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Judiciary Committee
January 20, 2016

[LB673 LB675 LB709 LB845 LB894]

The Committee on Judiciary met at 1:30 p.m. on Wednesday, January 20, 2016, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB709, LB673, LB675, LB845, and LB894. Senators present: Les Seiler, Chairperson; Colby Coash, Vice Chairperson; Ernie Chambers; Laura Ebke; Bob Krist; Adam Morfeld; Patty Pansing Brooks; and Matt Williams. Senators absent: None.

SENATOR SEILER: Welcome to the Judiciary Committee. I am Les Seiler, senator from Hastings and Chairperson of this committee. The committee members present are, on my right, Senator Williams from Gothenburg; Senator Krist from Omaha; Senator Chambers from Omaha; legal counsel, Josh. And Ollie is our clerk. Senator Pansing Brooks from Lincoln is present. Others will be coming in. They are currently introducing bills in other committees. Testifiers, please sign up your testifier sheet and give it to the page when you come up to testify; fill those out ahead of time so that we don't waste a bunch of time waiting for documents. We'll be on the lights today. You've got three minutes. And Senator Coash has just arrived from Lincoln. And if you've got documents you want to hand out, give those to the page and they'll get them handed out for you. We have a little bit different as I've been told that these mikes are all brand new and super sensitive. So you folks sitting in the back, if you don't want to be on the public record when you're talking to your neighbor, you might want to step out and talk rather than...because they have told me that they can pick up sound clear back to the back. So if you don't want to be on public record of what you're saying, be careful. And so that's the warning. Testifiers, speak clearly into the mike. We want to...that's for the transcribers to be able to get things done. We will silence our cell phones at this time...if I can get mine to go. Okay, Senator Morfeld has arrived. Okay, the first document, LB709, will be introduced by not Sara Howard but by the clerk. The rules regarding this is Senator Howard is introducing a bill in another Legislature committee, and so we will not be asking any questions of this young lady after she's finished and she will not be allowed to close. Hopefully Senator Howard will be back. You may commence.

TIMOREE KLINGLER: Okay, thank you. Good afternoon, Senator Seiler, members of the Judiciary Committee. My name is Timoree Klingler; for the record, that is spelled T-i-m-o-r-e-e, last name K-l-i-n-g-l-e-r. I'm the legislative aide for Senator Sara Howard, Legislative District 9. Senator Howard sends her apologies that she is unable to be here this afternoon to present her bill. Today I'm presenting LB709. LB709 is predominantly a code cleanup bill. The cleanup is presented in three parts. First, the bill provides a definition for an important term used in juvenile code. The definition of alternatives to detention provided in this legislation is aligned with national best practice and is consistent with the definition in use by the community-based aid grant funding evaluation and the JDAI, or Juvenile Detention Assessment Initiative, definitions committee. Second, it inserts the term "alternatives to detention" in the appropriate places in statute, striking and removing reference to an old term, "nonsecure detention," that currently

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creates confusion. And last, it brings the language defining staff-secure placement out of Chapter 83 and places it directly into the list of terms in the juvenile code without changing any existing statutory language. The final section of the bill does provide a new statutory right to a hearing when a child's liberty interest is infringed upon by an alternative to detention. A little background behind defining alternatives to detention and why this specific definition: Across the country and in Nebraska for the past several years, we have shifted our juvenile justice systems away from criminalizing measures and toward a developmental framework that emphasizes responding to risks and needs in the least restrictive setting. Since 2013, the Nebraska Legislature has appropriated money to the community-based aid grant fund in order to support counties growing evidence-based, community-based services to keep kids safely in their homes and out of detention centers and the courts whenever possible. One purpose of this fund has always been to invest in alternatives to detention, but that term has not previously been defined in juvenile code. To address the second part of the bill--striking "nonsecure detention"--the juvenile code currently contains a confusing term, "nonsecure detention," which lists a number of possible interventions of which only some would be true alternatives to detention. This term is only used a couple of places in statute. By replacing it with the newly defined alternatives to detention, it will provide greater clarity to intake officers making detention determinations and be more consistent with current on-the-ground practice. The last piece I will talk about is the new statutory right to a hearing when a child's liberty interest is infringed upon by an alternative to detention. Sometimes, when a child comes into intake and is screened out of detention by an intake officer but into an alternative to detention, that decision results in a service that, nonetheless, infringes upon the child's liberty. For example, a child is often released but fitted with an electronic monitoring ankle bracelet. Reports from Probation indicate that in some jurisdictions children are being placed in such alternatives for weeks and even months at a time before appearing before a court to have that restriction on their liberty considered. If a child does not actually require this level of supervision to be maintained safely at home, then without the hearing the child's liberty is being unfairly infringed upon and often on the county's dime. We do not want children wearing ankle bracelets without probable cause and we don't want counties paying for unnecessary services. This bill entitles the child to a timely hearing but permits the child to waive the hearing through counsel if they don't wish to fight the intake officer's decision. This is already common practice in many jurisdictions, so ensuring consistent practice across the state protects all children and prevents justice by geography. I thank you for your consideration of LB709. There will be individuals testifying behind me who are very well equipped to answer any technical questions about this legislation. Thank you. [LB709]

SENATOR SEILER: Thank you very much for your introduction. [LB709]

TIMOREE KLINGLER: Yes. [LB709]

SENATOR SEILER: Proponents for this bill, please come forward. [LB709]

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COREY STEEL: (Exhibit 1) Good afternoon, Senator Seiler and members of the Judiciary Committee. My name is Corey Steel, C-o-r-e-y S-t-e-e-l. I am the State Court Administrator for the judicial branch and cochair, with Senator Krist, of the State Juvenile Detention Alternative Initiative Collaborative. I am testifying today in support of LB709. I will speak to the two key components of this bill. First, one of the core strategies of the JDAI model is development of alternatives to detention. In order to do this, first sites must come to consensus on creation of common definitions. Douglas and Sarpy County both established similar definitions early on in their JDAI work. As the state collaborative began work to plan for expansion of JDAI into other areas of the state, a work group convened to begin development of common statewide definitions building on the work from the local sites. This definition work has also been in collaboration with efforts of Dr. Anne Hobbs and the Juvenile Justice Institute as they create the evaluation model for community-based aid funding programs. LB709's establishment of an alternative to detention is a critical step in ensuring continuity and consistency for alternative to detention programs statewide. This common definition will allow for consistent program development, common outcome measures, and eliminate confusion regarding what an alternative to detention program is and is not. The second point I would like to speak to in this bill is ensuring that anytime we infringe upon a juvenile's liberty through placing them in secure detention or an alternative to detention they are afforded a detention hearing. The current statute only requires a hearing if a youth is placed in a secure detention facility, yet a youth could be placed on an electronic monitor or placed in shelter as an alternative, which significantly infringes on that juvenile's liberty, and never receive a detention hearing or a hearing in front of a judge. While many jurisdictions do not conduct such hearings, it is not currently required, thus, LB709 is important to ensure equal access to the same procedural protections and avoid justice by geography. LB709 supports and connects ongoing reform efforts between communities funded with community-based aid dollars, Probation, and JDAI by establishing a common definition of alternatives to detention. Moving forward, this will allow us to have a comprehensive understanding of what alternatives to detention are working in Nebraska. Furthermore, it strengthens protections for juveniles when placed on an alternative to detention. And I am happy to answer any questions the committee may have. [LB709]

SENATOR SEILER: I have one, Corey. [LB709]

COREY STEEL: Yes. [LB709]

SENATOR SEILER: I have never heard this term used before: placement that utilizes physical construction or hardware. I understand hardware could refer to leg bracelet or something like that. But what's physical construction? [LB709]

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COREY STEEL: Physical construction is anything from a secure detention facility all the way to a shelter care, foster care. It's a placement. So anytime a juvenile, currently in law, is placed in detention, they will have that detention hearing. If they're placed in any other type of facility or if there's any... [LB709]

SENATOR SEILER: So it refers to a facility. [LB709]

COREY STEEL: Yep, any type of facility or... [LB709]

SENATOR SEILER: Okay, I envisioned this box that was used during Vietnam. Okay. Any other questions? Thank you, Corey. [LB709]

COREY STEEL: Thank you. [LB709]

SENATOR SEILER: Next proponent. You may go ahead. [LB709]

ANNE HOBBS: (Exhibit 2) Okay. Hello. My name is Dr. Anne Hobbs; it's A-n-n-e H-o-b-b-s, and I'm the director of the Juvenile Justice Institute at the University of Nebraska-Omaha. And I'm here as a proponent for LB709. One of the things that the Juvenile Justice Institute has been charged with through statute is evaluating all of the community-based aid programs. And what we've come across in the last year of doing that work is a deficit of consistent definitions for how we count and how we look at our different programs for juvenile justice across the state. The handout that you've just received, you can look at the top two lines. Of the programs, about 14.8 percent of our community-based aid funding goes towards alternatives to detention. And if we don't count or define those programs in a similar way, then evaluation of those programs becomes less meaningful. One purpose of the community-based aid fund has always been to fund alternatives to detention. But as far as I know, that's never been defined in juvenile code. So as we move forward evaluating those programs, some of the outcomes that we hope to look at will be whether or not those alternatives actually keep youth from committing a new law violation or to assist the youth in showing up for court. And as we've begun this discussion across the state, what we found is programs don't always...they're not always clear that they have the same outcome. So following a national and evidence-based definition of alternatives to detention will help us at the end of this evaluation process know whether or not they're effective in doing that and effective in reducing recidivism for youth involved in those programs. I'd be happy to answer any questions you might have. [LB709]

SENATOR SEILER: Any questions? Senator Krist. [LB709]

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SENATOR KRIST: Dr. Hobbs, thanks for all your work and thanks for coming today. I just...just to make a point, kind of a foot-stomper here, when you evaluate, you need apples to apples. [LB709]

ANNE HOBBS: Exactly. [LB709]

SENATOR KRIST: And if we don't have an apples to apples, then your evaluation and potentially the metrics will skew and, therefore, the taxpayers' dollars that are put into those programs may be misspent in things that are not evidence based. What we're doing here is harmonizing those definitions in order to make sure that we're spending every dollar for something that is evidence based in process and agreeing on that definition. [LB709]

ANNE HOBBS: Exactly. And we'll be able to tell exactly through this evaluation how many days youth spend on each of these different types of interventions, so it'll track back exactly to the dollars. [LB709]

SENATOR KRIST: And not...I don't want to call out any particular county or jurisdiction, but there are some big discrepancies in terms of what some numbers reflect and others that are not necessarily within line. [LB709]

ANNE HOBBS: Absolutely. [LB709]

SENATOR KRIST: Can you talk to that for just a second? [LB709]

ANNE HOBBS: Yeah, I'll give you a very clear example of that is we have two alternatives to detention and one of them, when the youth is...fails somehow, is sent to detention, they count that as an unsuccessful closure. In another county they count that as just one...another intervention. So the amount of time the youth is in the program looks longer in that program, and the fact that they didn't unsuccessfully close because they ended up in detention, so two very different outcomes of a program that are really essentially doing or designed to do the same thing, so. [LB709]

SENATOR KRIST: Thank you so much. [LB709]

ANNE HOBBS: You bet. [LB709]

SENATOR SEILER: Any further questions? Seeing none, thank you. Next proponent. [LB709]

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JULIET SUMMERS: (Exhibit 3) Good afternoon, Chairman Seiler and members of the committee. You've already heard some testimony about how this definition and the clarifications presented in this bill are consistent with work being done on the ground, so I'll skip that first part of my testimony that you'll have in written form in front of you and go straight to the numbers. Voices for Children in Nebraska supports this bill. Oh, I didn't introduce my name. I'm Juliet Summers, J-u-l-i-e-t... [LB709]

SENATOR SEILER: You need to state your name and spell it for the record. [LB709]

JULIET SUMMERS: Thank you, Chairman. I'm Juliet Summers, J-u-l-i-e-t S-u-m-m-e-r-s. I'm here on behalf of Voices for Children in Nebraska and we are supporting this bill. [LB709]

SENATOR SEILER: Thank you. [LB709]

JULIET SUMMERS: So here's why LB709 will matter for kids. In 2014, 2,777 kids were admitted to detention facilities in Nebraska. And a study commissioned by Probation of their risk assessment instrument, which is used at the moment of juvenile intake, showed that from September of 2013 to August of 2014, the average score on that instrument was for release to an alternative to detention, rather than detention. However, officers overrode the tool almost 45 percent of the time, and it was usually upward, sending kids who were scoring out to detention. The study didn't draw any conclusions or couldn't say whether...and this was a study conducted by UNO, JJI, that Dr. Hobbs ran. It didn't draw conclusions about whether the array of available alternatives to detention were a part of that calculus, but it certainly puts the stakes into perspective: that in Nebraska children are being detained who may not require that level of secure confinement. So it's vital that we do what we can to clarify our statute, and to provide counties with resources, incentives, direction to invest in alternatives that are going to work for kids. On the piece regarding the substantive, the new right, the part that's not (inaudible), adding a right to counsel for a hearing or adding a right for a hearing when a child is placed in an alternative, the RAI study that I just referenced also tracked the number of days between the intake decision being made and when the child first came to court. And judicial district averages were all over the place. The lowest average number of days between intake and hearing was 16.9. And the longest average number of days, which was a small number of kids but it was the average, was 97.8 days between seeing that intake officer, getting scored on the RAI, and then actually coming to court to have a judge hear whether there was probable cause for the charge, if there was an alternative the child was placed on, whether that was appropriate or not. So if a child is released from detention but placed on an electronic monitoring ankle bracelet, he may not get back into court for weeks or even months to have a judge confirm that decision. LB709, as you've already heard, will prevent justice by geography in these cases in requiring that a timely hearing be held unless waived by the child through counsel. Voices for Children thanks

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Senator Howard for her commitment to protecting our kids through wise state investments and a clear juvenile code and we thank this committee for your time and consideration. I'd be happy to answer any questions. [LB709]

SENATOR SEILER: Senator Morfeld. [LB709]

SENATOR MORFELD: Well, thank you for coming today, Juliet. Have you had a chance to look at the fiscal note and... [LB709]

JULIET SUMMERS: I did. I saw there was a fiscal note this morning. And, you know, frankly, I was surprised by that fiscal note. So the Supreme Court came back zero. HHS: zero. Douglas County Youth Center estimated nearly \$500,000 that would be required to make changes to their facility based on this bill. The reason I was surprised by that number is because the piece of this bill that relates to a staff-secure juvenile facility actually creates no new law. It moves the definition of staff-secure juvenile facility that already existed in statute. It just takes it out of Chapter 83 and places it in the juvenile code. So no new law is created that would force any of the facilities in Nebraska to change their practice. If they're not already a staff-secure juvenile facility, per the law, then there shouldn't be an additional cost this year based on this bill since it doesn't create any new requirements in that regard. [LB709]

SENATOR MORFELD: Okay. Any theories on why Douglas County? No. [LB709]

JULIET SUMMERS: I don't. [LB709]

SENATOR MORFELD: Maybe somebody is here today. [LB709]

JULIET SUMMERS: Yeah. [LB709]

SENATOR MORFELD: Thank you. [LB709]

JULIET SUMMERS: Thank you, Senator. [LB709]

SENATOR SEILER: Senator Krist. [LB709]

SENATOR KRIST: Just a reminder to my colleagues, one, the fiscal note that we were supposed to be responsible for, and, two, legally is the legislative fiscal note analysis, and although it's mentioned here, it is inconsistent with the other fiscal notes that are there. But my question for

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you and my comment, obviously 100 days is way too long for a child to be...whose liberty has been taken away anyway not to be responded to. So that's a big problem, understandable. But I want you to elaborate, if you will, on...because those of us that are attuned to it understand exactly what you meant. When you say that a parole officer...sorry, intake officer overrode the tool, that means that a tool for assessment in terms of whether this child is at risk in different categories and comes up with a conclusion tool that an individual subjectively would have overridden the result of that tool. Can you elaborate on that for... [LB709]

JULIET SUMMERS: Yes. So Probation Administration has created a risk assessment instrument that is used whenever a child is brought to a detention center on a new charge. And there are others in the room who are more expert than I in this who could maybe answer more detailed questions about it. But that instrument is tailored and based on other national examples to consider whether the child presents a risk to society if released, a risk to reoffend before coming back to court, and whether the child presents a risk of flight to avoid court proceedings. So the two things you're supposed to consider, just like in an adult jail consideration when an adult gets a bond, it's based on whether they'll come to court or whether they'll reoffend in the meantime before coming to court. So the RAI has a series of questions and the intake officer fills it out, scoring the child. There's certain points that you can get if you've run in the past, if you have picked up new charges while already on probation, etcetera, trying to get a neutral way to look at, an objective way to look at those questions of risk. And the RAI study, to their credit, Probation commissioned the study to try and validate their tool and say this is working. And what they found is that when kids are released from detention based on their low score, they score low risk to reoffend or risk to run, that those kids overwhelmingly are coming back to court, they're not missing their court hearings, and overwhelmingly they're not reoffending in the meantime. So for those kiddos who score for release and are being released, there's great results there. The concern that's highlighted by this study is that they couldn't ultimately validate the tool because probation officers were so often overriding it, as you say. The child on average scores to be released to an alternative to detention, the average score was something like 7.7, which is a score to go home with a little extra supervision or go to a shelter maybe if you can't be home. But instead, 45 percent of the time probation officers are saying, I don't trust this tool is capturing that risk and so I'm going to essentially ignore its conclusion, and in most cases they override up and then the child ends up in detention. So it's a concern. It's a real concern. And as I said, the study didn't draw conclusions about whether it's because of a lack of alternatives to detention or whether there's something else going on. But it certainly throws into sharp perspective how important it is that we fund the right resources so that a probation officer doesn't have to look at a kid and say, I'm too worried about you, I'm sending you into the detention facility. [LB709]

SENATOR KRIST: Thank you. [LB709]

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SENATOR SEILER: Yes, Senator Williams. [LB709]

SENATOR WILLIAMS: Thank you. And thank you, Ms. Summers. I have a point of clarification. I think you used the term geography versus justice. Am I right on that one? [LB709]

JULIET SUMMERS: Justice by geography. [LB709]

SENATOR WILLIAMS: Justice by geography. The judicial district averages, am I making a correct assumption that those that are on the very low end of those averages are judicial districts that actually have juvenile justice courts as compared to many parts of our state where the judicial districts, the district court is...the normal district court that handles everything else is also handling this. [LB709]

JULIET SUMMERS: I think you're correct, Senator. So I know that the lowest one I've listed here, 16.9, is District 2, which would be Sarpy County. And they have a separate juvenile court. I know from personal experience that in Douglas County any alternative to detention gets a hearing within 24-48 hours, so I can speak from personal experience to Douglas. I don't know about Lancaster. I just am not certain what their practice is. And I believe that this 97.8, I believe it's District 7, which is Madison, Antelope, so, yes, I think that's a good point that... [LB709]

SENATOR WILLIAMS: And I am certainly not trying to indicate that 100 days is justifiable, okay? I'm just trying to point out that there could be a difference there based on that. Are there other differences that you're aware of between those different judicial districts that would lead to this result? [LB709]

JULIET SUMMERS: I think...so obviously it's... [LB709]

SENATOR WILLIAMS: Do they have the availability, the same services in Lexington, Nebraska, District Court as they do in other places? [LB709]

JULIET SUMMERS: Certainly we have a different array of services and programs available in different parts of our state. There are areas of our state where an electronic monitor through Probation may be the only available alternative to detention. So in terms of service array, absolutely. And the way the community-based aid fund is distributed and calculated plays into that. In terms of the hearing question and the coming to court question, I think it comes back to availability of judges is part of it. And certainly in areas where there is a separate juvenile court

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that's dedicated only to doing this, that makes it a little easier. But I would say that even in our rural districts, you know, judges, there's fewer kids too. [LB709]

SENATOR WILLIAMS: In your judgment, does LB709 put an undue burden based on the requirement for a timely hearing to those areas that don't have a separate juvenile court? [LB709]

JULIET SUMMERS: No, I don't believe so. [LB709]

SENATOR WILLIAMS: Thank you. [LB709]

JULIET SUMMERS: Thank you, Senator. [LB709]

SENATOR SEILER: I have a question. Do you have those numbers broke down by districts, judicial districts? [LB709]

JULIET SUMMERS: They...in the RAI study they are broken down by judicial district and I didn't bring a copy. [LB709]

SENATOR SEILER: Could you make those available to the committee? [LB709]

JULIET SUMMERS: Absolutely. [LB709]

SENATOR SEILER: Because, you know, we've got a statute that says 24 hours and another statute says 48 and you aren't even talking hours, you're talking days. [LB709]

JULIET SUMMERS: Right. [LB709]

SENATOR SEILER: So we need to see where they went astray on that. [LB709]

JULIET SUMMERS: And to clarify, our statute that we currently have, 24-48, specifically refers to detention, so absolutely when a child is placed in detention they have that right to a hearing. What this bill adds to that then is when a child is placed on an electronic monitor or sent to a shelter saying that kiddo also is having their liberty infringed and they need a court to look at it and confirm it in a timely way. [LB709]

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SENATOR SEILER: Does your study break down between detention placed in a youth facility of some kind or ankle bracelets? [LB709]

JULIET SUMMERS: It doesn't actually, and I feel sort of badly talking about it since Dr. Hobbs is in the room. But I think what they've broke down is detention or release. [LB709]

SENATOR SEILER: Okay. [LB709]

JULIET SUMMERS: So another clarification I should make is these numbers--16.9, 97.8--it's possible that 97.8 kid was just released straight home. That is totally possible. It's also possible they were released with an ankle bracelet. [LB709]

SENATOR SEILER: I think our committee would like to see that stuff. Thank you. [LB709]

JULIET SUMMERS: Absolutely. [LB709]

SENATOR SEILER: Anything else? Seeing none, thank you. [LB709]

JULIET SUMMERS: Thank you. [LB709]

SENATOR SEILER: Next proponent. [LB709]

COREY STEEL: Senator Seiler, I'll get you a copy of that study. I'll get it to your... [LB709]

SENATOR SEILER: Oh, okay. We've got a copy. Okay. Will you state your full name and spell it for the record. [LB709]

MARGENE TIMM: Margene Timm, M-a-r-g-e-n-e; last name, Timm, T-i-m-m. I'm an attorney with the Lancaster County Public Defender's Office. I've been an attorney there 26 years. I've been the supervisor at the juvenile division for a little over 15 years now. Lancaster County has been developing and utilizing detention alternatives for a number of years now. Over the past year, our prosecutors have started filing motions for detention alternative hearings. Those come into court on a timely basis. So this LB essentially codifies the practice that we already have in place in Lancaster County. The right to a hearing is a very important one though; it does need to be in statute. And it's important for all parties. The prosecutors want to be heard as to whether or not they agree with the probation officer's decision. The judge gets to make the ultimate decision. And from the juvenile's point of view, it's very important that they have their due process rights

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heard as to the curtailment of their liberty. In general we are very supportive of this bill. There is one concern though in terms of the language that could affect Lancaster County. One of our alternatives to detention that has been utilized a lot the past year, it's continuing to be developed, it's one that we do place a lot of kids into, is our CEDARS shelter. The CEDARS shelter does probably fall under the definition in sub (3) where the last clause or the last sentence, where it says, "Placements that utilize physical construction or hardware to restrain a youth's freedom of movement..." My understanding is that the CEDARS shelter uses a keypad that only staff have the code for in order to allow the juveniles in and out of the facility. This definition is different than the definition that is in...now in sub (24) which is a specific definition of staff secure which says that it's operated by a political subdivision. In Lancaster County we do still place status offenders in staff secure. And if we're unable to use CEDARS shelter as an alternative to detention because it doesn't meet this definition, the concern as a defense attorney is that my clients are not going to be in the CEDARS shelter, they're going to be back in staff secure. So we do generally support this (inaudible); however, we do have some concern regarding that last sentence in the new paragraph (3). I would answer any questions if anyone has one. [LB709]

SENATOR SEILER: Seeing none, thank you very much. Next proponent. [LB709]

TOM McBRIDE: (Exhibit 4) Good afternoon. My name is Tom McBride, T-o-m M-c-B-r-i-d-e. I'm the executive director of the Nebraska Juvenile Justice Association. And I don't want to belabor testimony. I agree with what has been testified, you know, the testimony before me. I would like to point out though that in this bill, this is not a bill to eliminate secure detention. It's to utilize the alternatives that we have, the best practice alternatives to detention that's available that are becoming more and more available as studies continue. I also...we also believe strongly in the hearing portion of the bill and we would just offer our support of LB709. [LB709]

SENATOR SEILER: Any questions? Seeing none, thank you very much, Mr. McBride. Please come forward. [LB709]

JOY SUDER: Good afternoon. My name is Joy Suder, J-o-y S-u-d-e-r. I am an attorney. I practice in Douglas County predominantly. It's where my office is. I was a public defender for six and a half years in Douglas County. I'm in private practice now and I primarily represent kids. I focus on juvenile justice matters. I'm testifying today in support of LB709, specifically as it pertains to these definitions and the specification, the changing of the consistency now of the staff-secure juvenile facility under section (24), the proposed, and then removing the language of nonsecure detention. Specifically what I'd like to talk about briefly is that presently in Douglas County Juvenile Court, a child at a detention hearing could be placed in--what the court would say--staff secure at Douglas County Youth Center. The judge might say shelter placement if available, otherwise staff secure, with the suggestion being that staff secure at Douglas County

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Youth Center is the equivalent of a shelter placement. It is not. Staff-secure placement at Douglas County Youth Center, or nonsecure as they call it, the child is forced to dress out in the garb of a...as a child who would have been ordered to secure detention. That child has to be transported to court shackled--wrists and ankles and then wrists connected to ankles. They're kept in a separate holding area prior to court hearings. In compliance with what was passed last year, those children are now brought into the courtroom, the shackles are removed or unclipped, but they still are dressed out in the garb of the youth center, similar to a child who would have been detained on the secure side. It is...now what is incredibly unfair, in my opinion as a defense attorney, is that that child who might be in staff secure at the youth center is also eligible for a shelter placement where they could wear their own clothes, where they could participate in programming, where they could go to school, things like that. So I think it's very important to pass this so that we can eliminate that secure...ultimately what still is a secure detention at the youth center even though we might call it something different. Thank you very much. If there are any questions...? [LB709]

SENATOR SEILER: Any questions? Seeing none, thank you very much. [LB709]

JOY SUDER: Thank you. [LB709]

SENATOR SEILER: Next proponent. [LB709]

MELANIE WILLIAMS-SMOTHERMAN: Good afternoon, Senators. My name is Melanie Williams-Smotherman. I'm the director of the Family Advocacy Movement, which is a grassroots organization founded in 2009 that provides a voice for families who feel silenced. And I have done in the last several years many interviews with youth, with parents, with professionals in the various industries involved with child welfare and juvenile court. And I am here to speak to several bills, but this particular bill I am a proponent of. The only caveat that I have...and I always will have a caveat when I read through these bills because I want to ensure that it's more than window dressing because we already have statute language in place that is supposed to ensure timely hearings for families and youth. And all too often there are opportunities for those rights to be violated and there's no viable complaint mechanism for families to bring this to the attention of anyone when it happens. And I can tell you from my experience with advocating that it does happen and it's the word of the professionals who have access to all of the resources against the family and the youth. So everything I say to this committee is going to be with an addendum, a caveat. And in this particular case, the language that says a juvenile placed in an alternative to detention but not in detention may waive this hearing through counsel, I'm very concerned about that language because youth are easily coerced, they're easily stripped of their right to due process. And as we've seen too often, counsel that is not provided by the parents themselves or the voice of parents, who care most for their

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children, don't always represent the best interest or the desires of the youth. So, you know, I'm concerned about any waiver of a hearing for a youth in this particular case. [LB709]

SENATOR SEILER: Would you spell your name for the record. [LB709]

MELANIE WILLIAMS-SMOTHERMAN: I'm sorry. M-e-l-a-n-i-e Williams, hyphen, S-m-o-t-h-e-r-m-a-n. [LB709]

SENATOR SEILER: Thank you very much. [LB709]

MELANIE WILLIAMS-SMOTHERMAN: Thank you. [LB709]

SENATOR SEILER: Any questions? Seeing none, thank you very much. Any more proponents? Are you...ma'am...okay. I saw you. Any opponents? Anybody against this bill? Any opponents? Anybody in the neutral? [LB709]

BRAD ALEXANDER: (Exhibit 5) Good afternoon, Senator Seiler, members of the Judiciary Committee. [LB709]

SENATOR SEILER: Good afternoon. [LB709]

BRAD ALEXANDER: My name is Brad Alexander. I am the superintendent of the Douglas County Youth Center and I am testifying neutral on this bill. [LB709]

SENATOR SEILER: Will you spell your name, please. [LB709]

BRAD ALEXANDER: I apologize, yes. [LB709]

SENATOR SEILER: No problem. [LB709]

BRAD ALEXANDER: Brad Alexander, B-r-a-d A-l-e-x-a-n-d-e-r. [LB709]

SENATOR SEILER: Thank you. Go ahead. [LB709]

BRAD ALEXANDER: You're welcome. The fiscal note that you referred to earlier, I'm hoping that we can tear that up shortly. My testimony has to do with conversations that I have had with

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counterparts throughout the state: Sarpy County, Lancaster County, Northeast Nebraska Juvenile Services, and Western Nebraska Juvenile Services. And I've been asked to bring these points to you hopefully just for clarification. I agree with the previous testimony that it doesn't appear that what we do, for those of us that have staff-secured facilities, should have to change. The concern that we have is similar to the concern that you mentioned earlier, Chairman Seiler, and that has to do with the hardware and the construction. We just want to be sure that we're doing what is expected. We have, as do others--I think all of the staff-secure facilities, and you heard mention of a shelter and so forth--we have a 30-second delayed egress on the door that leads out of our staff-secure facility. And all we want to know, and again I speak for the other people that are operating the staff-secure facilities, is if that...is that allowed to continue? The fiscal note that you saw from Douglas County only relates to the fact that if that is not allowed to continue and there's got to be a door that is unsecured, always available to the young people, then, yeah, we felt that there would be...could potentially be a need to increase staff. And that's the purpose for the fiscal note. With that, I'll answer any questions that you might have. And if I may add just one more thing, too, one of the concerns that we had with the...you talked about some of the interest in making sure that young people attend court and so forth and if they're to walk away. And we do a lot to try to discourage and to keep kids from moving deeper into the system. And if they were to walk away, we're concerned that they'll return and with additional charges and maybe even more serious charges. So I apologize and I will be happy to answer any questions that you might have. [LB709]

SENATOR SEILER: Any questions? Senator Williams. [LB709]

SENATOR WILLIAMS: Thank you. Mr. Alexander, I'd like to ask the same question that I did of Ms. Summers when she was up here trying to compare those areas where the district court is covering the juvenile justice system too. And you mentioned that you talked to Northeast Nebraska and Western Nebraska. Were there any concerns that LB709 put undue burden on those counties as compared to counties that have a separate judicial system for juveniles? [LB709]

BRAD ALEXANDER: Senator, I apologize, I can't speak specifically to that. The conversations that...the communication I had with my counterparts throughout the state had to do with section (24) of LB709. [LB709]

SENATOR WILLIAMS: Okay, thank you. [LB709]

BRAD ALEXANDER: You're welcome. [LB709]

SENATOR SEILER: Seeing nothing further, thank you very much. [LB709]

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BRAD ALEXANDER: Thank you all. [LB709]

SENATOR SEILER: Any further people for neutral? Seeing none, close this. And Senator Howard has not appeared, so we'll go on to the next bill. Next bill is LB673, Senator Krist. [LB709]

SENATOR KRIST: Thank you, Chairman Seiler. My name is Bob Krist, B-o-b K-r-i-s-t. I represent the 10th Legislative District in northwest Omaha, along with north-central portions of Douglas County; it includes the city of Bennington. I appear before you today in introduction and support of LB673. I have some prepared notes, and then I'd like to make some comments as part of my introduction. The intent of LB673 is to allow county boards the flexibility to create internal guardian ad litem, GAL, divisions. While LB673 applies to all counties, I'm introducing it with the knowledge of my own home county, Douglas County, in mind. As you probably know, the Douglas County Board at one time had contracts with private law firms to handle the bulk of the GAL attorney appointments. That didn't work out very well. The board ultimately did not renew the private contracts and now the juvenile court is appointing private attorneys as they see fit, and therein lies some of the problem. GAL appointment mechanics is challenging for county boards across the state. This is particularly true in Douglas County due to the county's sheer population creating a demand on the legal system. Currently county boards are forced to pay the attorney bills and costs associated with GAL representation fees; however, those boards are severely limited in their effort to ensure sufficient accountability and cost control in their own budgets for the services. As I've stated, this is especially difficult in Douglas County. To give the committee an idea of the annual cost facing Douglas County, the county has budgeted to spend nearly \$5.15 million on attorney fees for GAL services alone in 2015 and '16. There will be county commissioners to talk to that issue behind me. I won't speak to the money. LB673 would also require that the juvenile court make GAL appointments first to internal division if one exists. The GAL division would notify the court in case of conflicts of interest, at which time the court would appoint private GAL counsel. Probably to the heart of this is the county GAL division would save taxpayers' dollars. But additionally, since LB673 would allow a county board to set the fee rates paid to attorneys' GAL services, this would, in turn, provide county boards more predictability when budgeting for annual GAL costs. We had a hearing--my personal comments--that brought and exposed the representation, or lack thereof, to the GAL process using a contract system with two firms in the Douglas County area. When those firms were not...when contracts were not renewed, the judges in Douglas County, one in particular, felt it was her prerogative to increase the pay of the GALs as they saw fit. I believe, if I read--and I have been exposed to separation of powers in the constitution over the past several months--I'm pretty sure that appropriation and setting fees is not part of a judicial function. That inherently allows for a payment process where someone is setting the fees and has no accountability for writing the checks. I find that disturbing. I'm not suggesting that the GAL process does not need to be paid attention to, nor that our children need to have...and any GAL should be paying

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attention to civil liberties and rights. However, it is a cost accountability and transparency to the citizens and the taxpayers in terms of how the money is being spent. I'm happy to talk to the committee about any changes that need to be made and I stand for any questions at this time. I will close and I'd like to allow the folks behind me to come up and talk about the issue. [LB673]

SENATOR SEILER: Questions? Thank you, Senator. [LB673]

SENATOR CHAMBERS: Just one thing. [LB673]

SENATOR SEILER: Oh. [LB673]

SENATOR CHAMBERS: We're not allowed to throw things at him, are we? [LB673]

SENATOR SEILER: No. [LB673]

SENATOR CHAMBERS: Okay. [LB673]

SENATOR KRIST: You're not (laughter). [LB673]

SENATOR SEILER: Proponents of this bill, please come forward. [LB673]

MELANIE WILLIAMS-SMOTHERMAN: Senators, again, my name is Melanie Williams-Smotherman, M-e-l-a-n-i-e W-i-l-l-i-a-m-s, hyphen, S-m-o-t-h-e-r-m-a-n. And I am in support of this bill because this is an ongoing discussion that we have worked very hard at in Douglas County, no more than Laura McCormick, who is also in this hearing room right now, who is actually the person, a mere citizen, who spent hundreds of hours of volunteer time combing through records and pulling financial information and really compelling this issue to be looked at more carefully until these contracts were finally questioned appropriately. This system in Douglas County is in a state of flux. There is no decision as to how to move forward appropriately. And my interest in it is the due process and civil liberties of these youth and families who come before the court and are automatically provided an attorney appointed by judges who get to hand select whomever they want, which is also not best practice in our country, which really does require a rotation wheel that does not leave attorneys beholden to the very judges that they are practicing in front of. What we are finding too much in the juvenile court arena is that these guardians ad litem are no more than rubber stamps for the state too often, and that the youth don't even know who their guardians ad litem are for the most part, much less that these people are attorneys who really do know the clients that they are being paid to represent. So there are a lot of problems that I'm hoping that bills such as this and the

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conversations will perpetuate more discussion, more awareness of really what's happening. And ultimately, taxpayers are held to having to foot this bill for unaccountable services that are actually denying due process. So I thank the senators for continuing to look at this problem. I support the work of Commissioner Borgeson and her willingness to let us come forward and speak publicly about these issues because not everyone on the county board in Omaha is friendly to that idea. So it's been a rough road, but here we are. And I appreciate all of you listening. [LB673]

SENATOR SEILER: Senator Chambers. [LB673]

SENATOR CHAMBERS: It seems to me that the county board is more interested in the fiscal aspect of this than the quality of representation that would be given. And you get what you pay for. [LB673]

MELANIE WILLIAMS-SMOTHERMAN: Right. [LB673]

SENATOR CHAMBERS: If the county board is interested in making it appear that they're not going to raise taxes, that they're going to be fiscally conservative, then they wind up hiring people who may not have work anywhere else they can get, they may be inexperienced. And my concern is that these children have somebody who knows the law, is aware of the duties of a guardian ad litem, who will carry them out. [LB673]

MELANIE WILLIAMS-SMOTHERMAN: I agree. [LB673]

SENATOR CHAMBERS: So I'm not convinced this is going to do anything other than put the county board in a position to say, well, if we want to cut the budget by or cut taxes, then we will put less money for guardians ad litem and we'll just hire whoever will work for us for this amount of money. So I'm skeptical, not challenging you... [LB673]

MELANIE WILLIAMS-SMOTHERMAN: Right, I understand. [LB673]

SENATOR CHAMBERS: ...or attributing bad motives to you. But whenever I see a political body having control over the legal representation of those who cannot speak for themselves in the first place,... [LB673]

MELANIE WILLIAMS-SMOTHERMAN: Right. [LB673]

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SENATOR CHAMBERS: ...I'm skeptical. [LB673]

MELANIE WILLIAMS-SMOTHERMAN: And, Senator, I really appreciate your comments because those are all of the caveats that I always have running through my head when I think about all of these questions. And all I can say is the entire process is political. And I'm not in any way here to speak for the motives of the Douglas County Board because I agree that their responsibilities or what they sit in representation of is the taxpayer of Douglas County. And so that is what's driving a lot of probably their thoughts. But I do know that it wasn't that which brought this question to the forefront. It was the fact that these attorneys who supposedly have all this experience weren't doing their jobs and they still aren't, and that these judges are assigning whomever they want at their discretion. And it's not guaranteeing, no matter how much money you throw at these attorneys, it won't guarantee quality unless we have some system in place that ensures accountability and the transparency. [LB673]

SENATOR CHAMBERS: I just wanted to have my comments made so when you're not up here, you won't feel that I'm attacking you... [LB673]

MELANIE WILLIAMS-SMOTHERMAN: I appreciate it. [LB673]

SENATOR CHAMBERS: ...by things that I will address to others who will come after you. [LB673]

MELANIE WILLIAMS-SMOTHERMAN: Yes. And I appreciate your thoughts on this. [LB673]

SENATOR CHAMBERS: Okay. [LB673]

SENATOR SEILER: Any further questions? Seeing none, thank you for your testimony. Next proponent. [LB673]

VAUGHN CROWELL: Senator Seiler, members of the Judiciary Committee, my name is Vaughn Crowell, V-a-u-g-h-n C-r-o-w-e-l-l. I reside at 15286 Blackwell Drive in Omaha and I'm here representing myself. I am a supporter and proponent of LB673. As shown in the statement of intent, LB673 provides county boards with authority over the rates and fees paid to attorney services...for attorney services. I believe this is a strong step forward in moving towards more accountability in government for the use of tax dollars to meet the needs of juveniles that come before the courts. The courts though have guidelines for monitoring court-appointed attorney fees. These guidelines state, in part, and this is from the Nebraska Supreme Court Web site:

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Judges of the Nebraska judicial system may, in writing, request any inquiry by the Supreme Court into inadequate compensation for court-appointed attorneys in counties within their judicial district. Even though the courts will maintain their finger on the pulse, LB673 moves the setting of fees to a body of government that citizens have access to. A citizen could contact their representative on the county board, talk about fees, schedules that reward efficiency and discourage inefficiency, as well as talk about opportunities that promote and support already existing pro bono legal services, programs such as the Nebraska Volunteer Lawyers Project. In closing, I support LB673 because the philosophy of supporting transparency, efficiency and, most importantly, a voice in government is sound legislation. Thank you. I'll answer any questions if you have any. [LB673]

SENATOR SEILER: Thank you. Seeing none, thank you for your testimony. [LB673]

VAUGHN CROWELL: Thank you. [LB673]

SENATOR SEILER: Next proponent. [LB673]

ROBERT McEWEN: (Exhibit 1) Chairman Seiler and members of the Judiciary Committee, my name is Robert McEwen, R-o-b-e-r-t M-c-E-w-e-n, and I am a staff attorney in the child welfare program at Nebraska Appleseed. Nebraska Appleseed is a nonprofit organization that fights for justice and opportunity for all Nebraskans. And I'm going to be brief in my comments today, but we felt that it was important to let this committee know that the Nebraska Appleseed Center for Law in the Public Interest supports LB673. We believe that this bill builds on the work done by Senator Krist and this committee last year through LB15. We do support giving counties the option to create a GAL division if an individual county determines that the creation of such an office is in the best interest of the children in that county. There are certain advantages to centralizing representation within one primary law office representing children in a county. For example, younger attorneys could benefit from mentorship by more experienced attorneys; best practices within a county could become more uniform; and individual attorneys could utilize a wider range of resources within a larger office. Furthermore, a centralized location could potentially ensure that a county has more oversight of the practice of attorneys within such a division and could ensure that an attorney has a reasonable caseload in accordance with national best practices. However, we would caution county officials to think carefully about making such a choice as we feel that the structure that serves the best interest of children should be the primary guiding factor in making such a decision and not an attempt to save county funding. Certainly funding could be saved through reduction of redundancies, but the primary factor should be the best interest of children within a county. This is to ensure that children's rights are adequately represented and the division should adequately be funded and staffed to serve the best interests of children within that county. In addition, while we support the goals of LB673, we

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would suggest an amendment that would create a mechanism for juvenile courts to appoint outside counsel if doing so was appropriate in an individual case and not just in a conflict situation. For example, there may be commonly situations where a particular attorney in the county has specialized expertise that could benefit an individual child client. So in conclusion, we'd like to thank Senator Krist and the Judiciary Committee for their work on this issue and we respectfully request that you vote to advance LB673. And I'd be happy to answer any questions. [LB673]

SENATOR SEILER: Yes, Senator. [LB673]

SENATOR CHAMBERS: Did you have your hand up first? [LB673]

SENATOR KRIST: No, I can't ask any questions. [LB673]

SENATOR CHAMBERS: Did you say something about reasonable fees for these guardians ad litem? [LB673]

ROBERT McEWEN: We did say that if a county does choose to make this decision, it's our opinion that that office needs to be fully funded and fully staffed. [LB673]

SENATOR CHAMBERS: The question I'm asking, and maybe I haven't seen something in the bill, where does it say that if the county board establishes this division and the court is required to go to them first, where does it say anything about the county board setting a reasonable fee in the bill? [LB673]

ROBERT McEWEN: I think it's later on in the bill. [LB673]

SENATOR SEILER: As close as you can come is paragraph...Section 2, page 5. [LB673]

ROBERT McEWEN: And we didn't...and I did not comment on that section of the bill. [LB673]

SENATOR CHAMBERS: And that's why I was...I wanted to engage him. [LB673]

SENATOR SEILER: I'm waiting for the county commissioner to come up. [LB673]

SENATOR CHAMBERS: Oh, there's somebody from the county here? [LB673]

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SENATOR SEILER: Yes, they mentioned it. [LB673]

ROBERT McEWEN: I believe Senator Krist mentioned it in his opening. [LB673]

SENATOR CHAMBERS: Oh, then I'll just wait. [LB673]

ROBERT McEWEN: Thank you (laughter). [LB673]

SENATOR CHAMBERS: But here's...no, on that part, on that part. But what I want to ask you, your understanding is that, first of all, Douglas County does not have such a division now. [LB673]

ROBERT McEWEN: That is correct, Senator. [LB673]

SENATOR CHAMBERS: Did they determine to establish this division then the bill was offered? Or did they want the bill drafted and then, if it looked like it might go, they would then establish the division? Do you know which came first? [LB673]

ROBERT McEWEN: I don't. We weren't involved in the creation of this bill in any way. [LB673]

SENATOR CHAMBERS: And you're confident that if a county board is going to determine what is a reasonable fee, that they will not let the fiscal concern supersede the quality of representation for the young people? [LB673]

ROBERT McEWEN: I think with citizens like Laura McCormick and Melanie Williams-Smotherman in the audience, they'll hold those folks accountable. That's what my hope would be. [LB673]

SENATOR CHAMBERS: The county board is not accountable to anybody, are they? People say, "to the voters," but that doesn't really mean anything, because there are voters upset with a salary increase, but the salary increase went through. If this were any other issue, if you're talking about roads, cleaning the streets or plowing snow, I'd have some interest, but not to the extent I have in this, where young people have been given short shrift in Douglas County in a lot of ways. And some people are skeptical about the courts. Others, such as myself, are skeptical about politics and politicians and a political process. I am a politician. I do not say, like some people who are politicians, that I'm a statesman. I'm not a statesman. The constitution doesn't describe me as

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that. We are in politics. I hear a lot at the local level about holding down budgets so that you don't have to raise taxes. I live on 18th and Binney, 19th and Binney, right on the corner, and it snowed in Omaha the other day. Binney Street is not just a throwaway street. It's not special because I live on that street. But there is a large Catholic church also on Binney Street, and I'm mentioning that because, as atrocious as the snow removal has been, the mayor and everybody has to know that there are activities on that street, other than my living there, which would merit the snow having been plowed. There is also a school on that street. Politicians determine what streets are going to be plowed. If they are not going to handle properly those mundane activities that are the warp and woof of a politician's duty, I'm skeptical about turning over to such people the welfare of these children when the guiding principle is going to be: How can we hold the budget down; how can we tell the taxpayers we're saving money? That should not be the argument for something like this. And I'm saying that so you won't think I'm attacking you for supporting it but to let you also know my skepticism. And whoever comes after you can then just tell me if they want to that I don't have anything to worry about because they're going to do the right thing. Other than that, I don't really have any more questions, but I do respect your organization, by the way. [LB673]

ROBERT McEWEN: Thank you, Senator. We respect you as well. [LB673]

SENATOR CHAMBERS: But I know who Johnny Appleseed was too. [LB673]

ROBERT McEWEN: If I may, could I just respond very briefly to your comments? [LB673]

SENATOR CHAMBERS: Sure. [LB673]

ROBERT McEWEN: Okay, thank you. So one additional method of accountability that I did not mention, I do think that this sort of transfer, that creating this division does need to be done legislatively, which is why this bill needs to exist. But what the Legislature giveth it may taketh away too. So if this doesn't work out in a county and it does become a failure, I do think the Legislature could hold some accountability and oversight over the county boards throughout this process too. But again I will reiterate, funding, it would be inappropriate to make funding the primary driving factor for a county in our organization's opinion. It's got to be about the kids. And so I will agree with you about that. [LB673]

SENATOR CHAMBERS: That's all that I have. [LB673]

ROBERT McEWEN: Thank you. [LB673]

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SENATOR SEILER: Anything else? Thank you for your testimony. [LB673]

ROBERT McEWEN: Thank you, Senator. [LB673]

SENATOR SEILER: Next proponent. [LB673]

MARY ANN BORGESON: (Exhibit 2) Good afternoon, Chairman Seiler and members of the Judiciary. Thank you for the work that you do for the state of Nebraska. My name is Mary Ann Borgeson, M-a-r-y A-n-n, Borgeson, B-o-r-g-e-s-o-n. I am here today on behalf of the Douglas County Board of Commissioners in support of LB673. I want to thank Senator Krist for introducing these very important revisions to our juvenile code. The intent of LB673 is to allow counties the flexibility to create internal guardian ad litem divisions in addition to providing county boards the authority over the rates/fees paid for attorney services. The current GAL appointment process and overall cost have become serious concerns for Douglas County. Our county board wants to facilitate the best possible system for our constituents--one with serious attention to cost, quality and accountability of representation. Douglas County at one time had contracts with private law firms, as it was stated earlier, to handle the bulk of GAL attorney appointments. However, the board chose not to renew the private law firm contracts and now the juvenile court is appointing private attorneys as they see fit. For the fiscal year '15-16, the county has budgeted \$5.15 million in order to pay for attorney services, fees, and costs. Unfortunately, our county board is forced to pay the attorney bills and fees and costs associated with the GAL representation, yet we are severely limited in our ability to ensure adequate accountability or even cost control of these services. So, if passed, you know the provisions that will allow the county board to have more accountability and say over the fee structure and we support that. In the weeks of the session to follow, Douglas County continues to look forward to working with the Judiciary Committee's legal counsel in case any more revisions are needed to ensure and provide additional consistency within the juvenile code regarding this issue. I thank you for your consideration on this and thank you for allowing me to testify. Any questions? [LB673]

SENATOR SEILER: Senator Chambers. [LB673]

MARY ANN BORGESON: Hello, Senator Chambers. [LB673]

SENATOR CHAMBERS: Now to get to that language on page 5 about fixing reasonable fees, what would be the standard by which the reasonableness of a fee for legal services be determined by the county board? [LB673]

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MARY ANN BORGESON: I think it would be the same as we do for our public defenders and county attorneys in which we look at, you know, what the market is, the state is, comparable counties are, and then we set the incoming salary of those attorneys equal to, if not a little bit more than, those. I would say we would be looking at that private sector and county comparabilities. [LB673]

SENATOR CHAMBERS: How long has the court been making these appointments since the county board stopped that horrendous contract system? [LB673]

MARY ANN BORGESON: About...it's been probably just about six months now, close to six months. [LB673]

SENATOR CHAMBERS: And during that time the feeling of the members of the county board is that the court has required exorbitant fees to be paid to those who represent these young people's interests? [LB673]

MARY ANN BORGESON: I think it's historically that way. It's just not with the contracts that we had or the current system we have. It's...if you go back, you can go back seven years and see the exorbitant amount of attorney fees that we have paid, the taxpayers have paid for all those years regarding guardians ad litem. It's been...there was one year where we literally had a million dollar overture from the... [LB673]

SENATOR CHAMBERS: You mean when they had these contracts. [LB673]

MARY ANN BORGESON: When we had the contracts, when we had a lot of out-of-home placements, and again when they went outside of, even though we had the contracts, some juvenile court judges, due to conflicts of interest but also due to because they could, appointed guardians ad litem outside of our two contracts. [LB673]

SENATOR CHAMBERS: And they needed to because one of the people who had a contract might should have been on the other side of the bars. Do you ever read The Daily Record? [LB673]

MARY ANN BORGESON: Not really, sir. [LB673]

SENATOR CHAMBERS: Okay, but you know it's a legal newspaper? [LB673]

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MARY ANN BORGESON: Yes. [LB673]

SENATOR CHAMBERS: Well, when a person has various problems that make it into there because not paying what you need to pay and questions about the way... [LB673]

MARY ANN BORGESON: Oh, yes, sir. [LB673]

SENATOR CHAMBERS: ...business is being conducted and that person is the one with a contract with the county,... [LB673]

MARY ANN BORGESON: Yes. [LB673]

SENATOR CHAMBERS: ...and these contracts were renewed over and over by the county, so the county showed irresponsibility if there is that problem. So now what the Legislature is being asked to do is put into statute something that gives paramountcy to the county board. And I don't think the county board has shown itself to be responsible in handling the guardian ad litem situation. Do you feel that the county board has a record of excellence in dealing with the guardian ad litem situation? [LB673]

MARY ANN BORGESON: Yes and no. I would agree with what you've said in terms of our neglect in really looking at those contracts. But I will say that I feel that we were responsive. Especially--I'm going to use her name--Laura McCormick started to bring those issues as a citizen to the county board and it took a course of three years for her to do her own digging and homework and to bring the issues to where the county board started to pay attention. And again, we were neglectful in that and I've admitted that in public and at other hearings here. And it wasn't until then that I kind of took the bull by the horns and said we're going to listen and we're going to listen hard and we're going to change. And so we don't know for sure if this is the right direction to go. But I can assure you, from what we've learned from the neglect that we had with the oversight of those contracts, yes, we have definitely learned a lot of lessons. [LB673]

SENATOR CHAMBERS: How do I know that a reasonable fee based on what I think...and when I say me, I don't mean me as an individual, but you know there can be differences of opinion as to what constitutes being reasonable. The word itself allows for differences of opinion. What I am trying to ask: During that period when the contracts were no more in place, there still were guardians ad litem being appointed, is that correct? [LB673]

MARY ANN BORGESON: Yes, by the court. [LB673]

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SENATOR CHAMBERS: And the county was paying the cost. [LB673]

MARY ANN BORGESON: Yes. [LB673]

SENATOR CHAMBERS: And the court was selecting the guardians ad litem... [LB673]

MARY ANN BORGESON: Yes. [LB673]

SENATOR CHAMBERS: ...and determining what a reasonable fee was. [LB673]

MARY ANN BORGESON: Yes, and normally what happens is the court will send correspondence down to the board to say this is what the fee is going to be. Now that doesn't mean that it's always that, because a judge can set whatever fee they want to set. But for the most part, they'll set a fee for that guardian ad litem and we just pay it. [LB673]

SENATOR CHAMBERS: And it's done based on a specific person who is going to be the guardian ad litem rather than saying, this is the fee, now go find somebody who wants to work for this. [LB673]

MARY ANN BORGESON: Yes. [LB673]

SENATOR CHAMBERS: Just like if they appoint an attorney in a criminal case to represent an indigent person, they don't just say, this is the amount of money, now somebody come here and tell us they want the job. Here's what I'm trying to get at. There has not been enough time to show that the courts are going to be abusive in terms of determining what it feels to be a reasonable fee for a guardian ad litem. The county board out of nowhere, because they don't even have one of these divisions established, out of nowhere is going to say the courts are going to be unreasonable, this guardian ad litem division created by and controlled by a county board which for over a decade were very irresponsible. And it was the publicity that made them change, the embarrassment; not anything was presented by anybody to the members of that board which the board members didn't already know. I had at the first time they appointed a woman, because I had a copy of a letter she had written about her father and the place where people would be working out of because of the connection to her father and the property of (inaudible)--all of this, it was out there. It made no difference. Now, aside from all of that, because I'm trying not to go into the details of that but to let you know that I have a context for my questions, how do I know a reasonable fee will be set by the county board? Will the board members discuss every appointment and arrive at what they think is reasonable or are they going to create a freestanding

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division which happens to operate within the county board structure but they more or less, whoever...well, tell me how this thing would work. [LB673]

MARY ANN BORGESON: It's...I can't tell you exactly because we haven't decided yet. We do have a formation of a task force that's going to look at it, and then we're going to look at the way it's being done by court appointed; we're going to look at a division; we're going to look at the contracts; and we're going to...either multiple or a few. But what we've talked about in a division is similar to a county attorney or a public defender office where you have a head of that department that is responsible for the people who are working within that department. And so the best scenario I can give you is I have somebody from my district that calls me who has a relative in jail and their public defender is not calling them, is not returning their calls, they haven't heard from him. They call me. And even though I really don't have a whole lot of authority over a public defender or county attorney's office, I can call them and say, hey, got this call, will you look into it and please make sure it's taken care of. So I'm calling a person who is a director, so to speak, responsible for those people who are working within that department and accountable to those people. That's the piece I think we're missing right now. There's no really...there's no accountability from anybody at this point. And this is just one idea, one way of being able to build in those accountabilities for our children and our families. [LB673]

SENATOR CHAMBERS: Now here's what I'm looking at based on this statute. There is no division of this kind in existence. The county board hasn't even determined what it will look like. A task force is working on it. Without even knowing what's going to be there, we're being asked to put into statute the requirement that the court go to this nonexistent, standardless operation and be required to go to them and say, send me a guardian ad litem. And it doesn't say in here that the court can be dissatisfied and conclude that the one there is not doing the job. It doesn't give the court any jurisdiction, any authority, any discretion whatever. It's take what this division presents. [LB673]

MARY ANN BORGESON: Correct me if I'm wrong, but I thought it is an "if" the county decides to create that division. So it's not an absolute that if this passes you have to do it, but it gives a county the ability to do it if they so desire. [LB673]

SENATOR CHAMBERS: But here's what we're getting at. This does not authorize the county to do it. [LB673]

MARY ANN BORGESON: No. [LB673]

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SENATOR CHAMBERS: The county doesn't need the Legislature's authority to set up this division. They can set up whatever they want to, as long as it's not outside the law. But once they would set it up, whatever it looks like, the court must go to bat. [LB673]

MARY ANN BORGESON: Right. [LB673]

SENATOR CHAMBERS: So you're putting the cart before the horse; you're saying a pig in the poke. Nobody knows what this division is going to look like, but whatever it looks like, then the court must go there first. [LB673]

MARY ANN BORGESON: That's...yes, I understand that part of it. [LB673]

SENATOR CHAMBERS: That's irresponsible for the Legislature to do that. We've got to know what it is that we're dealing with, whether there is accountability. Is there anything in here which says that if the court...now remember, it must go there first. But if the court looks at what is going on here with this division and is dissatisfied, there's nothing in this statute which creates this whole complex which says the court can reject it. If there is a conflict, then the court can go somewhere else. Other than that, the court has got to take whatever this outfit makes available. It's like a Hobson's choice. People don't...there was a guy. Actually his name was Hobson. And he was a liveryman. That meant he leased horses to people. And he created a situation where it seemed like people made a free choice but really it was a take it or leave it. His rule was--and he actually lived in England and everybody knew about him--his rule was, when you come here to rent a horse, you take the horse nearest to the door and, if you don't take that horse, you don't get a horse. And that's a Hobson's choice: an apparent free choice but really you have only one choice you can make or you get nothing. So the only thing the court can do is go to this entity. And no matter what is there, the court is stuck with that because the Legislature is putting shackles on the court. Now if the courts, based on the nature of what a court is, would determine that the Legislature has created a system whereby incompetent people are the only choice, the court, it seems to me, based on the authority it would have, could do something different because it would not be required to put somebody who obviously is not competent in a position of representing an individual. But that would create one of those conflicts between the judiciary and the executive. And what I would want to see before I did anything like this is see what this entity is going to look like. Right now, while there is no entity like this, the court is going to make those appointments and establish the reasonable fee, just the way it is in the law now. So why don't we let it stay like that and then, when the county board gets through shuffling and moving deck chairs on the deck of the Titanic, come back and show the Legislature what it has done, give some standards that are to be met. We don't have anything. And for my part, I would be irresponsible to say to the court, this thing doesn't exist, but as soon as they bring it into existence, and they're looking at doing it now but they don't know what it's going to look like,

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you've got to use them. I don't think the county board itself would do anything like that, the thing it's asking us as a Legislature to do. We don't know what that division is going to look like. How many people will be in this division? [LB673]

MARY ANN BORGESON: I think when we originally looked at the caseload of what was current, I think there was 11 if I remember right. Don't hold me to that number though. But I think when we looked at it, to figure out what...because the issue was, well, okay, is there...what's it going to cost? Is it going to be the same as how we were currently doing it through the contracts? I think it came out to be about 11 attorneys. [LB673]

SENATOR CHAMBERS: So these attorneys are going to be a part of this division. [LB673]

MARY ANN BORGESON: Potentially, yes. [LB673]

SENATOR CHAMBERS: In other words, they are hired by the county, more or less. [LB673]

MARY ANN BORGESON: Yes. [LB673]

SENATOR CHAMBERS: They're employees of the county. [LB673]

MARY ANN BORGESON: Yes, could be, yes. [LB673]

SENATOR CHAMBERS: And the county is going to determine their salary. [LB673]

MARY ANN BORGESON: Yes. [LB673]

SENATOR CHAMBERS: Then there is no fee setting in an individual case. Instead of having a contract with these entities like they had before, those contract individuals will now be employees of the county. [LB673]

MARY ANN BORGESON: I think, in that case, I think it would be a case where say that there was a division and the judge came to that division and there was a conflict of interest and they had to end up appointing someone because they couldn't use someone from that division... [LB673]

SENATOR CHAMBERS: But here's what I... [LB673]

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MARY ANN BORGESON: ...which happens at the public defender's office. [LB673]

SENATOR CHAMBERS: Here's what I want to ask you, because the people who work for the public defender are employees of that office. [LB673]

MARY ANN BORGESON: Right. [LB673]

SENATOR CHAMBERS: So this division is not going to seek out other people who may be competent. You're going to hire...let's say the number is 11. What are the qualifications that one of these employees would have to have in terms of training and experience and education? Has that been determined? [LB673]

MARY ANN BORGESON: No, it has not, but there are guidelines out there that we could use. I don't know if you know the name Kendall Marlowe. He's coming into our county to help us walk through all of this and there are standards and there are trainings that we could look at for them to have to pass. [LB673]

SENATOR CHAMBERS: But even if you don't establish that, even if you don't do it that way, all you have to do is create a division under this. That's all you have to do. And then as soon as that's created, automatically it's triggered the requirement that the court go to that division no matter how shabby it is. You could have two people there and that's all that would happen. And then you would say, but this division is going to work on the basis of piecework, the people in the division will go out and find people who will handle these individual cases. That could be done, and we're being asked today to pass a law to force the courts to deal with something like that. [LB673]

MARY ANN BORGESON: I guess, Senator, what I see, and just because of the work that we've done over the last three years, the system that we have now is failing in my opinion and it's not...it isn't a good system for our kids and family and we should do better. And so how do we do better? I don't have all the answers yet. I just need to...I know the counties need tools to be able to do that. And right now, if we wanted to do that, the law doesn't allow us to do that. This will set up that option for us to be able to do that. So while I don't have all the answers, while I can sit here and promise you something, you can take me at my word that this is an issue that I am very, very interested and I don't want to fail our kids and families and I want those accountabilities, I want that transparency to be a part of our system. [LB673]

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SENATOR CHAMBERS: Okay, now I'm not going to repeat everything I've been going through and go over it and over it because I made the record clear of what problems I have. But you're talking about how you feel. How many members are on the county board? [LB673]

MARY ANN BORGESON: Seven. [LB673]

SENATOR CHAMBERS: And how many of those people does it take to take a decision about anything? [LB673]

MARY ANN BORGESON: Four. [LB673]

SENATOR CHAMBERS: Now how many of those are in agreement? And I'm not asking you to determine it, but you cannot determine this yourself. [LB673]

MARY ANN BORGESON: No, but I can tell you without a doubt that my full board is in agreement that we need to do something. [LB673]

SENATOR CHAMBERS: Well, that's not good enough, to do something. I agree with you. This is too... [LB673]

MARY ANN BORGESON: Well, we just...but we don't know what that something is yet. And again, as we work through and come up, we need...if it was a division and there...we need to be able to do that. Right now we couldn't do that. [LB673]

SENATOR CHAMBERS: Let me mention something. You said something needs to be done, you don't know what it is. I know what it is not and it is not this. We are handcuffing the court in advance... [LB673]

MARY ANN BORGESON: But they're handcuffing the counties. [LB673]

SENATOR CHAMBERS: ...to dealing with something that's not even in existence. [LB673]

MARY ANN BORGESON: But they're handcuffing the counties at this point, the taxpayers, in paying for something that right now we don't have, in any way, shape, or form, any accountability over. [LB673]

SENATOR CHAMBERS: The county board possesses taxing authority. [LB673]

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MARY ANN BORGESON: Yes. [LB673]

SENATOR CHAMBERS: So if there is a cost of operating the county, they raise taxes. [LB673]

MARY ANN BORGESON: Yes. [LB673]

SENATOR CHAMBERS: They don't want to do it. The Legislature has certain responsibilities. And there are people in positions of power who don't want to assume those responsibilities. Well, I'll just be frank. The Governor says we're going to cut here, we're going to cut there, and we're not going to extend Medicaid, and so forth. But that doesn't mean that the Legislature has to go for it. So that's showboating, that's posturing, and the public is being harmed in the meantime. That's why I don't trust politicians. So I'm being asked to do this. You can set up this division without any legislative authority. You can create that right now. But you cannot compel the court to draw all representation for these young people from that division. You can set up the division right now. You've been working on the division without anything in statute right now. You could create that division if we don't pass this bill, so you don't need statutory authority for that. You want to guarantee that the courts are going to have to make use of this as-yet-nonexistent entity and that's what I'm looking at. [LB673]

MARY ANN BORGESON: I understand. [LB673]

SENATOR CHAMBERS: But I'm through because I'll just keep repeating. [LB673]

MARY ANN BORGESON: I know and I will too. And I know there's a lot of unanswered questions. But again, we are...we know and we are committed to trying to provide these services in a much better way than they have been in the past. And this again gives us a tool to be able to do that. [LB673]

SENATOR CHAMBERS: Thank you. [LB673]

MARY ANN BORGESON: Thank you. [LB673]

SENATOR SEILER: I have some questions. [LB673]

MARY ANN BORGESON: Yes. [LB673]

SENATOR SEILER: You two have discussed Douglas County. [LB673]

MARY ANN BORGESON: What's that? [LB673]

SENATOR SEILER: You two have discussed Douglas County. But this bill applies to all the counties. [LB673]

MARY ANN BORGESON: Yes. [LB673]

SENATOR SEILER: Yeah, and it doesn't even look like what you're describing out west or anywhere out west of Seward. Okay. So what I'm questioning is the way it's written. It says that it should be done on a per-case basis. That's what you're doing right now. And I don't have any problem with what you're doing right now. But let's go over to Section 2. And the language is just screwed up in my opinion. It says that the court shall...the guardian ad litem or counsel shall apply to the court for fees for services performed. Okay. I assume they send in their time and their expenses to the court. Then it says the county board shall fix the reasonable fees. How did you get to the county board if you don't have the documents? Let's go further then: The county board of the county wherein the proceedings were had shall allow the account, bill, or claim presented by the attorney or guardian for services performed in the amount determined by the court. We haven't even had the court determine it because the county board jumped in ahead of time. Then, trying to save itself, "No such account, bill, or claim shall be allowed by the county board until the amount...shall have been determined by the court." Now tell me how that works. [LB673]

MARY ANN BORGESON: Well, that's a good question. [LB673]

SENATOR SEILER: It doesn't, it plain doesn't work. And I don't have...the other thing that you don't have in this bill, not you, you didn't draft it, but it's not in this bill,... [LB673]

MARY ANN BORGESON: I understand. [LB673]

SENATOR SEILER: ...is, how do you get the records from the court down to the county board to determine whether the county board is going to examine it? Who is going to examine it for the county board? I doubt whether you have too many lawyers on your county board there. Are you going to have the county attorney reviewing it and making recommendations? [LB673]

MARY ANN BORGESON: No, I think on that issue it's more on the billings of it, so where's the accountability of the billings? One of the things when we had the contract... [LB673]

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SENATOR SEILER: The accountability is by the judge that sat there on the hearing. But according to this statute, people jump in ahead of time, the county board jumps in ahead of time and makes the...sets the fee. And that's what...my argument is with the way it's... [LB673]

MARY ANN BORGESON: Written. [LB673]

SENATOR SEILER: ...set up. [LB673]

MARY ANN BORGESON: Right. But I guess I was reading it that right now there is no way for the county board to be able to, lack of a better word, audit the billing of the services. It's just the bill is sent to us and we pay it. [LB673]

SENATOR SEILER: Yeah, but you don't even get that record. You said he just sends you a communication. He doesn't send all the records with it, does he? [LB673]

MARY ANN BORGESON: All the...but it doesn't...we don't even need to see all of the records. [LB673]

SENATOR SEILER: Why not? [LB673]

MARY ANN BORGESON: We need to see a detailed billing. [LB673]

SENATOR SEILER: How do you determine what he did then? [LB673]

MARY ANN BORGESON: By the detailed billing, which is done right now for those... [LB673]

SENATOR SEILER: That's the records I'm talking about. [LB673]

MARY ANN BORGESON: The what? [LB673]

SENATOR SEILER: That's the records I'm talking about,... [LB673]

MARY ANN BORGESON: Right. Those records... [LB673]

SENATOR SEILER: ...the claim. [LB673]

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MARY ANN BORGESON: Right. We weren't getting those. What we were getting was a court... [LB673]

SENATOR SEILER: I understand that. [LB673]

MARY ANN BORGESON: ...order that said, county, you pay. [LB673]

SENATOR SEILER: Right. [LB673]

MARY ANN BORGESON: When they came to our board with a million dollar over budget, the question was asked, what happens if we deny this claim? And they said, you can't, you'd be in contempt of court because these are court-ordered payments... [LB673]

SENATOR SEILER: You're flashing me back to when I was a young lawyer and I tried a big case, submitted my bill, and the county refused to pay for it. District judge--Judge Irons--called the chairman to his courtroom and said, let's get this straight right away, I review it, I order it paid, you pay it or you'll go upstairs and sit in jail for awhile in contempt of court. [LB673]

MARY ANN BORGESON: They did threaten us with that. [LB673]

SENATOR SEILER: You know, we got those paid every time (laughter). [LB673]

MARY ANN BORGESON: Well, actually that was the advice we were given, too, is pay or go to jail. [LB673]

SENATOR SEILER: Okay, well, it's still the law, but I think this needs some work. I don't want to go any further. [LB673]

MARY ANN BORGESON: Yes, Senator. [LB673]

SENATOR SEILER: Both these sections need work because they're really applying not only to Douglas County, they're applying to the rest of the state. [LB673]

MARY ANN BORGESON: If they decide to create that division. [LB673]

SENATOR SEILER: No. [LB673]

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SENATOR KRIST: Yes. [LB673]

MARY ANN BORGESON: Yes. [LB673]

SENATOR SEILER: No. It says, "The guardian ad litem may be compensated on a per-case appointment system or pursuant to a system of multi-case contracts," and there's nothing in here that says this applies to Douglas County. [LB673]

MARY ANN BORGESON: No. [LB673]

SENATOR KRIST: Yes. Would...you're asking me? [LB673]

SENATOR SEILER: Yeah. [LB673]

SENATOR KRIST: Yeah. The "if" allows the county board to set up a separate division which is similar to a public defender's office. There's no difference between the "if" clause here and the public defender's office. [LB673]

SENATOR SEILER: I understand. I... [LB673]

SENATOR KRIST: Okay. In this section, the only thing that's changed is the ability for the county board to fix reasonable costs. [LB673]

SENATOR SEILER: Except... [LB673]

SENATOR KRIST: Right now, if other...when you review other statutes, it says the courts will establish that cost. [LB673]

SENATOR SEILER: And it... [LB673]

SENATOR KRIST: They have no recourse to rebuttal. [LB673]

SENATOR SEILER: I understand. [LB673]

SENATOR KRIST: And I think this is best concerned in an Exec Session because... [LB673]

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SENATOR SEILER: Okay. [LB673]

SENATOR KRIST: ...you have concerns and I have concerns and... [LB673]

SENATOR SEILER: Well, I've got concerns about when it says per-case basis and there's nothing that says Douglas County. It would apply to all of the counties. [LB673]

SENATOR KRIST: If... [LB673]

SENATOR SEILER: No, the "if" comes much in the next sentence. It comes in the next sentence. So we'll argue that. Thank you. Any other questions? Yes, Colby. [LB673]

SENATOR COASH: I do. Thank you, Senator Seiler. Commissioner Borgeson, as the system is right now, the court will order this attorney to this case and set the fee per attorney per case. Is that...that's how the system is right now, correct? [LB673]

MARY ANN BORGESON: Um-hum. [LB673]

SENATOR COASH: What's the range of...is it an hourly fee usually or is it a case fee? [LB673]

MARY ANN BORGESON: It usually is, um-hum. [LB673]

SENATOR COASH: Usually an hourly fee, so however much time the attorney spends working on that case meeting with the child, going to court, all that. Can you give me an idea of the range in hourly fees that the board is currently having to pay? Let me ask it a different... [LB673]

MARY ANN BORGESON: I'm trying to think of how that comes. Again, it comes down where we get from the court an order that goes through our clerk's office that says...and it turns into a warrant and then it comes to us for approval and it says the county attorney, whoever, and this amount, and that's what we pay. [LB673]

SENATOR COASH: And you don't even see how...so you see an amount, not even how many hours... [LB673]

MARY ANN BORGESON: Right. [LB673]

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SENATOR COASH: ...that was provided to get to that amount? [LB673]

MARY ANN BORGESON: Right. [LB673]

SENATOR COASH: Is it...would it be your understanding then that there are...there is a variety of fees? In other words, Judge A can appoint an attorney for \$120 an hour and Judge B can appoint an attorney for \$230 an hour and... [LB673]

MARY ANN BORGESON: It's usually that set fee that they set at the beginning of a year. So they'll send us down a... [LB673]

SENATOR COASH: So it's... [LB673]

MARY ANN BORGESON: It's pretty much consistent. Now why they go above that, I'm not sure how that decision is made. That's out of my... [LB673]

SENATOR COASH: Do you know what that current, that fee that they've set up? [LB673]

MARY ANN BORGESON: I think it's up to \$60 an hour. [LB673]

SENATOR COASH: Up to \$60. [LB673]

MARY ANN BORGESON: I think it's \$60. Now, no, I mean it's moved up to being \$60 an hour. [LB673]

SENATOR COASH: So \$60 an hour is the current fee being paid by the board for a court-appointed... [LB673]

MARY ANN BORGESON: For court-appointed attorneys, yes. [LB673]

SENATOR COASH: Okay. So that's what the market is bearing now. I mean there's a...we don't have kids that judges can't find an attorney to appoint for, right? I mean there's no... [LB673]

MARY ANN BORGESON: Not that...no, I've never heard that being a problem. [LB673]

SENATOR COASH: Okay. [LB673]

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MARY ANN BORGESON: But I don't know how they arrive at that fee that they send us. I don't know. [LB673]

SENATOR COASH: Okay. All right, thank you. [LB673]

SENATOR SEILER: Any other questions? Thank you for your tolerance. [LB673]

MARY ANN BORGESON: No, and again, you know, we are here to work with all of you to make sure that we make this a better service. [LB673]

SENATOR SEILER: And thank you for your testimony. [LB673]

MARY ANN BORGESON: Thank you. [LB673]

SENATOR SEILER: Next proponent. Next opponent, speaking against this bill. In the neutral? [LB673]

LAURA McCORMICK: Hello. My name is Laura McCormick. I didn't bring any prepared comments, so I'm sorry. Let me just start with a few things. First of all, I want to thank you for devoting time and attention to this very important issue. Just today... [LB673]

SENATOR SEILER: Ma'am, pronounce and spell your name. [LB673]

LAURA McCORMICK: Yes. Laura McCormick, yeah, sorry, L-a-u-r-a M-c-C-o-r-m-i-c-k. Just today I came from court and I observed an instance where it was disposition and the county attorney was moving to remove three kids and it sounded as though one of them had some pretty substantial behavior issues. And the IFP worker wasn't ensuring that the child was going to go to school, and the parent was being held accountable for these truancy issues. The NFC worker couldn't explain why the IFP worker I guess just...I don't know what happened to the IFP worker, but they weren't doing their job. The guardian ad litem admitted when questioned by the judge that she hadn't called the school, she had no meaningful information to offer. And mom at that hearing was facing the loss of her kids that day. There are very serious problems in this system and--this may be politically incorrect--it's a fact. To your questions, Senator Seiler, in terms of how appointments are made in Douglas County, judges have such discretion. They do not use a rotation wheel, despite the fact that we have paid for very expensive studies by the NCSC that recommend a rotation wheel. If you travel down to Lancaster County, they do use a rotation wheel. Why is that important? I think it's important because, without such a device, we the people have no real confidence that there isn't something highly irregular going on with judges

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who are making decisions about how millions of dollars are being spent regarding these fees. So I think that that's a very serious issue. I think that this is an opportunity, and I mean that sincerely. If anyone had told me ten years ago that I would know anything about this, I would have laughed. I would have told them I don't...I have no idea what it even means. But here I am and I do and I cannot walk away from this without feeling as though I have done everything to make sure that the children in my county--and not just my county, statewide, to your point, Senator Seiler--have some sort of better system, because this is not working. And we can sit and argue all day long. We can pass the buck. We can look away because we don't want to admit problems exist with the judiciary and the bar. We have to accept responsibility for this and it is imperative, just like for mom today who is sitting in front of a judge. Her children are on the line. And despite the fact that we've had modification to the Supreme Court guidelines, and I'm grateful that we've had those--that's a positive step in the right direction--but we have another parent who is facing the loss of her kids. And people don't do their work. [LB673]

SENATOR SEILER: I'm sorry, your red light is on. Thank you for your testimony. Any questions? [LB673]

LAURA McCORMICK: Thank you. [LB673]

SENATOR SEILER: Hold on just a second. Hold on just a second. [LB673]

LAURA McCORMICK: Okay. [LB673]

SENATOR SEILER: Any questions? Seeing none, thank you for your testimony. [LB673]

LAURA McCORMICK: Thank you for your time. [LB673]

SENATOR SEILER: Anyone further in the neutral? Seeing none, Bob, do you want to close? [LB673]

SENATOR KRIST: No, I'll waive closing. [LB673]

SENATOR SEILER: Okay, next bill. [LB673]

SENATOR KRIST: Senator Seiler, members of Judiciary Committee, thank you for the opportunity to talk to you today. For the record, my name is Bob Krist, B-o-b K-r-i-s-t. I represent the 10th Legislative District in northwest Omaha, along with north-central portions of

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Douglas County which includes the city of Bennington. I have some prepared notes, then some comments to make after I finish with the notes. I appear before you today to talk about LB675. In short, a two-page bill, it makes good on an effort that this committee started in 2013 to get juveniles to the right services at the right time. We have enumerated in our statutes the reasons that juveniles may be detained, and over the years we have tightened up these reasons in an attempt to get more kids services at home or in their own communities and to align our juvenile statutes with what we know are national best practices. Starting in 2013, a team headed up by Senator Ashford--Senator Coash was part of that team--made some major changes to when a kid could be sent to YRTCs, and we noticed a shift in the number of kids being sent there. But over the past there years, we have seen some of the language that was changed in 2013 no longer represents the appropriate reasons that kids should be detained in locked facilities for indefinite periods of time regardless of what part of the state they live in. We all hear this over and over, but detaining kids makes them more likely to recidivate, less likely to graduate, more likely to end up in the adult Corrections system. Our pledge and my mantra has been to spend money in the playpen so we can avoid spending huge amounts of money in the State Pen. This bill follows in that line. Depression and trauma are magnified in that kind of situation and suicide rates go up. Because of these harms, LB675 makes the necessary changes in our statutes to ensure that kids are detained in the YRTCs or other lockup facilities in two instances: where a true risk to public safety exists and when necessary to secure the presence of a juvenile at the next hearing if that juvenile has a record of failing to show up for the hearing. LB675 is the next step to take in getting the statutes in line with the best practices that we've seen across the state. I will say in my comments also, I've been approached by members who have reminded me that not every kid acts like a kid and not every kid is a nonviolent offender. We have two in Douglas County, and I believe the ages are 11 and 12, that pulled a trigger, killed someone. That's a different situation I think. So there is a suggestion coming forward, which I would consider friendly, that would treat kids like kids in the emphasis but would allow for a child who is in that situation to be treated the way that child needs to be treated, and unfortunately that's the fact of life we live with. I've always said, as much as possible, a child needs to be treated like a child, needs to be given every opportunity to succeed, but there are times when that doesn't work. The Omaha Police Department dubbed me a few years ago "Willy Wonka," giving out golden chocolate passes, chocolate bars to other people. I'm not that person and I don't really care what the police department union says. But I'm not that person. But I am a person who believes that for the most part statutes can be realigned in a couple of ways to make sure that our efforts succeed. And I stand for any questions. [LB675]

SENATOR SEILER: Any questions? Senator Chambers. [LB675]

SENATOR CHAMBERS: For those familiar with literature and those who are not, that other bill was Mr. Hyde, this bill is Dr. Jekyll (inaudible)... [LB675]

SENATOR KRIST: We'll talk about the other one, Senator (laughter). [LB675]

SENATOR SEILER: Any other questions? Excuse me. Okay. Proponents, please come up. [LB675]

COREY STEEL: (Exhibit 1) Again, good afternoon, Senator Seiler and members of the Judiciary Committee. My name is Corey Steel, C-o-r-e-y S-t-e-e-l. I'm the State Court Administrator for the judicial branch and, once again, cochair with Senator Bob Krist for the Juvenile Detention Alternatives Initiative Statewide Collaborative. I'm testifying in support of LB675. JDAI is a national initiative supported by the Annie E. Casey Foundation that has been assisting states in implementing evidence-based strategies for detention and juvenile justice system improvement for over 20 years. One of the fundamental premises of JDAI is the purpose of detention should be limited to those youth who pose a community safety risk or risk to flee the jurisdiction prior to court. The research in this area over the past 20 years by Annie E. Casey Foundation and many other juvenile justice experts show that when youth are detained for other reasons, particularly low-risk youth, there are short- and long-term detrimental outcomes. This is essential to consider when defining the age a youth could enter detention. The Annie E. Casey Foundation started working with Nebraska in 2011 by establishing Douglas County as a site, followed by Sarpy County in 2012. The Office of Probation Administration provides the liaison with the foundation and facilitates the statewide JDAI activities. Since the conception of JDAI in Nebraska, Douglas County, Sarpy County, and state collaborative partners have been working to apply the core strategies of JDAI to improve outcomes for youth by reducing days and time spent in detention. Both sites have implemented a broad continuum of alternatives to detention through local partnerships and community-based aid funding. Probation has expanded the use of detention alternatives of electronic monitoring and tracker services statewide to ensure all probation districts, all judicial districts have access to these alternatives. Case processing procedures have been positively impacted in both sites. Douglas County conducts daily detention planning calls and Sarpy County engages a policy regarding the use of detention for violations of their alternatives to detention programs. State Probation recently conducted the evaluation that was talked about and shared with this committee to establish a baseline of data to ensure the tool is effectively guiding detention or release decisions. At this time, that tool is not doing that. It is our job on the courts and probation side to make sure that tool is effective and efficient. All of those efforts may have led to a significant reduction in detention, as well as other initiatives by these counties. However, one of the challenges of implementing these system improvements at the local and state level has been inconsistent definition of detention. As I mentioned in the beginning of my testimony, best practice, detention should only be used for those youth who pose a community safety risk and a risk to flee the jurisdiction. However, that does not currently match our current statute. LB675 will further enhance the efforts of JDAI at the local and state level by bringing Nebraska's definition of the purpose of detention in line with national best

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practices. I am happy to answer any questions that you may have. And we've also supplied a sheet that has...talks about the trends of detention in our local detention facilities. [LB675]

SENATOR COASH: All right. Thank you, Corey. I'm going to start with a question here. On page 2, the changed language in Sections 4 and 5 talking about when a juvenile should not be placed in an RTC or detained, where do you see...where's that decision made as...this is on the bench, am I right? [LB675]

COREY STEEL: It's actually a couple different places. If it's Youth Rehabilitation and Treatment Centers, yes, that is a judicial decision to commit a kid to those facilities. Detention can be done at a couple different points. One is, as we've talked about, juvenile intake. When law enforcement calls upon Probation to conduct juvenile intake because they feel it's a high-risk juvenile, we would go through that process and determine whether that juvenile at that point in time should be detained, placed in staff secure, shelter care, or another detention alternative. But also, a judge can make that decision from the bench as well if the juvenile violates conditions of the court, whether it be prerelease conditions, whether it be probation conditions, aftercare conditions, whatever that is. The court can also determine whether or not that juvenile be placed in secure confinement. [LB675]

SENATOR COASH: So with the RTC, that's always a judge. [LB675]

COREY STEEL: Correct. [LB675]

SENATOR COASH: And with detention it can be a judge, but it can also be... [LB675]

COREY STEEL: A probation officer. [LB675]

SENATOR COASH: ...a probation officer. [LB675]

COREY STEEL: Correct, probation officer, two different times: at the time of intake; or if they come across a juvenile that's in violation of their probation order, they have the authority to detain and then bring it back in front of the judge, immediate detention if it's necessary based on security. [LB675]

SENATOR COASH: Okay, so those three entities have...if this bill became law, this would be the boundaries by which they get to make those decisions. [LB675]

COREY STEEL: It would tighten those boundaries, correct. [LB675]

SENATOR COASH: Tighten those boundaries. The question I have, if you can answer it--and if not, this is teed up for somebody who may testify behind you--is that with the boundaries of unless the physical safety of the person would be threatened or there is urgent necessity--that's the language that's purported to be changed here--that's still pretty discretionary. So in your opinion, would you say that using drugs would fit under that definition of require...if a juvenile was using drugs, would that be sufficient to say that that juvenile is seriously threatening themselves? [LB675]

COREY STEEL: Senator, as a former probation officer, just the use of drugs does not make somebody dangerous. And it depends on what type of drug as well. I mean you have the gamut of anything from marijuana all the way to intravenous drug use. And so that spectrum, the higher the drug use and the type of drug use could enhance their risk, but low-level marijuana use may have different discretion factors. [LB675]

SENATOR COASH: Okay. [LB675]

COREY STEEL: So that is discretionary based on that continuum of what type of drug and what type of use. [LB675]

SENATOR COASH: What about in the case of a sexually promiscuous juvenile who is engaging in high-risk sexual behavior? Would that be sufficient for either the judge or the probation officer to say that puts you at too much risk, you have to be detained or go to the YRTC? [LB675]

COREY STEEL: Once again, there's a lot of factors that go into that. And just to say if somebody is engaging in sexual activity is at a risk, well, it doesn't pose a safety risk to the community and it doesn't determine that that kid won't come to court. And so you have to weigh those factors and that's why in myself, as I talked about, being a probation officer, doing juvenile intake, there's a lot of discretionary factors that you go into. There's a lot of information that you gather during that investigation to determine whether or not a juvenile should be placed in detention or one of those detention alternatives. There are no two cases alike and it's hard to say, would this factor determine and place that kid in the detention facility? As we talked about, that juvenile intake instrument, it's an interview and it's a process and there's a lot of information that goes into determining whether or not. It's not an exact science, nor is it meant to be an exact science. There is always...should be that relief valve for those severe circumstances that you come across as a probation officer that says, if I release this kid today, something is going to happen in the community, they're a danger to the community, or I know they're not going to show up because of prior history or prior experiences that that juvenile has had. [LB675]

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SENATOR COASH: Well, I guess what I'm...as I'm rereading the language here, this is primarily concerned with detention in order to protect the community. [LB675]

COREY STEEL: Right. [LB675]

SENATOR COASH: There's not language that I can see that refers to detention to protect the juvenile. [LB675]

COREY STEEL: Right. [LB675]

SENATOR COASH: So how do we make sure the juvenile is protected? [LB675]

COREY STEEL: Right. There's other options that we have that we can make sure that that juvenile is safe as well. There's other avenues that we can put in. Annie E. Casey talks about there's eight core strategies to detention, to this process. One of those is there is a fine line between protection of the community and protection of that juvenile. If you're looking at protecting that juvenile, there's other avenues that you can use. Do we have all those avenues? No, this is a process and we still have holes and gaps in our system, in our continuum of care. Some areas we have very good. I'm going to pick on Senator Seiler's area in Hastings, Nebraska, because their hospital has really stepped up. Mary Lanning has really stepped up to say, if you have a juvenile that is mentally ill and you come across that, Probation, call us, we will bring that juvenile into a hospital setting and address those immediate mental health issues or issues that that juvenile is...they're having some safety issues there. They're not a concern that they're going to go out and harm somebody in the community, but potentially harmful to themselves, and that's a broad range from cutting on themselves to suicide at the far end spectrum. So there are some avenues in those communities that we've been able to work with to be able to say there's issues with this kid, but it doesn't raise the fact of putting them in secure detention. We know, based on research, that putting those kids in secure detention will actually increase, or the potential to increase, those behaviors or those concerns that you have. So it's not the appropriate place for those kids. So this really looks at, are they a community safety risk to harm somebody in the community, or are they a flight risk in order that they will not return to court? Those were the two things and we continue to train our staff and it's a training process that we need to look at those two factors when we look at that secure confinement. [LB675]

SENATOR COASH: I don't see flight risk in... [LB675]

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COREY STEEL: Flee the jurisdiction--if they're not going to show up to court, risk to flee the jurisdiction I believe is in there as well. And I don't have it in front of me to quote the page. [LB675]

SENATOR COASH: Maybe it's already in language. I'll look at that. Final question though, Senator Krist mentioned this in his opening, this prohibits as written no juvenile 12 years of age or younger be placed in detention. If this bill became law tomorrow, how many kids 12 or under are going to be released? [LB675]

COREY STEEL: I think we'd look today at our prior statistics over the past few years and it's been a handful, 10 to 12 juveniles, that we've placed statewide over the past couple years in secure detention. So it's a small number of kids, but we'd be able to find potentially something else for those kids. We've got to continue to build the capacity. [LB675]

SENATOR COASH: Here's a question. If you could find it for them now,... [LB675]

COREY STEEL: Yeah. [LB675]

SENATOR COASH: ...why aren't you finding it for them? [LB675]

COREY STEEL: Yeah, and I'll send that information to the committee, but we have a specific date... [LB675]

SENATOR COASH: You understand my question, right? [LB675]

COREY STEEL: Yeah, elements of how many detention kids were placed under the age of 12. [LB675]

SENATOR COASH: But if we pass this law, which I'm happy to see you're in support of, you'd have to find placements for that...those 12 kids. [LB675]

COREY STEEL: Correct. [LB675]

SENATOR COASH: Why are we waiting for the law to be passed for you to find different placements for, you know, a dozen kids currently detained? [LB675]

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COREY STEEL: There...I wouldn't...that's over the past year that's how many have come in. And sometimes it could be, you know, and I don't have all those cases in front of me,... [LB675]

SENATOR COASH: I understand. [LB675]

COREY STEEL: ...but I wholeheartedly believe as well that when we detain those kids we should not be putting them in a secure confinement, we should be finding other areas for them. You're absolutely correct. [LB675]

SENATOR COASH: Thank you. Seeing any other questions from the committee? Senator Williams. [LB675]

SENATOR WILLIAMS: Thank you. Thank you, Mr. Steel. I'd like you to expand on your testimony just a little bit. You talked about alternatives to detention and that probation has expanded the use of electronic monitoring across the state. I'm still...what I'd like you to address is the uniformity of alternatives to detention across the state other than just electronic monitoring. [LB675]

COREY STEEL: Well, we're still, yeah, we're still lacking--yeah, there's no question about that, Senator Williams--we're lacking in a lot of different areas. I would even say in our largest area, Omaha, we still have holes and gaps in our...what we call a continuum of care: from the highest level of care--secure confinement and detention--all the way to our lowest level of care, which is go home and behave and give instruction to the parents that they can then call a probation officer. We have electronic monitor. We've expanded that across the whole state so that no matter where you are in this state, if we come across where a juvenile needs an electronic monitor as part of a detention alternative, we have access to that. We've created that web of contractors that will do that. We don't have every type of service in every area, nor do we need every type of service in every area. But we need enough services in order to access, to get the kids the right services they need. We still have holes and gaps. It's a process. We're continuing to build those each and every month. I mean we add new providers on with a lot of different services. So whether it be mental health, whether it be substance abuse, whether it be just simply watching a kid in order for them (inaudible), we're building those services and working with our community providers. [LB675]

SENATOR WILLIAMS: My question then is this bill would require that you cannot use detention in certain places, but we're admitting that there are areas of the state where some of the other services may not be available. Does that leave us in a Catch-22 that detention is the only solution and it's not allowed under this legislation? [LB675]

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COREY STEEL: No, I firmly don't believe that detention is the only solution. I think that that forces us to continue to build and forces those community aid dollars, which are really tied to all of this detention alternative business, to really create that continuum and to work harder to get those continuums. There's certain kids that need detention. We know those kids and those kids do...there is a place for detention in our system because we have some very serious kids that need that type of, level of secure confinement to make sure that the community is safe and that they are going to attend court so we can go through that court process and determine where is the best suitable placement for that individual, whether it's long-term mental health, long-term substance abuse, whatever it may be, whatever type of facility that is. But it continues to move us in that direction that we've been going for the last four, five, six years in building community resources, building those services for those kids so we're not saying in western Nebraska...and the Chief will say this in his State of the Judiciary speech, when he talks to the judges out west it still is, I have this or I have detention, I don't have those in-between services. It forces us as a system and as a state, which includes all of us here, to continue to build those gap services across the systems. [LB675]

SENATOR WILLIAMS: And you're confident that those can be done in a time frame that would work with this legislation? [LB675]

COREY STEEL: It'll continue to force us to work towards that. [LB675]

SENATOR WILLIAMS: Thank you. [LB675]

SENATOR COASH: Senator Seiler. [LB675]

SENATOR SEILER: I like this bill except for one sentence and that's what Colby started to talk about. "A juvenile 12 years of age or younger shall not be placed in detention under any circumstances." Immediately that -year-old that blew all those people away and then scooted off to Minneapolis jumps in my mind. Don't you think we ought to have a little qualifying language in that sentence? [LB675]

COREY STEEL: You know, those are policy-based decisions. When it gets to those points of specific, that's really...we'll work with you, we'll help you if there is some qualifying decision there that talks about that. I don't want to get into, do we support language that says... [LB675]

SENATOR SEILER: No. I understand. [LB675]

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COREY STEEL: ...anybody under should not be? I think holistically it's the right approach to say we need to take a second look and we need to say those kids that are that young don't need to be in that facility. If there's some qualifying language, we would definitely entertain some (inaudible)... [LB675]

SENATOR SEILER: Okay, thank you. [LB675]

SENATOR COASH: Thank you, Senator Seiler. Seeing no other questions, thanks for your testimony. [LB675]

COREY STEEL: Thank you. [LB675]

KIM HAWEKOTTE: (Exhibit 2) Good afternoon, Senator Seiler and members of the Judiciary Committee. My name is Kim Hawekotte, K-i-m H-a-w-e-k-o-t-t-e, and I am the executive director of the Foster Care Review Office. And we are here in support of LB675 and also, to me, it really interrelates very much with LB709, that they really go hand in hand. I would think the first question--even, Senator Coash, as you were asking yours--that we need to ask as a system is, what is the purpose of detention? Why do we even have it? Why do we need it? Who is it designed for? Research has clearly shown that approximately 55 percent of males and 75 percent of females that are arrested will not have any further contact with the juvenile justice system. So we have to have the ability as a system to ferret out those youth so that we can say we have done no more harm to these youth by our own practices. I hate to say how many years I've been involved in juvenile court, because then I feel really old today. But I have seen detention youths throughout my history as first we did, oh, we're going to scare them straight; if we put them in detention for 24-48 hours, we're going to scare them straight and they'll never come back. Well, research has clearly shown that does not work; in fact, it's had the opposite effect. We've seen detention used as punishment--you know what, you talked back to the judge in court, I'm going to put you in detention for 48 hours so you can think about what it is you have done. Research is out there that clearly shows that is not effective. You're not going to punish good behavior into a youth. So we really need to question why we are using detention. Senator Williams, I guess I would like to respond to your question about a Catch-22 because, in my opinion, without LB675 and LB709 we're in a Catch-22 now because what is the motivation for any community to do alternatives if we have detention facilities or something out there? So to me the Catch-22 also works in reverse. At least by LB675 we'd be forcing these communities to use those community-based funds to create these alternatives and to be creative as to how it would be done. Senator Coash, I do agree with you. One of the strengths I think in LB675, to respond to your question of Mr. Steel, is, how do you define seriously threatened? I don't know. I can tell you as county attorney I probably could argue it was anything and everything that they could be seriously threatened. I think what the key to LB675 is with regards to detention is, what can detention not

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be used for? So it's really the second page of this bill that says it's not because we don't have appropriate facilities, it's not to treat or rehabilitate the juvenile, it is not because it's more convenient. I think you're then giving ammunition for defense attorneys to use to argue what the real reason for the detention is. There is two things that I do want to bring up really under both LB709 and LB675--and I know my yellow light is on--is, first, we need to clearly define what detain is in this state. We have no definition in our statute on what detain is. So what does it include and what type of facilities? Second is, are staff-secure facilities included or not? I really appreciated the testimony earlier about I couldn't tell the difference in court if a youth came into court from a staff-secure or the secure facility, because they all came looking in the same garb. And I'm not sure if you asked any...excuse me. Would you like me to finish? [LB675]

SENATOR SEILER: Please finish. [LB675]

KIM HAWEKOTTE: If you would ask any 16-year-old that's sitting in any of the detention facilities, are you in the staff secure or in the secure part, they would say, I'm in jail. That's what they see it as. We as a state do not have a clear definition of what actually a staff-secure facility is, and I don't believe either one of these bills still clear that up. So thank you for your time and consideration and I'm available for any questions. [LB675]

SENATOR COASH: Thank you, Kim. I don't see any questions, appreciate your testimony. Take the next testifier in support of LB675. Come on up, Juliet. Welcome. [LB675]

JULIET SUMMERS: (Exhibit 3) Good afternoon, Chairman Seiler and members of the committee. My name is Juliet Summers, J-u-l-i-e-t S-u-m-m-e-r-s. I'm testifying in support of this bill on behalf of Voices for Children in Nebraska. Much of my written testimony that you'll have in front of you echoes what you've already heard and heard ad nauseam across the years about the dangers and harms of detention when used on children who don't merit that level of secure confinement. So I'll skip down a little bit and talk to you about our Kids Count numbers. So you have a chart on the bottom of page 1, "Total Admissions to Detention." This is from our Kids Count report. We get our data from the individual detention centers and then, you know, added them up from across the years. And we see a dramatic decline of 36 percent between 2011 and 2013, probably not incidentally coinciding with the expansion of JDAI efforts in this state and the expansion of the community-based aid fund that this Legislature has created. But we also see the numbers rising slightly between 2013 and 2014. And so I'll draw your attention back to that study--which, Chairman, I will make sure the committee gets access to--of the RAI evaluation because I think it has a couple important data points that are relevant to this conversation. So in that 45 percent override rate that I referenced in my prior testimony, probation officers were asked to give the reason for the override. Most of the overrides were due to other and then...like 66 percent were listed as other and predominantly the other reason was

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flight risk. So if a child presented a risk to flee the jurisdiction and avoid court, those kids would still be detainable under the language of LB675. But the second highest reason for override was . 2 percent of those overrides were listed as parent or responsible adult not willing to take the child home. And given what we know about how harmful detention when it's not necessary is, we need to, as Mr. Steel said, as Ms. Hawekotte said, we need to force ourselves to do better. And LB675 will require us to do that. This bill we think would substantially cut our juvenile detention admission numbers again, protecting our kids from the unintended harms of detention by ensuring that only those youth who truly require it due to public safety or a risk of flight from the jurisdiction would be detained. When a kid acts out, we have a choice in how to respond to it. We can do right or we can compound the damage done, and how we structure our system has real consequences for kids. So we thank Senator Krist for bringing this important bill and we thank the committee for your time and consideration. [LB675]

SENATOR COASH: Thank you, Juliet. I want to go back to something you just said regarding-- was it percent or so?--because the parent didn't want the kid back and so that was the reason that the child was detained? [LB675]

JULIET SUMMERS: Yeah, that was the reason for the override. [LB675]

SENATOR COASH: Twelve percent of the overrides? [LB675]

JULIET SUMMERS: Twelve percent of the overrides. [LB675]

SENATOR COASH: I mean this puts...this is like what's bad or what's worse, right, detention or a home where mom and dad say, I don't want him. [LB675]

JULIET SUMMERS: I think detention is worse, Senator. [LB675]

SENATOR COASH: They're both bad. [LB675]

JULIET SUMMERS: They're both bad and that's again the reason why we need to fall back on...this Legislature has invested substantial money to help counties grow their community-based resources. And there are great things happening in terms of crisis intervention. Both Lancaster and Sarpy have real demonstrated success in their crisis intervention programs where when they come...when officers are presented with a family like this where a parent has just had it, instead of saying, detention, okay, parent, we'll detain this kid, they say, you guys need to sit down with a therapist and we'll address this right now and we'll follow up and we'll make sure that we're maintaining for safety. [LB675]

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SENATOR COASH: As I look at your testimony here, you've got this nice graph of the decline in detention from 2011 to now--you know, rough math, maybe a 25 percent decrease. What do you point that to? [LB675]

JULIET SUMMERS: I'm sure there's any number of factors apply. What I would say is it's not correlated to the juvenile crime rate. So I think I would...since the decrease is coming from 2011, I would point it to JDAI efforts to...and in the sites that we have them, but also the community-based aid fund and counties being able to invest in alternatives. So actually we...one of the sharpest decreases in detention we've seen is in Lancaster, which isn't a JDAI site. And so my guess is they've been taking advantage of that community-based alternatives money to invest in resources that are working. [LB675]

SENATOR COASH: Okay. All right, thank you, Ms. Summers. Any questions for Juliet? All right, appreciate your testimony. [LB675]

JULIET SUMMERS: Thank you. [LB675]

SENATOR COASH: We'll take the next testifier in support. Come on up. Welcome. [LB675]

MARGENE TIMM: Good afternoon. Margene Timm, M-a-r-g-e-n-e, last name Timm, T-i-m-m, I'm an attorney with the Lancaster County Public Defender's Office. I've practiced exclusively in juvenile court for over the last 15 years. I'm testifying in support of this bill. Lancaster County, probably seven or eight years ago, reached an all-time high in detention list, number of kids in detention. Every morning I get a list like this that gives me the name of every kid in Lancaster County who is detained in our juvenile detention center. Seven or eight years ago, that number was routinely in the 50s. It edged up toward 60. I think our all-time high was in the low 70s. This number as of this morning is 26. About three or four years ago we started seeing our numbers come down. That was due to Lancaster County developing and utilizing detention alternative and it was also in large part from the legislative change that this body has made. The fact that this is now 26 though doesn't mean that we shouldn't support LB675. LB675 will allow us to drill down on the other kids who are in detention that probably should not be there. I think the first thing that you need to look at is that what LB675 does is it does still allow for detention. A juvenile can be detained if there's safety issues, physical threats, and if that detention is necessary to ensure the presence in court. What is most important about this bill is it specifies when a juvenile should not be placed in detention. And, Senator Coash, you mentioned that. I sit in courtrooms where I have...there's two versions of why parents don't want to take their children home. One is he needs to learn a lesson; they use detention as a time-out. Maybe in a week or two weeks they'll take him back home with some services in place. And the other is, as Ms. Summers mentioned, they're just burned out. They don't want to invest in working with the IFP or the

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MST. And so kids end up in detention based on the parental...the parents not stepping up and taking their responsibility of what it may need to invest in the juvenile to get that juvenile turned around. I think the most important in this list of when a juvenile should not be detained is sub (e) where it says, "Due to a lack of more appropriate facilities." There's no questions we don't have all the facilities we need right now, we don't have that continuum of care, but juveniles shouldn't be placed in detention due to that lack. We have out of the 26 detained--I went through my attorney's list today--public defender clients are 14 of them. I went around and I talked to the attorneys in my office today and I had them tell me what the primary reason was that that client was detained. Out of the 14 total, 8 were identified as mental health issues that they were detained for lack of appropriate mental health facilities for those juveniles. One juvenile on this list has been detained since July 2, so he's went six months in detention. Now he's a combination of a number of factors that make him especially hard to place. He's now 18 years old. He has a number of mental illnesses. He's also developmentally delayed, low functioning. His parents don't want to work with him anymore and he has manifested aggression. So there's just no placement for him. But again, he's somebody that we need to drill down, we need to really look at does he need to be in detention, do we need to develop these other alternatives? I don't have much more to add as to what the other testifiers have said, but I support this bill. I think it's very important to list the reasons that juveniles should not be detained. [LB675]

SENATOR COASH: All right. Thank you, Ms. Timm. I want to...the examples you gave are helpful for me. So I'm thinking about the juvenile you're talking about, 18 years old and been detained since July, right? [LB675]

MARGENE TIMM: Yes. [LB675]

SENATOR COASH: If this bill had been law in June of this year, what would have happened to that juvenile? [LB675]

MARGENE TIMM: In terms of placement? [LB675]

SENATOR COASH: Yeah. [LB675]

MARGENE TIMM: That's where I rely on Corey Steel and Juliet Summers in terms of the community aid dollars, in terms of coming up with more facilities. I continue to assert that there are placements for this youth. There should be other types of filings. There should be looking at a filing maybe to bring him under the Developmental Disabilities Act. Now that he's 18, he can no longer have any new filings in juvenile court, but there is a filing in juvenile court, a (3)(c), which is for mentally ill, that brings him under the jurisdiction of Health and Human Services, not just the Probation Department. Health and Human Services does have additional resources,

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different facilities that might be available for him. But the attorney who is actually assigned to this case believes that he should go home and that his parents are just unwilling to work with the services that would be available to bring this youth back home. [LB675]

SENATOR COASH: Thank you. Senator Williams. [LB675]

SENATOR WILLIAMS: Thank you. Ms. Timm, thank you for being here. I'm going to go back to the line of questioning I asked Mr. Steel earlier about a concern that I have if we are creating a gap in the system because the points that you made, especially point (e) due to a lack of appropriate facilities. We know that those appropriate facilities are not always available. This legislation will encourage people and over time they will be built, hopefully, or we'll provide those services. But if we pass this law, at the time we pass it they may not be there. So if we are caught in that situation of not being able to detain someone, with your experience, and I'm not experienced in this, what is the alternative then if the legislation says we can't detain them and yet we do not because we don't have this facility? [LB675]

MARGENE TIMM: And that is a concern of mine and that was a concern of mine coming to testify today for this bill. But detention is not the right answer. There can be more services put in home; there can be, as I said, there could be investigation of other type filings to bring more resources to the table, more facilities that might be available for that youth rather than bringing them under just the delinquency way and what is available through Probation right now. But putting a youth in detention, in this one juvenile's situation, for six months is certainly not helping him. He's going to age out in less than five months with no plan after that and little to no skills in order for him to succeed as an adult. [LB675]

SENATOR WILLIAMS: And don't interpret my question that I don't think...you know, I understand that detention is not the solution we're looking for here. I'm concerned about if we're creating a situation here that we can't follow. So we'll just have to...because...you've got it. Thank you. [LB675]

MARGENE TIMM: Thank you. [LB675]

SENATOR COASH: Thank you. Okay, we'll take the next testifier in support. Welcome. [LB675]

ANNE HOBBS: (Exhibit 4) Thank you. I'm Dr. Anne Hobbs. I'm the director of the Juvenile Justice Institute. It's A-n-n-e H-o-b-b-s. And I apologize, there will be some additional copies coming around. But I wanted to talk a little bit about what we know about the youth that are

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detained in the state of Nebraska and also address any questions about rural youth because I think when we look at the data it doesn't play out the way that we suspect it will. So let me explain that. My office and myself, I was involved in the study of the risk assessment instrument that Probation uses to help guide whether or not a youth will go into detention. So just really quickly to overview that, if a youth scores under ten, they should not go into any type of secure facility. They should either go home or they should be released with an alternative. If they score a 10 or 11, they would go into a staff secure and a or higher would go into secure detention. What we know is that the youth that are detained in the state of Nebraska during this one-year time frame, what's happening is probation officers, the youth score overall very low, too low to be sent even to a staff secure, yet they are still detained. When we dig into that and we look at the reasons why did that youth come to the front door, why did law enforcement bring the youth to Probation to even have the assessment done, what we see is youth being brought in on warrants, youth who have run away, youth on probation violations, and youth with new law violations. When we dig in even further, so when we started asking the question, why are so many low-level youth detained, so we can shape the resources to meet that need, what we find is that runaway youth score the lowest but are more likely to be detained simply because they're really hard to place. Another question that came up during the study is runaway youth. Perhaps, you know, the home isn't safe to go home to. And I'll finish up real quickly. If...what we did is when we interviewed probation officers, interviewed youth, what they found is that it was family conflict and placement that were placement problems, like disagreements in the home. So one last thing I'd like to touch on is rural youth. What you might suspect is that, you know, perhaps rural places are the most likely to detain a youth and the least likely to override this instrument. What we found is that's not true. Rural entities tend to do a better job finding creative solutions to meet the youth's need or working with the parents or sending the youth home and they're less likely to detain the youth. We're not totally sure why that is. It could be that they don't want their sheriff spending the funds or the, you know, time to drive a youth to a facility. We just know that that is occurring. So I'd be happy to answer any questions that you might have. [LB675]

SENATOR COASH: All right. Thank you, Ms. Hobbs. I don't see any questions, appreciate your testimony. We'll take the next testifier in support. Welcome. [LB675]

AMY WEST: Thank you. My name is Amy West, A-m-y W-e-s-t, and I'm here on behalf of the Nebraska chapter of the National Association of Social Workers in support of LB675. The overuse of juvenile incarceration is a key issue for social workers working with adolescents. As a social worker who has worked with this population for nearly a decade myself, I have seen young people locked up for skipping classes, for running away from their foster care placement, and for respectfully disagreeing with their judge about the best placement option for them. I've seen sentences be extended simply because no alternative placement option was available. When we are addressing truancy with the same punishment as murder and arbitrarily throwing young people into lockup, there is something wrong with the system. Just like you would with your

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own children, when young people act out, as adults we must consider the underlying reasons for their behavior. And far too often when we see young people being disrespectful towards authority figures, disengaged in the classroom, running away from their placements, and quick to escalate from anger to violence, what we're really seeing is trauma. If we actually hope to help young people learn from their mistakes and heal from the wounds of their past, we have to look at the problem through a trauma lens. We have to acknowledge the rocky childhoods and community violence that so many of these youth have experienced. We have to stop viewing and treating them as criminals. The unnecessary use of incarceration is wasteful of resources and harmful to the human potential of young Nebraskans. Locked detention centers should be used as a last resort only, not as an alternative to a group home, nor as a timeout for the developmentally typical behavior of adolescent state wards. Thank you, Senator Krist, for bringing this bill, and I would welcome any questions. [LB675]

SENATOR COASH: Thank you, Ms. West, appreciate your testimony. Thank you. Next testifier in support. Welcome. [LB675]

CHRISTINE HENNINGSEN: Good afternoon. My name is Christine Henningsen, C-h-r-i-s-t-i-n-e, Henningsen, H-e-n-n-i-n-g-s-e-n. I'm an attorney at UNL Center for Children, Families, and the Law, and I direct a new program there called Nebraska Youth Advocates which works to support and enhance juvenile defense across the state. Prior to that I worked in the Douglas County Public Defender's Office primarily in juvenile court. I am in support of this bill. The National Academy of Sciences reminds us that the programs and facilities in which we place our children become the developmental setting which affects the developmental trajectory in ways that can increase recidivism. Detention does nothing to enhance development of a child. It's harmful, it disrupts normal adolescent development, and actually leads to higher recidivism rates. This is especially true with younger youth, so much that the National Juvenile Detention Association opposes detention of preadolescents. They have special needs. They are at a critical point in their development where they're even more susceptible to negative peer pressure and the harmful effects of detention. Detention does nothing to address the underlying issues which may have led to the riskful behavior that the youth was engaged in. And in my personal experience in the public defender's office, danger to property should never be a ground for detention. I had a client who took their client's...or took his parents' credit card and bought some clothes with it and he was no danger to himself, to others, but because he was a danger to the property of his parents he was put in detention and that detention lasted over 15 days. What youth need are positive role models, positive peer groups, and being involved in activities which support creativity and independent decision making. None of those are available in detention. And so I support this bill which limits the use of detention only to situations where it is needed. And detention has not been used in areas as much where it's not as accessible, and that is because detention is often a convenient choice and one that is easy for the worker to use and then they decide they will figure

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out what to do with the child later, and we must do better for our children. And I'd be happy to take any questions. [LB675]

SENATOR COASH: Thank you, Ms. Henningsen. [LB675]

CHRISTINE HENNINGSEN: Thank you. [LB675]

SENATOR COASH: Appreciate your testimony. We'll take the next testifier in support of LB675. Welcome, Mr. Crowell. [LB675]

VAUGHN CROWELL: Senator Seiler, members of the Judiciary Committee, my name is Vaughn Crowell, V-a-u-g-h-n C-r-o-w-e-l-l. I'm here today to support LB675 and I represent myself. In my opinion, LB675 adds language to further protect juveniles in a system that many juveniles and parents do not trust. I do have some concerns though with a term that's being used, has been brought a couple times today and I see in statute, in other statute, the term "a matter of immediate and urgent necessity." LB675, on page 2, lines 18 and 19, uses the terms "a matter of immediate and urgent necessity." This language is noted in many statutes, but since it is in this bill and would add the term in statute to the...that pertains to this bill, Nebraska Revised Statute 43-251.01, I felt the need to briefly discuss my experience with the term "a matter of immediate and urgent necessity." I have here an affidavit from the Nebraska Department of Health and Human Services to support the removal of said child--and the child and the parent I talk about are myself and my child--to support the removal of said child into temporary foster care as a matter of immediate and urgent necessity. I have here a court order from the Douglas County Juvenile Court. I'm sorry, I have here a court motion from the Douglas County Attorney's Office for temporary custody of said child as a matter of immediate and urgent necessity. I have here also a court order from the Douglas County Juvenile Court for the immediate custody of said child as a matter of immediate and emergent (sic) necessity. I have here page 4 of a six-page response from the Nebraska State Ombudsman to the Nebraska Department of Health and Human Services concluding: If it was, in fact, Health and Human Services' honest opinion that the placement of said child into temporary foster care was a matter of immediate and urgent necessity, then I strongly disagree with that opinion. Members of the Judiciary Committee, I support the intent of the language "a matter of immediate and urgent necessity" as drafted in LB675. But what I just described to you was an alleged truancy case. The child was returned in less than 24 hours to the care of myself and my wife and the truancy case was dropped when we disenrolled him from high school. The language is used to punish citizens that might question the system and there is no accountability of the abuse and the misuse of the term. I don't have an answer to when the integrity of the system breaks down, but I believe it is important to bring to your attention that language you draft into law is sometimes grossly perverted to meet the needs

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of a personal agenda of a Department of Health and Human Services worker, a deputy county attorney, or a juvenile court judge. [LB675]

SENATOR COASH: Thank you, Mr. Crowell. [LB675]

VAUGHN CROWELL: Thank you. [LB675]

SENATOR COASH: I would point out, because I was looking at that language as well, that it's already in statute. Senator Krist is not putting this term into statute; he's moving it around a little bit, but the ambiguity may remain. But it's not new language. There's (inaudible)... [LB675]

VAUGHN CROWELL: Well, my understanding is under...on lines 17 and 18, what is underlined there would be new. [LB675]

SENATOR COASH: Yeah. And if you look down further at the bill at lines 29 and 30, it's the same language that was stricken, so. [LB675]

VAUGHN CROWELL: Fair enough, just wanted point that out. [LB675]

SENATOR COASH: It's been rewritten, but it's good that we're looking at that. Any questions for Mr. Crowell? [LB675]

VAUGHN CROWELL: Thank you. [LB675]

SENATOR COASH: Seeing none, thank you. Welcome. [LB675]

MELANIE WILLIAMS-SMOTHERMAN: Well, thank you again. My name is Melanie Williams-Smotherman, M-e-l-a-n-i-e Williams, hyphen, S-m-o-t-h-e-r-m-a-n. And I just have a...I'm here obviously to support Senator Krist's bill, LB675. It's for me a no-brainer. You know, taking children and putting them in a prison-like setting is not healthy environment for kids. And if we're to believe that a parent's behavior toward their children in a moment of harsh discipline or missing a few days of school is going to seriously hamper the success of children in their lives and their education and their ability to be hired by an employer, we certainly cannot ignore the volumes of evidence that incarcerating kids does to the psyche of a child. It normalizes the sense of being a prisoner. And, you know, I'm not the expert that has developed all of the studies that prove this, but I think that, you know, it's long past time that we address this. The majority of cases, while I believe that there should be discussion about the serious exceptions that were

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raised by Senator Seiler and also Senator Coash with regard to self-harm, the majority of cases are not involving 11- and 12-year-olds who have been compelled to pull a trigger on behalf of adults. The vast majority of cases are those that even rise to simply status offenses, which would not be a breaking of the law if it were an adult who were the offenders. And it just seems like common sense to understand that taking the liberty of a child and their parents away from them is not the proper response. So that's all I have to say. [LB675]

SENATOR COASH: Thank you. [LB675]

MELANIE WILLIAMS-SMOTHERMAN: Thank you. [LB675]

SENATOR COASH: Seeing no questions, appreciate your testimony. Any other testifiers in support of LB675? Seeing none, is there anybody here to testify in opposition? Is anybody here to testify in a neutral capacity on LB675? Welcome. [LB675]

SHAKIL MALIK: Good afternoon, or just about good evening, Senators. Shakil Malik, S-h-a-k-i-l, last name Malik, M-a-l-i-k, deputy county attorney testifying on behalf of the Nebraska County Attorneys Association in a neutral capacity. It's certainly a good thing to have additional guidelines on when detention is appropriate and not appropriate. As I've heard anecdotally over the years, we often have parents come to our offices asking, hey, take my kid away, throw my kid in DCYC, whatnot. So to be able to point out in statute that, hey, it's not for you to be able to evade parental responsibility, it's a good thing. Why I'm here though today is just to point out a couple of things which have already been mentioned, so I'll be as brief as possible. The statute as written, as modified, talks about that a juvenile years of age or younger should not be detained under any circumstances. Right now we have in the Douglas County Youth Center two juveniles who are years of age detained. One of them is...actually, they're both there for felony cases. It's not like it's a truancy or status offense or even a misdemeanor. They're both felony cases. One of them, in fact, was a juvenile who had been detained for a shooting. The system worked as intended where he was detained, then eventually he was stepped down to a shelter placement. He was violent and combative at the shelter placement, was moved back to our detention facility, then given another chance to be on electronic monitoring with the home program at Douglas County. He then cut off his bracelet, ran. He was just recaptured a couple days ago. He's now back in secure detention. Under this bill, we would not be able to detain him. We have another juvenile who is detained for first-degree assault. So I would ask this committee and the Legislature to consider having an exception primarily looking at when a juvenile has been alleged or have been found to have committed a felony for this hard years. The other issue, it's more of I think a language issue, is right now it says detention where it's previously said secure detention. And right now detention encompasses both secure and nonsecure. Nonsecure can be all the alternatives to detention. I don't think the intent was to eliminate all those. But as written

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right now, it technically eliminates alternatives and regular. Now if LB709 passes, that would clean that up. But I'm just saying, as written right now, it says detention, which we actually do have definitions. I heard someone say we don't have definitions for detention. We do. We have two: secure, which is like Douglas County Youth Center, Lancaster, whatnot; and then nonsecure, which includes drug court, electronic monitoring tracker. All sorts of things are defined in statute as nonsecure detention but still a form of detention. So those are just the two pieces I wanted to bring to this committee's attention today. [LB675]

SENATOR COASH: Okay, thank you, Mr. Malik. Senator Chambers. [LB675]

SENATOR CHAMBERS: You were here once before, weren't you? [LB675]

SHAKIL MALIK: I've been here a few times, Senator. [LB675]

SENATOR CHAMBERS: I questioned you closely on that occasion, do you remember?
[LB675]

SHAKIL MALIK: Yes. [LB675]

SENATOR CHAMBERS: I'm allowed to do it one person, and I had my one today, so you're free (laughter). [LB675]

SHAKIL MALIK: All right, always happy to chat, Senator. Thank you. [LB675]

SENATOR COASH: Seeing no other questions, appreciate your testimony. Neutral testimony? Neutral, come on up. [LB675]

JULIE ROGERS: Good afternoon, Chairperson Seiler and members of the Judiciary Committee. My name is Julie, J-u-l-i-e, Rogers, R-o-g-e-r-s. I'm the Inspector General of Nebraska Child Welfare, appear in a neutral position on LB675 to highlight issues related to the bill that have come to our office's attention. LB675 further limits and clarifies the appropriate use of detention. There are other places in statute which are used to detain youth, not modified by this bill. We have received a number of cases where youth who did not necessarily present a flight risk or community safety threat were detained due to a violation of probation or a violation of conditions of release. The policy within Nebraska law is going to be that any placement in a detention center should only be used in these narrow cases. Harmonizing such statutes should be considered. These statutes include Section 43-286.01, subparagraph (4), which speaks to

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violations of probation; and Section 43-253, subparagraph (5), which allows the court to place conditions of release on youth being released from detention. Thank you. [LB675]

SENATOR SEILER: Thank you, General. I don't see any questions, appreciate your testimony. [LB675]

JULIE ROGERS: Okay. [LB675]

SENATOR COASH: Any further neutral testimony? Seeing none, Senator Krist, you're welcome to close if you'd like. [LB675]

SENATOR KRIST: Thank you, Senator Coash. And I will close on this one. I want to thank Mr. Malik and the OIG for coming forward and presenting some very constructive criticism and all those who supported this piece of legislation. I think this is critical to ensuring continuation of the course that's been set. On page 2 what has been suggested is right in terms of, let me see, a juvenile years of age or younger shall not be placed in detention unless the juvenile has alleged or found to be on a juvenile as described in subdivision (2) of Section 43-247. I bring that to legal counsel's attention; that is essentially the felony that Mr. Malik talked about. So I'm pretty confident that this piece of legislation is ready for prime time with those few corrections and, as is the custom of this committee and something that I believe strongly in, should probably be combined with a package; LB709 is compatible in terms of some of the things that have been done. And I appreciate everyone who has come to testify today in support or in a neutral capacity. Thank you. [LB675]

SENATOR COASH: Thank you, Senator Krist. Thank you. [LB675]

SENATOR SEILER: LB845 will be introduced by Pansing Brooks. You should know Senator McCollister, Schumacher, and Williams have also signed as introducers. [LB845]

SENATOR PANSING BROOKS: We've got two bills at once, so it's a little bit confusing. [LB845]

SENATOR SEILER: Well, we only have one bill: LB673 (sic). [LB845]

SENATOR PANSING BROOKS: Yeah, you're right...LB845. Okay, ready? Are you ready? [LB845]

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SENATOR SEILER: Go. [LB845]

SENATOR PANSING BROOKS: (Exhibits 1 and 2) Okay. Senator Seiler, fellow members of the Judiciary Committee, for the record, my name is Patty Pansing Brooks, P-a-t-t-y P-a-n-s-i-n-g B-r-o-o-k-s, and I represent Legislative District 28 right here in the heart of Lincoln. I'm here to introduce LB845. I think we are all aware of the potentially negative effects which can arise from solitary confinement in both adults and juveniles. In April 20, the American Academy of Child and Adolescent Psychiatry, AACAP, issued a statement concluding that solitary confinement of juveniles could lead to depression, anxiety, and even psychosis. AACAP called for an end to the practice of using solitary. Quote: Due to their developmental vulnerability, juvenile offenders are at particular risk of such adverse reactions, the AACAP statement said. In 2010, the U.S. Department of Justice went as far as saying that the "isolation of children is dangerous and inconsistent with best practices and that excessive isolation can constitute cruel and unusual punishment." In that 2010 nationwide study, the Office of Juvenile Justice and Delinquency Prevention with the Department of Justice found that more than one third of youth in custody--33 percent--report being isolated, locked up alone, or confined to their room with no contact with other residents. The vast majority of youth who were isolated--87 percent--say that this was for longer than two hours. And more than one half--55 percent--say it was for longer than 24 hours. What I am trying to achieve with this legislation is to make sure that we have the correct data relating to the use of solitary confinement in Nebraska institutions. Are our institutions using a form of solitary? If so, how long? To whom? When? Why? And how often? If not, great, our job is done. As you probably all know, the Nebraska ACLU recently released a report regarding the use of solitary confinement in juvenile detention. The responses to the report varied. While the statements made by Health and Human Services and the Nebraska Department of Correctional Services are encouraging, they both suggest that solitary is used only as a last resort and for very limited time periods. The varied responses by Lancaster and Douglas Counties point to the need for both uniform definitions and statewide reporting. By defining the terms, we can assure that we are not comparing apples to pomegranates. The bill purposefully leaves the definition of juvenile facility quite broad. I realize that there may be concerns that it is too broad and that we may need to narrow the scope under which public or private entities would need to file such a report. In light of the fact that the oversight of the placement of juveniles falls under different jurisdictional umbrellas, including county and state facilities, I believe it is especially important that the Legislature has access to the full array of data from all applicable sources. This legislation asks for information relating to the use of "room confinement." The bill defines room confinement as involuntary restriction to a cell, a room, or other area alone, including the juvenile's own room, except during normal sleeping hours. The legislation requires that any time that a juvenile is confined to one of the areas mentioned for over two hours, that it be approved by a supervisor and be included in that report. Any confinement over three hours needs to be approved by the head of the facility and also included in the report. In addition, the race, ethnicity, age, gender, date, time, and duration of confinement, why the child was placed in

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confinement, and any incidence of self-harm or suicide attempts committed by the child while isolated must be reported. Also, any room confinement lasting more than four hours shall include all reasons why attempts at returning the child to the general population were not successful. The reports shall be filed quarterly and the Office of the Inspector General shall evaluate the data annually and report her findings to the Legislature. As lawmakers we have the authority to pass and amend laws that potentially confine juveniles. It is our responsibility to know what is happening to those juveniles once confined. It is my hope that the reports will show that solitary or room confinement is used very sparingly and thoughtfully with the ultimate goal of rehabilitating the juvenile and that there will be no need for further legislative action. With that, I will take any questions you may have. [LB845]

SENATOR SEILER: Any questions? Thank you. [LB845]

SENATOR PANSING BROOKS: Thank you. [LB845]

SENATOR SEILER: Anyone in support or a proponent of this bill? [LB845]

JULIET SUMMERS: (Exhibit 3) Good evening, Chairman Seiler, members of the Judiciary Committee. My name is Juliet Summers, J-u-l-i-e-t S-u-m-m-e-r-s. I'm here on behalf of Voices for Children in support of this bill. All youth in our juvenile justice system are entitled to receive rehabilitative services for a second chance to succeed. Outmoded and inhumane practices like the use of extended solitary confinement mar children's opportunity for this rehabilitation and recovery. We support this bill because we believe that clear reporting requirements on the use of isolation, if it is being used in Nebraska's facilities that house children, is a sensible first step toward reform. Nebraskans are all too familiar with the damage that can be done by extended stays in solitary confinement. Isolation is particularly dangerous for children. Research has shown that solitary confinement has negative neurological and psychological effects on adults such as depression, panic attacks, and anxiety, and this effect is magnified in juveniles, whose brain centers are still under construction. Teenagers need healthy social environments to grow into well-adjusted adults and extended segregation from a peer community, whether that's behind a locked door or not, is linked to increased mental health concerns and heightened rates of suicide. A recent study found that half of young people who committed suicide in confinement were room confined at the time. And so for these reasons, the UN prohibits juvenile solitary confinement and the American Academy of Child and Adolescent Psychiatry opposes its use. In Nebraska, Voices for Children's research and the ACLU of Nebraska's recent report shows that the practice is occurring across the state but facilities differ in the ways that they define, track, and account for children isolated from their peers. Policies on the use of solitary are all across the board, from a maximum of five days at the Youth Rehabilitation and Treatment Centers to a maximum of 90 days for teenagers held in adult correctional facilities. And I would note that all

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stated policies are well beyond the AACAP recommended maximum of 24 hours, much less the JDAI best practice of four hours for that brief timeout to manage for safety. And furthermore, reporting of actual use varies widely. To protect youth from the harms of isolation, a uniform definition is going to be key. And I think we saw that from the responses to the ACLU's report that recently came out. We support this broad and clear definition of room confinement which will cover any situation in which a child is isolated from their peer community because that's where we see the damage caused. We also support the bill's sensible approach as supervisory approval and reporting requirements don't kick in until stays in isolation begin to last long enough to wreak that damage. So for the kid who needs 20 minutes' time out to maintain for safety, to break up a fight, this bill isn't actually going to affect those situations. It's only when those stays start to get long enough that they become more administrative in nature and less of that cool-down period. As the data flows back from facilities, the Legislature and public will be better informed and able to determine whether further reform is needed. We thank Senator Pansing Brooks for her commitment to improving our juvenile justice system and this committee for your time and consideration. I'd be happy to take any questions. [LB845]

SENATOR SEILER: Seeing none, thank you. [LB845]

JULIET SUMMERS: Thank you. [LB845]

SENATOR SEILER: Next proponent. [LB845]

JENNIFER LUTZ: (Exhibit 4) Good afternoon, Chairman Seiler and members of the committee. Thank you for the opportunity to provide you with the experience of the Center for Children's Law and Policy in Washington, D.C., in support of LB845. [LB845]

SENATOR SEILER: Will you please state your name and spell it. [LB845]

JENNIFER LUTZ: I'm sorry. Jennifer Lutz, J-e-n-n-i-f-e-r, Lutz, L-u-t-z. I'm sorry for that. CCLP is a national public interest law organization widely recognized for our expertise on issues related to conditions of confinement for youth. Along with the Youth Law Center in San Francisco, we drafted the extensive JDAI standards and have advised various federal agencies and many state and local governments on strategies to improve conditions of confinement for youth. I prepared written testimony that details the devastating effects of solitary confinement on youth, but I believe that will be addressed by some of the other testifiers, so I will use my time to place Nebraska in the context of a national movement to address solitary confinement. There is a national consensus to eliminate solitary confinement for children and that such a result is, in fact, possible. In addition to the Justice Department, professional organizations, including the American Academy of Child and Adolescent Psychiatry, the American Psychiatric Association,

and the American Bar Association, all support the end of solitary confinement for youth. Most recently, a bipartisan group of senators recently introduced federal legislation that limits the use of solitary confinement for youth in federal custody to situations in which the young person poses a risk of immediate physical harm and only then for brief periods of no more than three hours. Best practices for facilities require that the use of solitary confinement on children be limited to brief and temporary circumstances. The Council of Juvenile Correctional Administrators, which is an association of the directors of state juvenile facilities in all of the states, developed something called performance-based standards, or PBS, which is a national data-driven improvement model for juvenile facilities. Under both the JDAI and PBS standards, isolation should be limited to protect the youth from harming himself or others and, if used, should be brief and supervised. The JDAI standards, as mentioned, limit the maximum amount of time youth may spend in room confinement to four hours. Many states and local jurisdictions have taken steps to reform the use of solitary on youth. These include Ohio, Illinois, New Jersey, California, and New York. A recently published legislative survey of laws stated that 21 states prohibit the use of solitary confinement as punishment and an additional 20 states limit its use to periods ranging from three to five days. Many states limit that to shorter periods, including Delaware, Idaho, Pennsylvania, and Illinois. Some state agencies have all but eliminated the use of solitary confinement. The Commonwealth of Massachusetts, for example, rarely uses solitary confinement for more than two hours and the Department of Youth Services in Ohio has reduced its average length of confinement to 2.83 hours. I see that I've reached my limit. I do have additional brief remarks if you'd like to hear them. [LB845]

SENATOR PANSING BROOKS: I'd like to hear them. [LB845]

SENATOR SEILER: Go ahead. [LB845]

JENNIFER LUTZ: Thank you. LB845 is an important first step to addressing the concerns about solitary confinement in Nebraska. Its definition of solitary confinement and the data that it requires to be collected are consistent with national standards, as well as the pending federal legislation and standards in states like Ohio, Nevada, Pennsylvania, and New York. Both the JDAI and PBS standards require the collection of detailed data on the use of solitary confinement within facilities. This information provides a picture of what is happening within facilities and whether isolation is being used on particular populations, including whether it's being disproportionately used on certain populations, such as youth of color, girls, or LGBTQ youth. CCLP fully supports LB845 and I thank you very much for your time. [LB845]

SENATOR SEILER: Any questions? Seeing none, thank you for your testimony. [LB845]

JENNIFER LUTZ: Thank you very much. [LB845]

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SENATOR SEILER: Next proponent. [LB845]

JACOB RUSHER: (Exhibit 5) My name is Jacob Rusher, J-a-c-o-b R-u-s-h-e-r, and I am here to testify in support of LB845. I have personally experienced solitary confinement, or lockdown, three times in my life: twice when I was 15 and then again at age 17. The first time I went into lockdown was the end of my eighth grade year, after getting charged with a violation of probation. I came in with a broken ankle, so I was immediately put on medical lockdown. That was 23 hours a day, 1 hour of rec time, in my cell. Shortly before being released into general population I was charged with another infraction for when guards shut off my water for three days and would not turn it back on. I then was given additional lockdown time. The second time I went to the youth center was because I'd been suspended from school, which again was a violation of probation. I was put in a unit with older kids with more violent crimes due to my heightened status. I got put on lockdown that time for fighting back when three or four older kids tried to jump me. I was put...I got additional lockdown time for having...getting into a fight with my cell mate. The third time I went in was for...I was charged with a crime and they eventually dropped the charges. The crime was third-degree assault. The person I supposedly assaulted had stated that I had never assaulted them and there was no marks to prove that I had assaulted them. Being in solitary confinement each of these times was really hard because you don't see anybody, you don't have any communication or interaction with anyone else besides someone barking an order at you or threatening you in some fashion. They were supposed to let me have an hour of recreation time each day, but I very seldomly got it. The only way to communicate with anyone else was talking with other youth through the vents, but you had to climb up on the sink to do so. Some of the guards would give you additional lockdown time if you were caught talking in the vents, or they would mess with you because they did not like you talking through the vents. The guards were also incredibly traumatizing. They would try to send messages when they would restrain kids. They'd pin you down and would be calling you horrible names and telling you to scream. That really was haunting, to listen to 14- or 15-year-old kids scream for their moms when they were in their cell because they were getting beat up by grown men who are supposed to be taking care of them. I was restrained once and when I was restrained I was punched in the ribs by one of the guards, while another guard held my arms behind my back. Not all guards were like that, but too many of them were. They were the scariest things because the other kids might beat you up, but the guards could just destroy you and there's really nothing you could do about it. Our juvenile justice system has a lot of work to do and a long way to go to fix some of these issues. But today you have an opportunity to take at least a first step to understanding more about what happens in these facilities. I hope you remember my story when deciding whether to advance this bill, and I hope you decide to support it. Thank you for your time. I am available to answer any questions. [LB845]

SENATOR SEILER: Questions? Thank you for your testimony. Further support. [LB845]

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DYLAN MURPHY: (Exhibit 6) My name is Dylan Murphy, D-y-l-a-n M-u-r-p-h-y, and I am here to testify in support of LB845. When I was 14 years old, I was admitted to a local psychiatric facility for depression, self-harm ideation and behavior, as well as suicide ideation and attempts. My first night in the facility, I was asked less than an hour on the unit to "contract for safety," with no explanation of what that really meant. Because I didn't understand what they were asking, I didn't agree. Therefore, I was made to drag a bare mattress into a room, which I would later find out was known as "the quiet room," and locked inside for ten hours. I learned then that as bad as things felt before, they could get much, much worse. It was also that night I first learned the lesson that by asking for help, I had ended up locked away from others and trapped inside my head with the very things that had resulted in my admit magnified more than I could have ever imagined. From March to August of 1999, I experienced being placed in solitary confinement around six to eight times, ranging in lengths of 10-14 hours. Most, but not all, of these placements were due to my initial lack of information about safety contracting, or my inability to do so. However, there were at least two distinct occasions in which I was placed in isolation due to being targeted for aspects of my identity, speaking up, or questioning staff about these incidents. In the facility I repeatedly watched other kids, some as young as five, placed in isolation, sometimes by means of restraint. I knew then that children that age often lack emotion regulation skills developed enough to prevent what would normally be considered a "tantrum." In there, however, this resulted in them being strapped down and taken away. This was just one reason why I quit trusting almost all staff and that system. My experiences of being placed in isolation have had lasting and damaging impacts on me. Enclosed spaces, or spaces that are not "mine," can quickly begin to feel "unsafe" and evoke a flight response in me, or other times, panic attacks. My ability to trust others was near broken. I learned that saying and doing what others wanted from you is "easier," and does not result in conflict. This need to avoid any level of conflict has caused a burden for me over the years of having to feel constantly hyper-alert and on guard. Isolation hurt me. My truth is that, in fact, on more than one stay in isolation, I was still able to engage in self-harming behavior. These experiences cost me my willingness to ask for help and speak my truths. It cost me one of the most powerful things we all possess: my voice. It took me 12 years, until I was 26 years old, before I started finding my own voice again. I turn 31 in two months, and it is this honest and authentic voice that I use to ask you today to pass LB845. Solitary confinement has the complete opposite effect of what myself and so many other youth actually need. Youth do not need to be taught that as bad as things can already feel or be, they can get worse; youth need to be listened to, compassion, and actual help. It is for these reasons that I strongly urge you to pass LB845. We need to understand how solitary confinement is truly being used, so we can ensure that this is not happening to other young people. Thank you for your time. [LB845]

SENATOR SEILER: Questions? Seeing none, thank you for your testimony. Come ahead.
[LB845]

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KRISTA CARLSON: My name is Krista Carlson, K-r-i-s-t-a C-a-r-l-s-o-n, and I'm an attorney here in Lincoln but I'm not here on behalf of anyone today. I'm just here to tell you about my story when I was 14 and picked up as a pregnant runaway. I actually didn't run away. My 23-year-old boyfriend dumped me off on the side of the road, told me to hitch-hike to California, because he didn't want caught for statutory rape. But when the officers came and they caught me, they sent me to a place in Montana called Pinehaven Christian Children's Ranch. And when I first went there I was pretty upset. I couldn't stop crying because my boyfriend had just dumped me, I was pregnant, my parents didn't want me at home, I was a thousand miles from home, I wasn't allowed to contact anybody, there was no communication with the outside world, no newspapers, no TV, no phone, no anything. And when I couldn't quit crying, they locked me out on the porch of this house that I was forced to stay in. There were locks on all the doors and windows so I couldn't get out, and it was cold. I had ran away or been dumped in September. And in Montana, in September/October/November when I was out on this porch, it was really cold and I would sit out there and I'd shiver. And all I was allowed to eat was peanut butter on bread and milk and no one was allowed to talk to me. And all I could think of when I was there was how to kill myself or what to do to get out of there, but how, if I took my own life, I was going to kill my baby, too, which I didn't want to do, and if I ran away from this place, if I could get out and around the security, Montana in the winter is a harsh place, there wasn't anywhere to go. That was all I could think of. Eventually I had my baby there. They took me to a hospital in Missoula, but no family was there when he was born. And I came home about six weeks after he was born, so I was there about a year. And it was really hard adjusting coming back. I didn't know how to talk to people. I didn't know about things that had gone on, like the Oklahoma City bombing, while I was there. There were so many things that had happened that I didn't know had happened with my peers. I was very depressed and also had anxiety at the same time. I still have nightmares. I'll still wake up in a cold sweat that...for the nightmare that I'm back there. And I have trouble relating to my peers. My partners in my law firm said, you know, you have trust issues, not everybody is out to get you. I said, I know, I'm sorry. But I do have long-lasting effects. Yes, I've overcome it to become a professional; you know, I'm able to cope. But even sitting here today it's hard; it's really hard to still have those nightmares and those long-term consequences from that. And that's what you do to juveniles if you let them be locked up in solitary and don't have any oversight. We've tried so hard to work with the Montana Legislature to provide that oversight. And I sit at my desk and I've cried when they have not advanced it out of committee. I'm asking you to do better than that, to do better than that for our kids in Nebraska, and advance it out of committee. Thank you. [LB845]

SENATOR SEILER: Any questions? Thank you for your testimony. Next. [LB845]

SARAH HELVEY: (Exhibit 7) Good afternoon. My name is Sarah Helvey, S-a-r-a-h, last name H-e-l-v-e-y, and I am a staff attorney and director of the child welfare program at Nebraska Appleseed. And as you may know, at Appleseed we've focused our juvenile work more on the

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child welfare side, but in recent weeks or recent months, in the last year or two, we've gotten more involved on some issues, some crossover issues, and working with issues related to older youth in the system. And particularly we've been doing a lot of work recently with regard to the local implementation of the new federal Preventing Sex Trafficking and Strengthening Families Act, and especially with regard to new "normalcy" provisions which are about eliminating barriers and red tape in the system to allowing children and youth access to normal, everyday experiences and extracurricular and social activities. And there is a bill before, that Senator Campbell has introduced before, the HHS Committee tomorrow, LB746, related to this. That new federal law was passed because we know now that these normalcy experiences are important to healthy social development. As part of a stakeholder process around this work, stakeholders have identified and will be discussing, as part of a task force established at the Nebraska Children's Commission, the need to look at how normalcy can be improved on the juvenile justice side. And all that is background to say that we testify today because solitary confinement in an institution is one of the least "normal" experiences that we can think of. And that has consequences, as others have testified today, for the healthy development of youth and their ability to successfully transition to adulthood. We know from the research, as others have said, that the adolescent brain doesn't stop developing until a young person is roughly 25 years old. And as outlined in the excellent report by our friends at the ACLU, being left in isolation is especially traumatic for children. And so we think that LB845 is a good step to help us better understand how we currently use and can work toward limiting solitary confinement in the juvenile justice system. As we work to improve normalcy for children and youth in the child welfare system, we should make sure we're improving practices and eliminating the most harmful barriers to normalcy in the juvenile justice system. And so we thank Senator Pansing Brooks and respectfully request that you vote to advance this bill. [LB845]

SENATOR SEILER: Questions? Seeing none, thank you for your testimony. Next supporter. [LB845]

AMY MILLER: (Exhibits 8-13) Good afternoon. My name is Amy Miller; that's A-m-y M-i-l-l-e-r. I'm with ACLU of Nebraska. And as a courtesy to our sister organization Disability Rights Nebraska, I'm circulating their written testimony as well as ours. We are so appreciative that this committee and this Legislature has taken the right steps toward eliminating solitary confinement in our adult facilities. And after the successes of last year, we decided to spend the summer taking a look at what was happening in our juvenile facilities. And I think we had a bit of an attitude of it can't happen here. We used open records requests to look at the use of solitary confinement. We've outlined the methodology in this, in the testimony that's being circulated. Voices for Children had already looked at the state facilities that are governed by the Department of Health and Human Services, so we were then surveying youth who are in the care of the Department of Corrections, youth who are in the four county-run facilities in Douglas, Lancaster, Sarpy, and Scotts Bluff Counties, and then the one private 501(c)(3) entity that is located in

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Norfolk. We cast our net broadly. We asked for any examples of room restriction, solitary confinement, special management unit, because regardless of what label you use, the kids call it being locked down, they call it being put in the hole. The experts say that regardless of labels, anytime a child is isolated from her peers, the psychological harms that can occur will occur. Now you have a rather thick packet of material that we have prepared for you because we have seen that there has been some pushback from some of the facilities who want to contest the findings. These are the findings that come straight from the horse's mouth, so to speak. You will see that we have selected random pages from our open records request from the facilities themselves that showed the usage of solitary confinement. As our report outlined, it is disturbing that the policies are all over the place and they are all far in excess of national best practices; but when we asked for logs, that's when we really hit a problem. First of all, Scotts Bluff and Douglas Counties say that they have no current way of tracking the length of time children are placed in solitary confinement, and that's why LB845 would be so valuable, because it would require those facilities to start tracking that internally. Now to be fair, Douglas County gave us a very large stack of paperwork, but behind the first blue tab in the handout you'll see that what Douglas County has is records of who is in restriction but no actual indication of when they came back out, which did not permit us to do the sort of time length assessment that we were able to do for other counties. We stand by our research and that's why we're providing you with the documents to look at. You'll find Douglas County behind the first blue tab. You'll find Lancaster County behind the last blue tab. Those are the two that I think have been public about criticizing the report. But everybody is in agreement luckily. The counties, the state facilities, all public comment has been, we agree that solitary has potential harmful impacts. We've got good support here to move forward and we can all start studying the issue together. I'm happy to answer questions about the methodology or the findings if you have any questions about our report. [LB845]

SENATOR SEILER: Questions? Thank you, Amy. [LB845]

AMY MILLER: Thank you. [LB845]

SENATOR SEILER: Next proponent. Next proponent. [LB845]

ROGER LOTT: Members of the committee, my name is Roger Lott, R-o-g-e-r L-o-t-t. I'm an old lawyer, have practiced an awful lot in juvenile court in several different jurisdictions in Nebraska. I've practiced as a county attorney, as a GAL, as a defense attorney, and in lots of other places. I come to the committee simply to support this bill based on my own experience with children who come before the juvenile court and who are part of any kind of juvenile detention situation. I also will be talking to you about the other bill that's to come after this. But for both of these bills I think my experience tells me that simply having children isolated from

other people is something that (a) they do not understand and (b) is something that makes it very, very hard for them to do the things that they need to do in order to rehabilitate themselves in their future. I would like to draw your attention to a couple of--real quick--studies. There's a study by Beyer from 2006 who...and he investigated 50 youth in the juvenile justice system, did in-depth interviews and research about them, and found that 96 percent of those people in the juvenile justice system--this is not child welfare but juvenile justice--had experienced severe trauma in the past before they came to the juvenile justice system. It also found that at least 42 percent of those children had at least one learning disability. Another study by Tom Grisso, who used to be at...who spent some time at Boys Town, is a national researcher in terms of children in the juvenile justice system, found that two-thirds of the youth in custody met the criteria for at least one mental health diagnosis. So these are children who need a lot of understanding and do not need to be isolated from other people. And this bill I think is a first round or first ability for us to try to understand what's going on. That's all I have. If anybody has any questions, I'd be happy to answer them. Thank you. [LB845]

SENATOR SEILER: Any questions? Thank you very much. Further proponent. [LB845]

MELANIE WILLIAMS-SMOTHERMAN: Good afternoon again. My name is Melanie Williams-Smotherman, M-e-l-a-n-i-e Williams, hyphen, S-m-o-t-h-e-r-m-a-n. I'm the director of the Family Advocacy Movement and I'm here, so I might as well speak to all of the bills today that speak to the work that I've done for the last six years, and that includes the treatment of children in the juvenile justice system. You know, there are a lot of justifications for finding shortcuts and quick-fix reactions to control the behavior of children. And as a parent who raised two of my own and helped raise three other children, I can attest to the fact that a lot of those are pretty attractive sometimes. However, as a parent, if we were to lock a child in a bedroom, it could be used as grounds of removal of not only that child, but all the other children in our home. We would also be facing abuse and possibly neglect charges in the juvenile court, yet we allow our tax-paid institutions to take children from various backgrounds, disproportionately children of color and those living in poverty, and treat them as though somehow they've become criminals instead of children. And I want to...I'm just kind of...I didn't prepare a statement for this particular bill, but it is still very important to me. And so I want to reflect on a case that we have advocated for many years of a child who started out in the child welfare system at age eight, removed from his family and was immediately put on psychotropic medications because he couldn't stop crying. And he has consequently shown behaviors and inability to cope with his feelings and now he's been shipped off to a facility in Michigan where we have no idea whether he's being treated to solitary confinement every day, all day, for weeks. This was back in March of last year when he was sent there. And I guess, before I end my comments about this particular bill, just for clarification, I'd like to know if this bill will also apply to Nebraska children who have been sent out of state and are residing in facilities where there is no oversight. And we have

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no idea what's happening to that child. He's away from his family, from the overseers which we use to provide the oversight, and so... [LB845]

SENATOR SEILER: Any questions? Thank you for your testimony. [LB845]

MELANIE WILLIAMS-SMOTHERMAN: Thank you. [LB845]

SENATOR SEILER: Further proponent. Further proponent. Opponents. Anybody wanting to speak against this bill? Neutral. [LB845]

BRAD ALEXANDER: (Exhibit 14) Chairman Seiler, members of the Judiciary Committee, again, I am Brad Alexander and I am the superintendent of the Douglas County Youth Center and I am testifying neutral. [LB845]

SENATOR SEILER: Spell your name for the transcript. [LB845]

BRAD ALEXANDER: Did that again--I apologize. B-r-a-d A-l-e-x-a-n-d-e-r. [LB845]

SENATOR SEILER: Thank you. [LB845]

BRAD ALEXANDER: And again, I have communicated with the people that work in the different facilities throughout the state and so the comments I have kind of are reflective of them as well. And really there's only a couple of things. In subsection (c) and (d), when it speaks to some reporting requirements, would it be possible to combine those two sections so that there is one report? We would actually like to have...to see if Jail Standards (Board) could be brought into this process as another party that's reviewing this information. And beyond that, there was one thing that I would...that the facilities just wanted to mention, and that is that of course juvenile facilities are responsible for the safety of all youth and the staff and visitors and educators and mental health folks that walk into those doors every single day. And we would ask that, and I'm sure you do, but please view this from the perspective of a child who is a victim of an assault at the youth center. One of the things that we're concerned about is the assailant goes to their room and if they come out of their room in a few hours, there's a possibility for someone, the victim of that assault, to be fearful and to subsequently voluntarily remove themselves from that situation, effectively placing themselves in some sort of a room restrictive...room confinement. And I don't believe any of us think that that is fair, but we're certainly...this is a very, very important issue and we're looking forward to fully participate and want to do whatever we can to improve this situation for all youth. So I will be happy to answer any questions. [LB845]

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SENATOR SEILER: Any questions? Seeing none, thank you for your testimony. [LB845]

BRAD ALEXANDER: Thank you. [LB845]

SENATOR SEILER: Neutral. [LB845]

JULIE ROGERS: Chairperson Seiler, members of the Judiciary Committee, my name is Julie, J-u-l-i-e, Rogers, R-o-g-e-r-s. I am Inspector General of Nebraska Child Welfare. I just wanted to speak to the section that requires our office to review all data collected pursuant to this section. It has been pointed out to me that we have state facilities, different state agencies within this...we have the Department of Correctional Services and the Department of Health and Human Services, plus several juvenile detention centers. They all might have different definitions that could affect how we collect data and I just...for the record, we're happy to take on this task and to figure out ways to collect that data. [LB845]

SENATOR SEILER: Okay. Any questions? Thank you very much, Julie. Further neutral. I wondered if you were enjoying a day out. [LB845]

JEFF BEATY: I just like to come in and watch. [LB845]

SENATOR SEILER: Thank you. [LB845]

JEFF BEATY: (Exhibit 15) Good afternoon, Chairman Seiler and members of the Judiciary Committee. My name is Jeff Beaty, spelled B-e-a-t-y. I am the planning, research, and accreditation administrator for the Nebraska Department of Correctional Services. I'm here today to present neutral testimony on LB845. Unfortunately, Director Frakes wanted to be here today, he had a prior commitment in Omaha that did not enable him to attend. But I have submitted a letter on his behalf and I would like to request that be formally entered into the record. [LB845]

SENATOR SEILER: It will be. [LB845]

JEFF BEATY: My testimony today will just briefly summarize Director Frakes's comments. Want to start off by saying that Director Frakes, he is a strong supporter of restrictive housing reform and that the department is currently engaged in significant changes in how we utilize restrictive housing. LB598, passed last year by this body, as well as the Vera (Institute's) Safe Alternatives to Segregation Initiative and the long-term restrictive housing work group, are three examples of current initiatives that will be producing new rules and standards for the use of restrictive housing by July of 2016. LB845 is focused on the use of room confinement and

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isolation of juveniles. We have communicated with Senator Pansing Brooks's staff regarding some of the questions we have on the legislation and its intended impact on the department. Director Frakes shares the senator's concerns on this issue and feels that this is an area where we can come to an agreement. Below I wanted to just highlight several areas that we feel that the Legislation needs to address but which can easily be remedied, the first of which is that the bill does not currently distinguish between youthful offenders adjudicated as adults and those that are adjudicated as juveniles. These are two...they're both under the age of 19, they're both minors under the law, but they are two different individual...two different categories of individuals recognized by statute. The second is the legislation needs to recognize the potential safety risk posed to staff and other inmates by youthful offenders and the need to isolate individuals for their own and others' safety in limited circumstances. This has been testified to. The last testifier mentioned the situation where people putting themselves in PC to avoid encountering an aggressor. Thirdly, the bill does not integrate with current restrictive housing reforms underway within the department. LB598 from last session established the least restrictive environment standard for restrictive housing within the department which Director Frakes supports and will form the basis for the department's restrictive housing policy moving forward. These rules will include standards for placement of youthful offenders adjudicated as adults in restrictive housing and we just want to make sure that the two sets of standards are speaking to each other and they work together. Fourth, Nebraska Department of Correctional Services is required to separate youthful offenders under 19 from offenders over 19 by federal law either through the Office of Juvenile Justice and Delinquency Prevention, which was mentioned, as well as the Prison Rape Elimination Act. And so we just want to make sure that there isn't any confusion or conflict between requirements to segregate individuals under 19 from individuals over 19 and not unintentionally isolating someone because we can't house them with other inmates. Lastly, the legislation requires the collection of data about the frequency and duration of room confinement but does not collect data on the impact of room confinement, and we feel that this would be some additional information that could be collected that would be useful for Nebraska. In closing I would like to reiterate that the department is looking forward to working with Senator Pansing Brooks, the committee, and outside experts to address restrictive housing issues within the department. I share the committee's concerns with unnecessary isolating juvenile offenders that is embodied in LB845 but am neutral on the bill at this time due to questions about how to integrate the proposed bill with the other existing reforms. Thank you for the opportunity to testify today and I'd be happy to answer any questions. [LB845]

SENATOR SEILER: Any questions? I just have one, Jeff. [LB845]

JEFF BEATY: Yeah. [LB845]

SENATOR SEILER: When you're separating 19-year-olds... [LB845]

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JEFF BEATY: Yes. [LB845]

SENATOR SEILER: ...and under,... [LB845]

JEFF BEATY: Yes. [LB845]

SENATOR SEILER: ...does that apply if it's a hospital for mentally ill, do you know? [LB845]

JEFF BEATY: You know, that's a good question. I think right now it's primarily focused on individuals that have been adjudicated. It's usually...it's through the Bureau of Justice, through the Office of Juvenile Justice and Delinquency Prevention, so I don't know that we have a requirement to segregate individuals over 19 and under 19 in a hospital setting. [LB845]

SENATOR SEILER: Okay, thank you. I didn't know the answer to that. That's why I thought maybe you did. [LB845]

JEFF BEATY: Well, we could definitely...I mean I can look into it for you. [LB845]

SENATOR SEILER: Thank you. [LB845]

JEFF BEATY: Yep. [LB845]

SENATOR SEILER: Any other questions? Thank you. [LB845]

JEFF BEATY: Thank you. [LB845]

SENATOR SEILER: Any further neutral? Senator, close? [LB845]

SENATOR PANSING BROOKS: Thank you, Chairman Seiler. In conclusion, I just really want to take a second to thank those who took the time to come. Ms. Jennifer Lutz, from D.C., thank you for coming this whole way from the center for Children's Law and Policy. And also I want to thank Mr. Jacob Rusher for his strong voice, and also...oh, I thought I had his name written down, too, but also... [LB845]

DYLAN MURPHY: Dylan. [LB845]

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SENATOR PANSING BROOKS: Okay, yes, Dylan, Mr. Dylan...what's your last name again? [LB845]

DYLAN MURPHY: Murphy. [LB845]

SENATOR PANSING BROOKS: ...Murphy, Mr. Dylan Murphy, for his strong voice as well--it took a lot of courage to come and talk about this whole issue--Ms. Krista Carlson and her incredible success of being able to pull herself out of that very difficult situation and become an attorney. I just admire you all. I thank you for your willingness to come forward and tell your stories and we will remember your voices as we go forward. And I'd also like to thank Director Frakes for his...and Jeff Beaty for coming forward on their opinion. Thank you. That's all I have. [LB845]

SENATOR SEILER: Okay. Any further questions? Seeing none, you may open on I believe it's LB894. [LB894]

SENATOR PANSING BROOKS: (Exhibit 1) Okay. Senator Seiler, members of the Judiciary Committee who are patiently remaining, for the record, my name is Patty Pansing Brooks, P-a-t-t-y P-a-n-s-i-n-g B-r-o-o-k-s. I represent Legislative District 28 right here in the heart of Lincoln. I'm here to introduce LB894. I'm very sad that this is the last bill because this is the one that I feel the most passionately about, one of them I feel the most passionately. The Sixth Amendment of the U.S. Constitution guarantees the right to counsel. The right to counsel is arguably the most basic right of our justice system. Almost 50 years ago, the U.S. Supreme Court extended the right to counsel to juveniles in a landmark case, In re Gault, proclaiming famously, "Under our constitution, the condition of being a boy does not justify a kangaroo court." The U.S. Supreme Court went on to state, "A proceeding where the issue is whether the child will be found to be 'delinquent' and subjected to the loss of his liberty for years is comparable in seriousness to a felony prosecution. The juvenile needs the assistance of counsel to cope with problems of law, to make skilled inquiry into the facts, to insist upon regularity of the proceedings, and to ascertain whether he has a defense and to prepare and submit it. The child 'requires the guiding hand of counsel at every step in the proceedings against him.'" However, in spite of that profound ruling, 50 years later only 66 percent of juveniles in Nebraska are represented by counsel in juvenile court proceedings. In 6 of Nebraska's 12 judicial districts that number is 50 percent or lower; that is to say, in 6 judicial districts in Nebraska less than one out of every two children has an informed legal representative guiding them or advocating for them. In 2008, the Legislature commissioned a \$250,000 study of Nebraska's juvenile justice system, recognizing that it was in need of serious attention. I bring that study today. I am passing out the executive summary of the report. It's called "Juvenile Legal Defense: A Report on Access to Counsel and Quality of Representation for Children in Nebraska." Ultimately, in 2009, that report was released though

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the Juvenile Defender Center with support of the University of Nebraska's Public Policy Center. Information for the report was collected by a team of experts from across the country and state who physically observed juvenile courtroom proceedings in Nebraska and interviewed "judges, prosecutors, probation staff, public defenders and private attorneys, detention personnel, court administrators, support staff, youth, parents, and other key system stakeholders." The number-one recommendation in this report was to revise Nebraska's juvenile code. The second recommendation was to increase Nebraska's youths' access to counsel. The report found that in Nebraska the vast majority of youth charged with law violations, particularly those facing their first court appearances, quote, waive counsel, plead guilty at the initial hearing, and are sentenced. The report goes on to add the following sober admonition. The problem with juvenile waiver of counsel is clear: juveniles lack the knowledge and decision-making capabilities of adults and the consequences of waiving counsel can be devastating. They simply do not have the legal knowledge to understand the long- and short-term immediate and collateral consequences of waiving their constitutional right to counsel. Further, the report discusses the importance of the right to counsel in every case, regardless of the charge, since the juvenile judges have access to the entire panoply of remedies available for any charge, including a disposition to years in confinement. The report finds that it is a, quote, fact that the length of detention does not necessarily correlate with the severity of the charge since many youth charged with minor offenses end up detained for long periods of time because of probation violations or because they are awaiting placement. That means that the severity of the charge is unrelated to the need for defense counsel. Further, this quarter-million dollar report went on to point out that in some parts of the state 60 to 75 percent of youth waive their right to counsel and that youth are encouraged to do so by a combination of individual and systematic factors, stating, "In the counties with high waiver rates, assessment team investigators observed practices by judges that subtly encouraged youth to waive counsel--for example, giving youth the impression that children who waived counsel would be treated more leniently, or arranging the docket so that the cases of youth who will waive counsel are heard first, and the youth who follow are encouraged to waive by (the) example of the earlier cases. Parents also encourage youth to waive counsel, sometimes applying substantial pressure." My intent with this legislation is to ensure that every juvenile in a juvenile court proceeding is represented by an attorney, that the appointment of counsel be made early in the case, that such representation of counsel cannot be waived if: (1) the juvenile is under the age of 14; (2) if the juvenile is subject to a detention hearing or any dispositional hearing where out-of-home placement is sought; or (3) where there is a motion to transfer to county or district court. A waiver in all other cases shall be made in open court, shall be recorded and confirmed in writing, and shall only be accepted if made intelligently, voluntarily, and knowingly. A case where such waiver was not made knowingly is clearly set forth in this report where an example was given of "a 17-year-old boy" who "appeared before the court with his mother accused of a minor drug charge." In front of a packed courtroom, the judge asked if he understood the rights given to the group at that day's mass arraignment. The youth said yes. The judge then told him he had the right to request the case be transferred to juvenile court. The youth said he didn't want

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that. The judge then advised him again that he had the right to counsel, and the juvenile decided to proceed without counsel. The court entered a guilty plea. This entire exchange happened in about three minutes. Once the youth had pled, the judge proceeded to disposition, and then asked the juvenile if he had planned on going to college. The youth answered yes, and named his top choice of a school. The judge then said, quote, you realize that you have now lost any ability to receive federal funding for financial aid because you have just pled guilty to a drug offense, end quote. There was an audible gasp of shock from both the youth and from the people waiting to hear their cases to be called, unquote. Further, this bill requires that a juvenile must consult with an attorney before such waiver of counsel. Only the juvenile can waive such right, not the juvenile's parent or their guardian. Currently Douglas County appoints counsel in all juvenile cases, and various juvenile court judges with whom I spoke have found that cases progress faster and more efficiently, saving time as well as judicial and economic resources. In addition, this legislation asks that the applicable county pay for such juvenile's attorney. Currently, if a juvenile asks for an attorney, the attorney is paid for by the county if the child or his parents or his or her parents cannot afford one. Clearly, most juveniles could not afford to pay counsel without the assistance of their parent or guardian. However, in removing the parent's or guardian's right to waive representation, I believe we must also remove their obligation to pay for appointed counsel unless they so choose to hire their own. The Nebraska juvenile defense report observed that parents are likely to pressure their children to waive counsel in order to avoid having to pay for appointment of counsel, thus thwarting the child's constitutional right to legal representation. The report further points out that as a society we place age limits on a variety of activities. We don't allow youth under 21 to drink, under 18 to vote, or under 16 to drive. We limit when children can enter into binding legal contracts, serve in the military, and marry. We should not permit our children to enter into the juvenile justice system without the assistance of counsel. In addition to these requirements, the legislation directs that the Nebraska Supreme Court shall establish professional standards for anyone practicing in juvenile court. Unfortunately, juvenile court is often used as the training ground for new lawyers. The first case I was appointed to straight out of law school was in juvenile court. Not only did I not have the experience or knowledge of how to best represent the juveniles in question, I also did not have the expertise to provide adequate assistance of counsel to the young boys. Ultimately I asked for assistance from a colleague and worked with a seasoned juvenile attorney who was able to work beside me and teach me some of the initial responsibilities and requirements necessary for proper representation of the juvenile. The young boys were found not guilty of their charges, but not due to my efforts, but due to the wisdom and experience of the other juvenile attorney. Clearly a young person's freedom should not be resting on the shoulders of someone with no experience or little training in juvenile justice. The Nebraska Supreme Court should implement professional standards. It should not be that the least capable are appointed to represent the most vulnerable. As I conclude today, I would ask you each to ask yourself whether you would ever recommend that a person appear pro se--without an attorney. We all know the adage of, quote, a lawyer who represents himself has a fool for a client, unquote. Most foolish of all is expecting a child to be able to

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represent themselves competently in any court proceeding. Let's limit the instances whereby a child unknowingly waives his or her constitutional rights. With that, I will take any questions you may have. [LB894]

SENATOR SEILER: Questions? Senator. [LB894]

SENATOR CHAMBERS: Not a question, just a comment. Often I hear people say America has the best legal system in the world. First of all, people don't even understand the legal system in their own state. They don't understand it in the adjacent state. They certainly don't understand it in all the states in this country. So for them to make that arrogant, ignorant statement that this is the best legal system in the world is preposterous. But what these bills show is the cruelty in this society, the lack of compassion, the hypocrisy, the fact that our children are considered throwaways, not even human beings; and no judge should allow a child, who doesn't even know what the meaning of the term "constitutional rights" would be, to waive. I've been in courts on occasion when somebody was wanting to waive rights and the judge took time and explained everything that you're giving up--when you say you give up the right to confront your accusers, that means that if there are people who come here and speak against you and they're lying and you were here, you could do something about that, if you give that up you can't do...you know, explaining what the right is. No judge should allow it. No prosecutors should be a part of that, and it's why I have so much contempt for a lot of judges, for prosecutors. I don't trust any prosecutor. They'll do anything. They will say anything. That's from the Attorney General right on down. And I want that in the record because whether anybody pays attention or not, everything we say is recorded and transcribed and I want that comment in. I'm not going to keep us here a long time, but I had to say that. We sit here and we hear all the terrible things being done to our children by the ones who are supposed to be learned in the law, concerned about the law. Then they have the nerve to get mad when I say my ISIS are the police. Well, now, in view of all the killings at the hands of the police, people are coming up to me and saying, well, I kind of understand what you mean now. There was a young black guy shot by a university cop in Cincinnati and I think the university gave the family over \$5 million and that money is supposed to make it all right. The man who was killed in the choke hold in New York where the prosecutor, the grand jury, everybody said no crime: a multimillion dollar settlement. These cases are being settled and now even without an action being filed. The young black man who was shot 16 times by the police, every cop who wrote a report lied; every written report was a lie. And when the video finally was shown, he was not approaching in an aggressive manner at anybody waving a knife. He was moving away, shot 16 times, and that was considered all right. A judge pointed out how the top city lawyer in Chicago had withheld evidence, committed other misconduct, and he was allowed to resign--shouldn't have happened. The state trooper who dragged that woman Sandra Bland out of her car in Texas was charged with perjury and fired but not charged with any of the damage that he did and, as a black man, I'm supposed to not be upset about that. Then I hear how upset they get when some sailors wind up going into Iranian waters.

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Then these white idiots are saying, our sailors, they were kidnapped in violation of international law. No, they were in that country's waters and what Iran did they had the right to do. And I have to listen to this stuff and I have to listen to people on the floor when we talk about abortion and issues like that, how much they love a fetus and every one counts. Then they're aware of these things happening to our children--nothing, no outrage, nothing, they're throwaway, it ought to happen to them, they shouldn't have done it. I listen to Senator Groene and some of the others, and I mention them by name because the record shows it. I have behaved today because it's pointless to say anything. It's like me talking to that wall or talking to this table. But my day will come, perhaps. But this has not been a good day for me. The only redeeming aspect lies in the fact that bills were brought which will go some small distance, at least, in protecting our children, whom we say we care about. We would not want to be treated the way our children get treated. There are senators on the floor whose feelings get hurt when I'm just expressing myself. They're grown men. These are adults. They think I'm hard on them, words, and that's what we deal with, then they can watch terrible things happening to our children. I think I will end my remarks, but I had to say that. [LB894]

SENATOR SEILER: Senator, I have one question. [LB894]

SENATOR PANSING BROOKS: Okay. [LB894]

SENATOR SEILER: If you'll look on page 5, line 8, if the juvenile is under the age of 14, his rights cannot be waived. Why 14? Is there a study that indicates that that's the right number? [LB894]

SENATOR PANSING BROOKS: I think there have been some studies that have indicated that. I think there was some discussion of it in here that... [LB894]

SENATOR SEILER: We don't have anything else at the age of 14 that they're allowed... [LB894]

SENATOR PANSING BROOKS: Well, don't we have... [LB894]

SENATOR SEILER: Drivers. [LB894]

SENATOR PANSING BROOKS: I think we have...huh? [LB894]

SENATOR SEILER: Learning permits is about all. [LB894]

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SENATOR PANSING BROOKS: No, I think 14 to be able...you cannot go to adult court. Isn't that right, Legal Counsel Henningsen? [LB894]

SENATOR SEILER: Yeah, I believe that's right. The other... [LB894]

SENATOR PANSING BROOKS: Yeah, so 14 you cannot go...there's that cutoff there. [LB894]

SENATOR SEILER: I've always questioned that too. [LB894]

SENATOR PANSING BROOKS: Yeah, well, I think that's what we are being consistent with. [LB894]

SENATOR SEILER: Okay, because 14 does allow you to testify against your parents in divorce court, I believe. [LB894]

SENATOR PANSING BROOKS: Okay. [LB894]

SENATOR SEILER: But I just wondered if there was some reason for 14. [LB894]

SENATOR PANSING BROOKS: That's why we sort of...I think that's why we said under 14, just because we were thinking that... [LB894]

SENATOR SEILER: Okay. [LB894]

SENATOR PANSING BROOKS: ...when they go to adult...when they could go to adult court. [LB894]

SENATOR SEILER: That's fine. I like your bill. [LB894]

SENATOR PANSING BROOKS: Okay. [LB894]

SENATOR SEILER: Any questions? [LB894]

SENATOR CHAMBERS: But I may not accept that when this gets to the floor. [LB894]

SENATOR PANSING BROOKS: To the what? [LB894]

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SENATOR CHAMBERS: I may not accept that age. [LB894]

SENATOR PANSING BROOKS: Okay. [LB894]

SENATOR CHAMBERS: I think that's...I don't think that a kid in grade school is old enough to waive rights. See, people don't deal with children in the way that I do. I want to be realistic. [LB894]

SENATOR PANSING BROOKS: But he...they can't waive...okay, sorry. [LB894]

SENATOR CHAMBERS: What they're saying is if a child is 14, he or she can waive rights. That's what the language says. [LB894]

SENATOR PANSING BROOKS: At 14 and above, yeah. [LB894]

SENATOR CHAMBERS: But anyway,... [LB894]

SENATOR PANSING BROOKS: But that's when they're represented by counsel. [LB894]

SENATOR CHAMBERS: ...just to kind of warn you. [LB894]

SENATOR PANSING BROOKS: Okay, good. Good talk. [LB894]

SENATOR CHAMBERS: Okay. I'm through. [LB894]

SENATOR PANSING BROOKS: Anything else? [LB894]

SENATOR SEILER: No. [LB894]

SENATOR PANSING BROOKS: Nothing gets my blood stirring more than the constitution. [LB894]

SENATOR SEILER: Proponent. [LB894]

JULIET SUMMERS: (Exhibit 2) Good evening, Chairman and members of the committee. I always end my testimony by saying thank you, but, in light of Senator Chambers' remarks, I just

want to start by saying thank you because there really are people who care and who are working hard, and those people are in this room as well. And we know what heart you have for these issues and for our state's kids and we do really, really appreciate your time and your energy that you put forward on these issues. So I'm Juliet Summers, J-u-l-i-e-t S-u-m-m-e-r-s. I'm here representing Voices for Children in support of Senator Pansing Brooks's LB894 regarding the right to counsel. We believe that this bill will ensure youth in our state have meaningful access to one of the great protections of our justice system when it works the way it's supposed to: the constitutional right to counsel. And this protection is especially important for children who, by their age, may fail to fully understand the grave nature of their actions, the complicated legal proceedings against them, and the potentially life-altering outcomes. Though a juvenile court proceeding is technically rehabilitative in nature, it has serious consequences and you've heard so many of those today. I would add, in addition to the laundry list of things you've heard testimony on today, juvenile court cases can and do often remain open longer than adult cases. So a juvenile adjudication can mean years of a child's life. There's a few different pieces in this bill about where right to counsel is important for kids, so I'll sort of touch on each of those, and the first is regarding in custody. So there's a line in the bill that alters when a child is taken into custody by police or government authority. Currently, the law, everyone is entitled to your Miranda rights to be read if you're in custody for any testimony to be brought in against you later in court. But the piece in the juvenile code that speaks to this only says that juveniles may call or consult with an attorney. It doesn't have anything in there about being informed. And so the language that's in the bill about informing children in developmentally appropriate language of their right to call and consult counsel is a really important piece, especially given data that shows 42 percent of exonerations for crimes allegedly committed by youth under 18 years of age involved false confessions. I would say that the timing of appointment really matters. So as a public defender before I joined Voices for Children, all too often I was appointed too late. One client had gone without a lawyer because her parent insisted she waive and demanded that she plead. Months later, when I was brought in and then had the opportunity to meet with her confidentially, it became clear that the relationship was physically abusive and Child Protective Services should have been involved well before that point in the proceedings. In another case, evaluations showed that my client was developmentally delayed and he was unable to comprehend the nature of the proceedings or any of the orders of the court. However, he had already pled to all the charges without counsel in another jurisdiction, so we were in this place where he had an open case, he was required to follow court orders, sign a probation contract, he wasn't capable of doing those things. My red light is on. You have my written testimony in front of you, so I won't take up more of your time. [LB894]

SENATOR PANSING BROOKS: Do you have something to summarize and end? Is that...
[LB894]

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SENATOR WILLIAMS: Thank you, Ms. Summers. Are there any questions for the witness?
Yes, Senator. [LB894]

SENATOR PANSING BROOKS: Do you have anything to end your last part? [LB894]

JULIET SUMMERS: I would add that the final piece that's really important in this bill is the requirement of standards and guidelines for training, just to support what Senator Pansing Brooks said in her introduction. I'm not trying to say I'm some great attorney who would have made the difference in these cases, but I was at least a competent attorney. We want to make sure that, as she said, our most vulnerable kids are being represented by people who are capable of practicing in a specialized area of law. It's not a training ground. [LB894]

SENATOR CHAMBERS: Just one comment. There was a guy who said a long time ago, ignorance of the law is no excuse for it is a plea every man will make but which none can confute. The only ones in whom ignorance of the law is an excuse is a judge or a lawyer because the judges will say in some instances a lawyer in general practice would not be expected to know this or that or the other. When somebody's rights were violated and that person wants to bring an action against the lawyer, the lawyer is not expected to know that, but a person who has never spent a day in a law school is expected or charged with knowing the law. And these are some of the things that are very revealing of how this society sets standards which are not really standards. So what led me to say that was when you said you may not be the best lawyer in the world and you might not have done this or that. But when people care enough to step in to help those who would be one person against the world but for you, then you are a great lawyer in my opinion. I just want you to know that. [LB894]

JULIET SUMMERS: Thank you, Senator. And to your point about knowing the law, that's so clear when it comes to those Miranda rights because we all know the words "you have the right to remain silent," but, at least until I went to law school, I had no idea that to actually take advantage of that right you had to affirmatively say, "I'm remaining silent," as opposed to just remaining silent, and also had no understanding that if I didn't...if you didn't affirmatively say, "and I want a lawyer," police could keep questioning you even though you were remaining silent, trying to take advantage of your rights. So especially for kids it's so important that we do whatever we can to make sure those rights are understood. Thank you for the opportunity to speak with you today. And thank you again, Senator Pansing Brooks. [LB894]

SENATOR PANSING BROOKS: Thank you. [LB894]

SENATOR CHAMBERS: That's all I have. [LB894]

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SENATOR WILLIAMS: No further questions. [LB894]

KIM HAWEKOTTE: (Exhibit 3) It is "good evening," Senators. Senator Seiler and members of the Judiciary, my name is Kim Hawekotte, K-i-m H-a-w-e-k-o-t-t-e, and I'm the executive director of the Foster Care Review Office and we are strongly here in support of LB894. I've been a practicing attorney in juvenile court for over 25 years. I've done defense work, guardian ad litem work, and county attorney work. I can tell you every case I ever sat in, the first thing the kid did when they were asked if they want an attorney is they looked at their parent--do I want one or not? I mean the parent doesn't know, the youth doesn't know, and it's mandatory that these kids need attorneys at this stage. I thought maybe we would give...in my testimony I do set out some of the age. So we looked at probation youth that are currently placed in out-of-home care. How many? What are their ages? Right now we have one 10-year-old, we have one 11-year-old, we have eight 12-year-olds--and these are only probation youth in out-of-home care, so they are out of their parental home--31 13-year-olds, and 57 14-year-olds. So when you look at those numbers and you think about the need for an attorney, to me nothing is more glaring than realizing, if you added all these up, you have, you know, 75, 80, 85 youth that probably when we looked at them didn't necessarily have attorneys but now they're placed out of home and it's a very young age. A couple of things I just very quickly want to bring up. First, with regard to LB894, we would request that there's some specific language as to which parts of 43-247 it applies to and which youth. We would recommend that also any youth that is charged with 43-247(3)(c)--a mental health commitment action--should have their own attorney to represent them during their mental health commitment. That does not happen always across the state. So it's not just the juvenile justice, it's also in the mental health commitment area. We also feel that with regards to the need for an attorney, you definitely need one always at review hearings and at motions to revoke probation. Many times a case will go along and you don't need an attorney and all of a sudden there's a motion to revoke--there definitely, and we don't see statewide that that's being adequately applied. Last, I would support both Senator Pansing Brooks and Juliet Summers with regards to the need. We need guidelines in juvenile court. I could spend hours telling you the stories that we see both from a county attorney perspective, a defense attorney perspective, a guardian ad litem perspective, within juvenile court and the inadequate handling of cases. So we need guidelines to ensure that we're all representing the kids to the best of all of our ability. I have nothing further. Thank you for the bill. Any questions I'm more than willing to answer. [LB894]

SENATOR SEILER: Any questions? Thank you. Next proponent. [LB894]

MELANIE WILLIAMS-SMOTHERMAN: My name is Melanie Williams-Smotherman, M-e-l-a-n-i-e Williams, hyphen, S-m-o-t-h-e-r-m-a-n. I am the director of the Family Advocacy Movement, a grassroots organization advocating for families and youth in the child welfare and juvenile court systems. Jamila (phonetic), who is now 22, has spoken publicly about her

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experience, and she actually had an opportunity about a year or so ago to meet with Senator Chambers at a public event where she spoke openly about some of the things that she endured when she was brought into the juvenile justice system. And she did want to be here today, but she wasn't able to be. And so I told her, if she would send me again a short story about what happened to her, I would share it with you. And this is what she sent: I was 15 years old in 2008 and I spent my 16th and 17th birthdays at Boys Town, away from my home, my mother, my siblings, and my family. This all started when I was brought to court in front of Judge Crnkovich for not going to school. I had a caseworker named Lisa (phonetic) and I had only met two times with her during my entire experience. She said I would probably get diversion or something since I had never been in trouble before. She only met with me once before my court date. I was put on probation and had to take drug tests and I passed every time. I told them I never did drugs but they didn't believe me. I never had a guardian ad litem. The judge asked me if I wanted a lawyer and I said no because Lisa, the caseworker who was assigned to me, said I wasn't really in much trouble and that I was only 15. My mom tried to speak up and she was told to sit down and be quiet and that the judge wasn't talking to her. She had me talk to the therapist. I remember her office was in the Center Park Mall (phonetic) in Omaha. They had me see a drug therapist there, too, after I said I had never used drugs. I think that they are the people who told the judge that I was unsafe to be at home and my mom was abusive, which isn't true. They took me to Boys Town from the court, where I had no clothes for a week. I asked for a clothing coupon thing and Lisa's (phonetic) boss gave me one to Goodwill. He said good kids got good clothes. It took forever for me to be placed in a group home because Magellan wouldn't pay. They said I didn't need to be there, so someone had to sponsor me. I was then moved to a house with 14 other girls. We had alarms on our windows and bedrooms so at night, if you got out of bed, you set off the alarm. While I was there I saw a girl cut her wrists, all kinds of crazy things. They put me on a bunch of meds because they said I was depressed and angry. I remember I got H1N1 while there. It took them a week to take me to the hospital. I ended up being quarantined and no one informed my mother. My granny passed away while I was away from my home and they wouldn't let me go to the funeral. As a matter of fact, they didn't even tell me she passed until the night after the funeral. Town hall, otherwise known as Boys Town jail, that's a whole other story. The process overall was drug out and scary. I never finished school. I can honestly say the experience hurt me more than it helped. I was on probation till I was 18. I was on probation the whole time and every time I got a KVC worker who said I shouldn't be there, they were replaced with someone else. [LB894]

SENATOR SEILER: Thank you for the testimony. [LB894]

MELANIE WILLIAMS-SMOTHERMAN: Thank you. Can I just make one... [LB894]

SENATOR SEILER: Any questions? [LB894]

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MELANIE WILLIAMS-SMOTHERMAN: Oh, okay. I'm sorry. [LB894]

SENATOR SEILER: Seeing none, thank you. [LB894]

MELANIE WILLIAMS-SMOTHERMAN: Thank you. [LB894]

SENATOR SEILER: Any further witnesses? [LB894]

VAUGHN CROWELL: Senator Seiler, members of the Judiciary Committee, my name is Vaughn Crowell, V-a-u-g-h-n C-r-o-w-e-l-l, and I am here in support of this bill. I think it's very important and I agree with everything that the introducer spoke about, about having an attorney in court. I'm going to try to in the next three minutes give you a scenario that I know firsthand--it's my own story--that leads to whether or not...it talks about attorneys and juvenile courts. We received a petition for...or a notice in lieu of summons in the mail for a truancy petition for my child had missed 20 days. I knew my child had missed 20 days because my wife or I had been home with that child for those 20 days that he was home ill. Nonetheless, I told my son--and I would never bring my child to a courtroom without an attorney--I told my son, Mom and I are going to go, we'll take care of this, thinking I could have a reasonable conversation with the judge and the Douglas County Deputy County Attorney. As it turned out, our 9:30 court case, by 9:50, my wife and I are both in jail for contempt. That's another story for another day. At probably 4:30 or 5:00 we were brought back to the courtroom and told that intervening matters have happened and a sheriff will be coming to the home to remove your child from the home. He's now in state's custody. I had about 15 minutes to find an attorney and be back in court the next day by 9:30 for a custody hearing. I did that. I found an attorney that happened to understand who this judge was and felt...he moved his schedule and came back to court with me at 9:30. My child was returned to my custody. On advice of my private attorney, I went to the high school as soon as we left the courtroom and we disenrolled him from school. My private attorney talked to the county attorney and they dismissed the truancy charge. And he--my son--had also been appointed a guardian ad litem and a public defender. My concern is and my question is, when I showed up there with my private attorney, there was no motion from the appointed counsel or the guardian ad litem to recuse themselves there; and if they had, what if the judge had decided, no, I'm not going to let you recuse yourself, I don't care if parents have hired counsel or not, these are the people I want in this case? As it turned out, like I said, that whole case lasted less than 24 hours because I had my private attorney and he did what he needed to do. But the guardian ad litem and the appointed counsel never were removed from the case and never asked to be removed from the case. So please consider that when you're looking at this bill, that there could be a conflict there. And the courts could say, I don't care how many attorneys you've hired or have or have paid for, I've appointed these and they're staying. Or they

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could ask to be removed and the courts could deny the motion, so. And that's not addressed in here, so please consider that. Thank you very much for listening. [LB894]

SENATOR SEILER: Further questions? Thank you. Oh, by the way, we're not even approaching the record. The record for our hearings in this group is 11:30. [LB894]

MARGENE TIMM: My name is Margene Timm, M-a-r-g-e-n-e; last name Timm, T-i-m-m. I'm an attorney with the public defender's office here in Lancaster County. I've been there for 26 years. I've been the juvenile court supervisor for the last 15 years. I'm here to testify in support of LB894. In adult court, in criminal court, adults are entitled to an attorney when they can't afford one and when there is a real, legitimate threat to their liberty, i.e., jail or prison. That standard does not translate very well over to juvenile court. First, as we've heard, there are times when a parent and a juvenile can be in conflict as to how that juvenile court case should go through the system. Parents, I've sat at mass adjudications, mass arraignments in juvenile court where I have heard the parent tell the juvenile, you know you did this, just admit it, just move on. There's the financial consideration. Parents don't often want to pay for that. The second thing is probably the bigger thing: the loss to your liberty or the infringement on your liberty. On a first-time shoplifter in adult court, somebody with no record, they're probably going to get a fine. It'll be over and done with. In juvenile court, every time that juvenile comes into court, he is subject to being placed on alternative to detention; placed in detention; if it's disposition, an out-of-home placement; even the Youth Rehabilitation and Treatment Center in Kearney. So every time, it doesn't matter whether this is a littering ticket...and, yes, I have actually been court appointed to represent a juvenile charged with littering. But he could end up in detention or an out-of-home placement, just like the juveniles that I represent who are charged with robbery. Unrepresented juveniles also face other disadvantages. One of them is that they do not get copies of the discovery from the prosecutors. Sometimes there was...I had a case years ago where a juvenile was adjudicated on...for trespass in an automobile. There is no such crime as trespass in an automobile. I was appointed because he was taken into detention. After looking at the discovery reports, after getting a transcript, I discovered he was in detention on something that wasn't even really a crime, so I had to take steps to get him out of detention. So mistakes do happen, especially for unrepresented youth. The other thing that families who don't have attorneys don't get is they don't get the predisposition investigation and evaluations that are provided to counsel. Those serve the basis of the decision that the court is going to make, how long the probation is going to be, whether it's going to be in home or out of home. Juveniles walk in, they don't know what's going to happen to them because they don't have an attorney there, and they may be placed in an out-of-home placement. Those are all reasons why juveniles need attorneys, they need them early on the case, they need them through the case. And I know Senator Pansing Brooks mentioned that it shouldn't be a training ground for new attorneys. Well, it's not only the defense attorneys that use it as a training ground. It's also prosecutors and prosecutors make

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mistakes as well and you need somebody to be a check for that as well. So are there any questions? [LB894]

SENATOR WILLIAMS: Thank you, Ms. Timm. Are there any questions for the witness? Thank you for your testimony. [LB894]

MARGENE TIMM: Thank you. [LB894]

SENATOR WILLIAMS: Next proponent. [LB894]

CHRISTINE HENNINGSEN: (Exhibit 4) Thank you. My name is Christine, C-h-r-i-s-t-i-n-e, Henningsen, H-e-n-n-i-n-g-s-e-n. I'm an attorney with UNL's Center for Children, Families, and the Law, and I direct a new program there called Nebraska Youth Advocates which focuses on juvenile defense. As we approach the 50th anniversary of In re Gault, it's appropriate that we as a state take steps to ensure that a youth's right to counsel is a meaningful one. First, this bill provides that youth are informed in a developmentally appropriate manner of their right to counsel if they are in custody. The Supreme Court and developmental research has shown that children who are involved with the legal system must be treated differently than adults. Without specialized policies and approaches, youth are not able to make knowing and intelligent decisions. It's not that youth cannot make informed decisions, but we have to make steps to ensure that those decisions are made in ideal circumstances. Second, this bill provides for appointment of counsel upon the filing of a petition rather than waiting for the first court hearing. As Ms. Summers testified, in my experience in the public defender's office in Douglas County, I was often appointed later in the proceedings, such as a motion to revoke. At this time it was often too late to do many of the interventions that could have been done upon the filing of the petition, and time is of the essence when we're working with our state's youth. Third, this bill recognizes that all attorneys, not only guardians ad litem, require specialized training in juvenile court practice. While there are CLE standards and county attorneys even have their own training requirements, none of those are specific to juvenile court practice. We have adolescent brain development, advances in evidence-based research that shows us what does work when we are working with our youth, and our attorneys must be trained on those advances. Finally, this bill codifies and strengthens the standard for courts in determining a youth's waiver of counsel. A standard rights advisement by a judge is not sufficient to convey to a child what a right to counsel means and the long-term consequences of juvenile court involvement. The Nebraska Supreme Court Commission on Children in the Courts had a subcommittee in 2006 which issued a report on attorneys representing children and youth. In that, it was found that often judges and attorneys felt that parental pressure was the reason that a youth waived counsel. That report also does touch on some of the developmental research surrounding the age of 14 as being a line in which we can make a distinction as far as the competency of a youth to waive counsel. Youth

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before the court often suffer from developmental delays, mental health concerns, past trauma, and learning disabilities. Meaningful consultation with an attorney is essential to protecting the due process rights afforded to them under the U.S. Constitution. I'd be happy to take any questions. [LB894]

SENATOR SEILER: I have none. Thank you. [LB894]

CHRISTINE HENNINGSEN: Thank you. [LB894]

SENATOR SEILER: Any further proponent? [LB894]

ROGER LOTT: Members of the committee, my name is Roger Lott and I am a lawyer who has spent a lot of time in juvenile court; R-o-g-e-r L-o-t-t. In my other life I went back to the university in the law psychology program and got a psychology degree with emphasis on how it applies to the law. And I can tell you that there is good experimental evidence indicating that in pure cognitive function, that children who are 14 to 16 can make reasoned analysis of problems very much like adults. They do not control their impulses nearly as well as adults, but they on a purely cognitive kind of process can do as well as adults in cognitive problems. One of the things I also want to say to you is my experience in juvenile court is that people do not understand what's going on in the courtroom. Neither adults, parents, nor children understand what's going on. I have spent an hour telling a child what the meaning of his rights are in terms of how...whether he should waive any rights that he has or not. And the fact of the matter is I've come out of juvenile courtrooms many times and had children and adults say to me, what happened in there? They do not understand what happens. And their ability to understand the jargon and understand the problems and the issues and the questions that they're being asked is really very limited. To ask a child to waive his right to counsel and to cope with the complexities of what goes on in a juvenile courtroom is just not an appropriate thing to do at all. If you have any questions, I'd be happy to answer them. [LB894]

SENATOR SEILER: I have no questions. Senator, did you have...? [LB894]

SENATOR PANSING BROOKS: No, thank you. [LB894]

SENATOR SEILER: Nope, you're fine. Thank you for your testimony. Any further proponents? Seeing nobody moving, any opponents? Seeing nobody moving, any neutral testimony? [LB894]

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SENATOR CHAMBERS: Obviously my young friend has not read Dante's Inferno (laughter). I had to get one shot at you. [LB894]

SENATOR WILLIAMS: It's not 11:00 yet. [LB894]

SHAKIL MALIK: I rather enjoy the sparring, Senator. [LB894]

SENATOR CHAMBERS: Oh, okay. [LB894]

SHAKIL MALIK: (Exhibit 5) Good evening now, truly, Senators. Shakil Malik, S-h-a-k-i-l; last name Malik, M-a-l-i-k, deputy county attorney appearing, on behalf of the Nebraska County Attorneys Association, neutral on this. To be perfectly frank, the bill, more or less, it's a good bill, like the neutral is just because there's one area we have a concern about and that's more in the implementation rather than the goal. And specifically what it is, is a requirement that the Supreme Court promulgate standards for attorneys practicing in juvenile court. Right now county attorneys are subject to the...originally we were subject to county attorney CLE standards and training standards. That was through the Crime Commission and the County Attorney Standards Advisory Council. Later on the Supreme Court decided to adopt CLEs and training requirements. So they're stacked on top of each other and our concern at this point is, are we going to end up with a third regimen stacked on top of that? Because right now this body worked to institute guardian ad litem training standards, and that is now a separate training and reporting requirement. So if you're a guardian ad litem, you already have two. You know, we already have two. This would add a third. What we'd ask you to consider is instead, for the county attorneys, just adding this to the areas of training and standards you've already promulgated for us, like radar, crimes against children, and coroner training, a whole host of other things. To be frank, we already offer a lot of this training at our two annual conferences, plus we do new county attorney training where we offer this. So that's the item we'd want to bring up. Also, on this bill--and I've kind of brought this to other channels but just making a record--the public defender statute that it's trying to change, to put a duty on, I don't believe it's the correct one to change if that's the intent. It's trying to change what's known as judicial district public defenders. We don't have any of those in the state of Nebraska. All our public defenders are county public defenders under a different statute, Chapter 23 not 29, so I'm just bringing that as a...just noting that. With that, I'd certainly take any questions you might have. [LB894]

SENATOR CHAMBERS: I just have one. Did you draw the short straw again? [LB894]

SHAKIL MALIK: (Laughter) No, I volunteered again, just like last year. [LB894]

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SENATOR CHAMBERS: Okay. [LB894]

SHAKIL MALIK: And you'll see me more this session. [LB894]

SENATOR SEILER: Any other questions? Thank you very much for your testimony. [LB894]

SHAKIL MALIK: Thank you. [LB894]

SENATOR SEILER: Next neutral. [LB894]

ELAINE MENZEL: Chairman Seiler and members of the committee, for the record, my name is Elaine Menzel, E-l-a-i-n-e M-e-n-z-e-l, and I'm appearing here today on behalf of the Nebraska Association of County Officials. And the reason I'm appearing in the neutral capacity is largely because our legislative committee has not met at this point, so we've not taken positions. I do certainly want to express that we concur that this is very valuable in terms of representing juveniles and youth. And I think that you will find through a lot of work that our association does, we support the juveniles and efforts of the committee and the Legislature for doing things. Obviously we certainly value the dollars that are appropriated to us for the community-based aid. And I've been working with the Crime Commission and the practitioners and a good share of them that are sitting behind me today in terms of helping to implement that those dollars are hopefully wisely spent and I think seeing more. But I do think that this is another important area to be addressing. I will tell you...well, first, Senator Pansing Brooks, thank you for sharing this and bringing it to our attention. I was aware of it but that isn't always the case in terms of seeing legislation until it's introduced, so appreciate that. Just for your information, we have collected from each of you...or at least I've talked to representatives from each of the senators' districts to gather some information. It's real cursory. Unfortunately I've not seen the studies that you were referring to, to tell the percentage of representation for counsel, and so I'd love to see that information to better get informed about that and work with you more on that. But the statistics surprise me to some extent because what I was hearing is that it was as much as 90 percent in case...some places and that type of thing. I will tell you that, primarily from Senator Ebke and Senator Williams' districts, I was hearing that the dollar amounts for court-appointed attorneys were generally between \$75 and \$100 an hour, so that's kind of the dollar figure, and initially at first blush thought that this is going to be a much greater cost to the counties. But in looking at the fiscal note, it doesn't appear as if...I hate to say it won't be a great deal, because any cost is a concern to us, but obviously not significant in comparison to some other bills that are before us this year. So with that said, I will certainly open myself up to any questions if you have any. [LB894]

SENATOR SEILER: Any questions? [LB894]

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SENATOR CHAMBERS: Although Donna Summer was talking about a different situation--I've known this young woman for I don't know how many years--(singing) she works hard for her money (laughter) and I recognize it. [LB894]

ELAINE MENZEL: Would you like me to tell you how long you've probably known me? [LB894]

SENATOR CHAMBERS: If you don't mind. [LB894]

ELAINE MENZEL: Thirty years. [LB894]

SENATOR CHAMBERS: She doesn't seem 30 years old to me. [LB894]

ELAINE MENZEL: Why, thank you. [LB894]

SENATOR CHAMBERS: It doesn't seem that... [LB894]

ELAINE MENZEL: I was a page 30 years ago, so. [LB894]

SENATOR WILLIAMS: You do. [LB894]

SENATOR CHAMBERS: All right. [LB894]

SENATOR SEILER: Yes, Senator Williams. [LB894]

SENATOR WILLIAMS: I do have a question and I would appreciate not just your response, but Mr. Malik's and Ms. Henningsen's response to this, because we've talked now about training and that and you worked in a situation with...where you were trained juvenile counsel in these things, so have you, so have you. Do we have the proper training for out in the country, so to speak, where we are not having full-time public defenders always, we're hiring people, and, Senator Seiler, if you would weigh in on that too. How do we be sure that the counsel sitting in those communities that's representing these youth also have this level of training that's required under this law and that the counties can afford it? [LB894]

ELAINE MENZEL: I don't know that I feel totally qualified, but what it does relate to is an issue that I can tell you in terms of counties being able to...court-appointed attorneys and that type of thing. For instance, as you referred to, you don't always have the public defender because of

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conflicts and that type of thing, or they're not specifically retained. So they will have to seek outside counsel and get mileage payments and those types of things that they're being required to pay. But in terms of the training, I would defer probably to the County Attorneys Association, more so, and that type of thing in terms of...but so I apologize for not having that answer. [LB894]

SENATOR SEILER: Well, I will tell you I've gone for 49 years, and we started out in front of...in 1970 in front of judges who weren't even lawyers. They didn't have any training, and it was a zoo to say the best. I got off the list of appointments by stumbling into the judge's office one day and he had all the plaintiff's witness...or prosecution witnesses in there going over their testimony. And I threatened to turn him into the bar and after that I didn't get any more juvenile appointments (laughter). But they're...the young people we have in our office, my retired office, is...are trained and they have taken training for both guardian and for... [LB894]

SENATOR WILLIAMS: Okay. [LB894]

SENATOR SEILER: ...juvenile justice. But, yes, go ahead. [LB894]

SENATOR PANSING BROOKS: Well, we purposefully kept it...we just wrote in the bill that the Supreme Court will promulgate rules on how...so whether it's through CLEs that they have to meet certain standards. [LB894]

SENATOR WILLIAMS: Yeah. [LB894]

SENATOR PANSING BROOKS: We decided that that was the best way to approach it, too, as we had done last year with...what was the thing last year that we asked the Supreme Court to create rules on? [LB894]

ELAINE MENZEL: Guardians ad litem. Guardian... [LB894]

SENATOR SEILER: But the Mental Health Board... [LB894]

ELAINE MENZEL: Oh, oh, oh. [LB894]

SENATOR PANSING BROOKS: On what? Guardians ad litem? [LB894]

ELAINE MENZEL: Guardians ad litem. [LB894]

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SENATOR PANSING BROOKS: Yeah, we just thought, well, if they...if we could direct them to make these rules and regulations regarding representation of juveniles, that that would be the best way, rather than us micromanaging that. [LB894]

SENATOR SEILER: Again, they started out with, if you appeared in front of the Mental Health Board representing a client, you had to go through an educational program for that. [LB894]

SENATOR PANSING BROOKS: Through a training, that's good. [LB894]

SENATOR SEILER: And if you sat on the board, you had to go through the same program. [LB894]

SENATOR PANSING BROOKS: Thank you. [LB894]

ELAINE MENZEL: Thank you. And again, thank you. And if we certainly can do anything or collect more information, we'd be glad to do so. [LB894]

SENATOR SEILER: Okay, thank you. Any further neutral? Seeing none, you may close. [LB894]

SENATOR PANSING BROOKS: Okay, I do have a little. I just wanted to read one quick quote that I had. Where is it? Sorry. [LB894]

SENATOR WILLIAMS: Just make it up. [LB894]

SENATOR PANSING BROOKS: Make it up? I just wanted to read one quick quote that I had. [LB894]

SENATOR SEILER: I'm leaning toward voting for your bill. [LB894]

SENATOR PANSING BROOKS: Okay. [LB894]

SENATOR SEILER: If you take too much time (laughter)... [LB894]

SENATOR PANSING BROOKS: Hey, okay, well, I can't...oh, here it is. Yay! You'll be so happy. It was in the wrong section. Laura--Senator Ebke--is very pleased that I found this. Thank you. I

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just want to thank everybody for staying here this long on this really important issue. As in closing, I wanted to read to you a paragraph from a letter that Judge Douglas Johnson sent to the committee and I think it's been received. He testified neutrally because that's what the Supreme Court wants him to do. But anyway, this is what he said and in closing I wanted to read this: Attorneys provide a voice for youth during the court process, help the youth navigate the oftentimes complicated juvenile court process, explain the potential risks they face and, most importantly, assure that their rights are protected. Two years ago in Douglas County we adopted a practice of appointing youth counsel in delinquency and status matters at the time of filing of the petition rather than waiting for the first court hearing to advise the youth of their right to counsel and then appointing counsel. This change in our practice has resulted in a more effective process in my courtroom. By providing for earlier appointment of counsel, I believe the youth come to court with a better understanding of the process and of their protected rights. At a minimum, early appointment of counsel has allowed us to avoid delays wherein the youth is appointed counsel at the first hearing, causing the entire hearing to be rescheduled. Further, the parties now come to court better prepared with agreements on anticipation of dismissal, the knowledge of necessary pretrial motions, and plea agreements. Juvenile courts are courts of rehabilitation. And delays in serving our youth hurt those we are trying to serve. My experience has been that early appointment of counsel can prevent unnecessary and harmful delays. And so with that, I close. Thank you very much for your time, everybody. [LB894]

SENATOR SEILER: Thank you. No further bills before us, we're adjourned. [LB894]