the story we're hearing today of a young lady who's going to Haiti and changing the lives of Haitians. Trying to balance that out is really...it's...and parse that out is a big challenge. And I guess my only...and I applaud...we're going to end the hearing now but I applaud absolutely everybody for being here. And I just...and really I'm struck by everybody who spoke on all sides of all these bills by the passion and caring they have for children. That's why we're here. We're going to have to sort this out and parse this out and we will be spending time on it. So thank you all very much for... (See also Exhibits 28-45) [LB917 LB933 LB1165]