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Transcriber's Office

Judiciary Committee
February 14, 2018

[LB836 LB964 LB982 LB1082 LB1118 CONFIRMATION]

The Committee on Judiciary met at 1:30 p.m. on Wednesday, February 14, 2018, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB836, LB964, LB982, LB1082, LB1118 and gubernatorial appointments. Senators present: Laura Ebke, Chairperson; Patty Pansing Brooks, Vice Chairperson; Roy Baker; Ernie Chambers; Matt Hansen; Bob Krist; and Adam Morfeld. Senators absent: Steve Halloran.

SENATOR EBKE: Good afternoon. Welcome to the Judiciary Committee. My name is Laura Ebke. I'm from Crete. I represent Legislative District 32. I chair the Judiciary Committee. I'd like to start off by having my colleagues who are in attendance introduce themselves starting at that end.

SENATOR BAKER: Roy Baker, District 30, Gage County, southern Lancaster County.
[CONFIRMATION]

SENATOR KRIST: Bob Krist, District 10, Omaha, Douglas County, and Bennington.
[CONFIRMATION]

SENATOR HANSEN: Matt Hansen, District 26, northeast Lincoln. [CONFIRMATION]

SENATOR EBKE: And I think at least some of the others will be rolling in here before too long. Assisting the committee today are Laurie Vollertsen, our committee clerk; Dick Clark, one of our two legal counsels; and our committee pages today are Sam and Grady, both students at UNL. On the table over there you will find some yellow testifier sheets. If you are planning on testifying today on any of the bills, please fill one out and hand it to the page when you come up to testify. This helps us to keep an accurate record of the hearing. There is also a white sheet on the table if you do not wish to testify but would like to record your position on a bill. Also, for future reference, if you're not testifying in person on a bill and would like to submit a letter for the official record, all committees have a deadline of 5:00 p.m. the day before the hearing. We will begin bill testimony with the introducer's opening statement, although today we will begin it with a gubernatorial appointment. Following the opening we will hear from proponents of the bill, then opponents, followed by those speaking in the neutral capacity, and we will finish with a closing statement by the introducer if they wish to give one. We ask that you begin your testimony by giving us your first and last name, spell them for the record, please. If you are going to testify, I ask that we keep the on-deck chairs filled. The on-deck chairs on bills are over here with the yellow sheets on the back. If you have any handouts, please bring up at least 12 copies, give them to the page. If you do not have enough copies, the page can help you to make more. We will be using a three-minute light system. That has become our norm this session.

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When you begin your testimony, the light on the table will turn green. The yellow light is your one-minute warning. And when the red light comes on, we ask you to wrap up your final thought and stop. At about 3 minutes and 30 seconds, a beeper will go off, so your goal is to not have the beeper go off on you, okay? As a matter of committee policy, I would like to remind everyone that the use of cell phones and other electronic devices is not allowed in the committee hearing room. Don't want people talking on the phone from the back of the room and that sort of thing. Senators may use them to take notes or stay in contact with staff. And at this time I would ask that everyone take a look at your cell phones, make sure that they're either in silent or vibrate mode. Also, verbal outbursts or applause are not permitted in the hearing room. One more thing, you may notice that people come and go, committee members come and go. That has nothing to do with the importance of the bills being heard today but, rather, senators may have bills to introduce in other committees or have other meetings that they need to get to. And with that, we will begin today's hearing with a gubernatorial appointment for the Nebraska Board of Parole, Layne Gissler. Did I say that right? [CONFIRMATION]

LAYNE GISSLER: Yes. [CONFIRMATION]

SENATOR EBKE: Okay, come on up. [CONFIRMATION]

LAYNE GISSLER: I'd like to apologize right off the bat. I've kind of been battling with a cold so if I cough and hack or anything, I... [CONFIRMATION]

SENATOR EBKE: That's okay. [CONFIRMATION]

LAYNE GISSLER: And I didn't know if I needed a yellow sheet or not. [CONFIRMATION]

SENATOR EBKE: Yeah. We've all had it. [CONFIRMATION]

SENATOR KRIST: Your confirmation depends upon the fact that you're not going to give it back to us (laughter). [CONFIRMATION]

SENATOR EBKE: That's right. [CONFIRMATION]

LAYNE GISSLER: Okay. Well, I'll stay...okay. I'm on the tail...I'm on the tail end of it, so. [CONFIRMATION]

SENATOR EBKE: Okay. Go right ahead. [CONFIRMATION]

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LAYNE GISSLER: Okay. [CONFIRMATION]

SENATOR EBKE: Tell us a little bit about yourself. [CONFIRMATION]

LAYNE GISSLER: (Exhibits 1 and 2) Okay. I'll read a prepared statement. [CONFIRMATION]

SENATOR EBKE: Okay. [CONFIRMATION]

LAYNE GISSLER: Good afternoon, Chairperson Ebke and members of the Judiciary Committee. My name is Layne Gissler; it's L-a-y-n-e G-i-s-s-l-e-r. It is an honor and a privilege to appear before you today seeking confirmation of my nomination by Governor Ricketts to serve my fellow citizens on the Board of Parole. I am a lifelong Nebraskan who is passionate about serving others. My experience, ethics, education, training, and dedication make me an outstanding addition to the Parole Board. I have a bachelor of arts degree in sociology from Doane University--it was Doane College when I went and it'll always kind of be Doane College but it's now Doane University--and over 22 years of correctional experience. I began as a treatment security specialist, which was a correctional officer classification, with the Nebraska Department of Correctional Services and then worked my way up through their unit management ranks and into the programs and community services division. I have a proven track record of making sound decisions and have a wide variety of correctional experience, including the supervision of classification, education, special services, libraries, nonclinical programs, volunteers, and interpreters while with the department. I am an advocate for evidence-based practices and reentry initiatives as these help us make better informed decisions and prepare inmates for release. I am determined to do everything in my power to keep Nebraskans safe and help inmates return to our communities as responsible citizens. The parole process is an integral part of keeping people safe and it is imperative we make the best possible decisions. Part of this decision-making process is having regular in-depth conversations with potential parole candidates to gauge their readiness to live law-abiding lives as our neighbors. We discuss the nature of their criminal activity, their program involvement, behavior while incarcerated, what positive changes they have made, what barriers potentially inhibit their success, and how to overcome them and so much more. I have worked closely with and built relationships with many stakeholders, including Ombudsman's Office, county officials, court officials, law enforcement officers, volunteers, and interested members of the public. I believe growing Nebraska and keeping each other safe is a community effort and together we can accomplish great things. I thank you for your time and consideration and am happy to answer any questions you may have. [CONFIRMATION]

SENATOR EBKE: Thank you, Mr. Gissler. Senator Krist. [CONFIRMATION]

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SENATOR KRIST: Welcome, and thank you for wanting to serve. This is an initial appointment, correct? [CONFIRMATION]

LAYNE GISSLER: Correct. [CONFIRMATION]

SENATOR KRIST: Correct. So have you had an opportunity to experience the Parole Board since October, since your appointment? [CONFIRMATION]

LAYNE GISSLER: Yes, I've been working there full time since October. [CONFIRMATION]

SENATOR KRIST: Okay. I guess we've, many of us, have been involved with special investigative committees and we know we have issues in Corrections and we have asked everybody who sat in that seat of any relevance to Corrections, including Parole and Probation, if there's anything, if you could do anything or you wanted anything or you could ask for anything, what would that something be. So I'm going to ask you the same question. What do you need help with from us? [CONFIRMATION]

LAYNE GISSLER: Well, that's a good question. I've...I was just talking to a person in the crowd and I have never, for all the years I've worked with Corrections, I've never appeared and have been here physically present but I've watched a lot on NET on the streaming and I've heard that and I've thought about that. And to me, it really is a multifaceted approach. I mean we can parole everybody in the system and if people keep coming in the door as quickly as they are, it's going to be an issue, you know. Or if they cut down sending people to prison, we find some alternatives like that, and we're not paroling, the department is not preparing them, that's going to clog it up. And so, Senator Krist, I wish I had a silver-bullet answer for you. All I've been doing is what I can focus on, which is trying to parole as many people as possible while keeping the community safe. I know that's probably not the answer you're looking for. If I think of something, I'll sure give you a call. [CONFIRMATION]

SENATOR KRIST: Well... [CONFIRMATION]

LAYNE GESSLER: If you think of something, please give me a call. [CONFIRMATION]

SENATOR KRIST: I wish you would, you know,... [CONFIRMATION]

LAYNE GESSLER: Okay. [CONFIRMATION]

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SENATOR KRIST: ...stay in contact with us and particularly the Chairman who this is our jurisdiction. And I think it's important that we get immediate feedback and actual feedback from the members. I think that's important for you to have that open door. And then just to...for my own curiosity, will...did you have an interview process with the Governor? [CONFIRMATION]

LAYNE GISSLER: Yes. [CONFIRMATION]

SENATOR KRIST: Okay. How many candidates did he look at, do you remember?
[CONFIRMATION]

LAYNE GISSLER: He did tell me. I didn't really ask. He did say there was quite a few because it was like a week-long process and so, I mean, I did...it took probably a week and a half or two weeks before I had actually heard something, so. [CONFIRMATION]

SENATOR KRIST: Good. Well, thank you. Thanks for coming. [CONFIRMATION]

LAYNE GISSLER: Thank you. [CONFIRMATION]

SENATOR EBKE: Other questions for Mr. Gissler? I see no other questions. Thank you for being here today. [CONFIRMATION]

LAYNE GISSLER: Thank you for your time. I appreciate it. [CONFIRMATION]

SENATOR EBKE: You bet. Thank you. That concludes our hearing on the appointment.
[CONFIRMATION]

SENATOR KRIST: Don't you want to ask for if there's anybody in support or...
[CONFIRMATION]

SENATOR EBKE: Oh, I guess we do. Is there anybody here in support or contrary?
[CONFIRMATION]

LAYNE GISSLER: Well, my wife better be in support. [CONFIRMATION]

SENATOR EBKE: Was she...is she...would she like to come up and talk? Anybody here? Did you bring anybody along? [CONFIRMATION]

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LAYNE GISSLER: Just my wife and daughter. [CONFIRMATION]

SENATOR EBKE: Oh, do they want to say anything nice about you? They don't have to. (Laughter) Okay. Is there anybody from the administration here or anybody that wanted to come in to...they came in for this? Okay, that's good. [CONFIRMATION]

LAYNE GISSLER: All right. Thank you. [CONFIRMATION]

SENATOR EBKE: Thank you. [CONFIRMATION]

LAYNE GISSLER: Appreciate it. [CONFIRMATION]

SENATOR EBKE: That concludes the appointment hearing. We will now move to Senator McDonnell and LB964. [CONFIRMATION]

SENATOR McDONNELL: (Exhibit 8) Good afternoon. Madam Chair Ebke and members of the Judiciary Committee, my name is Mike McDonnell, spelled M-i-k-e M-c-D-o-n-n-e-l-l, representing Legislative District 5. I am here today to introduce LB964. LB964 was brought to my attention from the Douglas County Board and the Omaha City Council and is intended to improve interaction for those that have mental illness. Currently, for individuals who have reached a state of being a danger to themselves or others, a call is made to law enforcement. These individuals are suffering from mental health illness. Undoubtedly, there is a sound public policy behind that interaction because these can be dangerous situations. However, that is not the case for every situation. I feel, we as policymakers, should attempt to avoid a criminalization of the situation and should allow for a smarter solution in some cases. In 2011, Senator Flood introduced LR275 which identified the benefit of allowing mental health professionals the ability to place an individual in an emergency protective custody situation. Oftentimes, there is an individual who is suffering from mental illness and a concerned citizen or loved one will call law enforcement to handle the situation. It is my concern that having a police officer arrive at an already stressful situation, proceed to handcuff the individual and place in a secure vehicle, and transport that individual to a medical facility or jail, can be an even more traumatic situation for that person. An experience like this often only exacerbates the illness from which these individuals suffer. Ultimately, these individuals are ill; they are not criminals. A second reason for this bill is the overreliance on law enforcement and our criminal justice system to handle our mental health issues. I commend our law enforcement officers, but they should not be the first line of defense in many of these instances. Based on an Omaha World-Herald editorial, Omaha police officers filled out 1,193 emergency protective custody forms from September of 2014 to August of 2015. Emergency protective custody calls are a very time-consuming process and a drain on our limited resources. LB964 would allow mental health professionals to take these

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individuals into custody and seek the necessary protections for these individuals. My office has received many inquiries about this bill. I understand transportation is an issue because perhaps mental health professionals could utilize emergency response units for these situations. In other situations, the interactions may already be taking place at a medical facility or an emergency room and transportation is not necessary. I want to stress this bill is merely providing the authority for mental health professionals and not mandating additional responsibility. I've had a number of discussions with interested parties. Issues for consideration include liability for mental health professionals, the scope of the mental health professional, and emergency protective custody, whether this concept should be piloted in Douglas County, and transportation. Again, I want to stress LB964 is not eliminating the role for law enforcement in these situations. In practice, I believe this will apply to a narrow subset of instances. If we can improve the process in just a few cases, I believe this is worth pursuing. I do not take this lightly. This is an issue involving the liberty of individuals in our communities. My intention is to help these individuals with their illness. When I was first hired on the Omaha Fire Department in 1989, they put all of us through emergency medical technician training. We all became EMTBs, basics. One of the first things they taught us was every patient you should look at as one of your family members, a friend, a neighbor, somebody that you know. And every call you make will not be the same. For example, you might have a sprained ankle that comes in. At that point that sprained ankle, that person is stable. That's all they have is a sprained ankle. Or you might find out that ankle is broken. The point is the patient is still stable. And they might not want to be transported in a medic unit because they don't want to go with the whole idea of being...having their neighbors see them being hauled into the medic unit, a number of reasons. At that point, we would allow them to be transported by private vehicle. Now let's say the same patient came in, sprained ankle. We find out it's a broken ankle. But now they're having some cardiac issues. At that point we're not going to give them the option to be transported by private vehicle because the nature has changed of the call. This happens on every medical call. We are talking about patients with mental illness. No call is going to be handled exactly the same way, but if there is an option for some of these patients to be treated differently so we are not putting them in a situation that possibly they are in the emergency room where now we have to go through the process of a police officer coming to the ER, handcuffing them, and taking them to another part of the hospital, if we can avoid that through the mental health professionals saying that there's a better way to treat this person--and again, no call is going to be exactly the same--that's what we're trying to do. In 2011, they discussed this. Senator Flood had a hearing on it. And since 2011, there really hasn't been any changes. And as we mentioned the World-Herald article, if the police are averaging over 1,000 of these calls using the Omaha Police as an example, maybe it helps one person. Maybe that's it. I think that one person is worth helping. If we can actually handle their situation to where they're having some mental health issues, they're our patients, they're our responsibility, and if we can handle that situation in a way to where, again, it helps them in their situation to be put in a position to where they can start healing, that should be our goal just like it was when I first was hired on the Omaha Fire Department and it was a medical

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nature call based on not a mental health illness. I think we have to change the way we look at our patients and these are our patients that possibly are just having a mental health issue versus a broken ankle. Happy to try to answer any of your questions. [LB964]

SENATOR EBKE: Thank you, Senator McDonnell. Any questions? Senator Chambers. [LB964]

SENATOR CHAMBERS: Senator McDonnell, what is the definition of a healthcare professional? [LB964]

SENATOR McDONNELL: We are going to use the one that's basically already in statute. And I do not have that right in front of me. I will get it for you. [LB964]

SENATOR CHAMBERS: Okay. And the reason I...I can see where something needs to be done and I agree with that. But I'm always cautious when they talk about a person being taken into custody. That means that person is involuntarily deprived of his or her freedom to come and go or to move. And I don't want somebody who is not trained to be in that set of circumstances. Suppose I'm the one who has to be taken into custody and it's not a law enforcement officer but a healthcare professional. I don't know who this person is and I say I'm not going with you. Then is that healthcare professional allowed to use physical force? [LB964]

SENATOR McDONNELL: We have discussed the idea of training and the additional training that potentially would be needed. But currently right now in that situation if they feel, that medical healthcare professional feels that person is a danger to themselves or others, they can temporarily restrain that person while the police are on their way to that situation. The goal isn't to take away the ability to where right now most likely the majority of the calls would be handled in way to where they activate the 911 system and a police officer is going to come there. But for those few cases to where we don't need to have that patient go through that process of being handcuffed and dealt with the same as possibly a patient that was more dangerous to others or themselves, the goal is to try to find that each case is going to be handled independently and we have now a different option for some of the patients that aren't as possibly dangerous to themselves or others. [LB964]

SENATOR CHAMBERS: Okay. Thank you. [LB964]

SENATOR EBKE: Senator Pansing Brooks. [LB964]

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SENATOR PANSING BROOKS: Thank you. Thank you, Senator McDonnell, for bringing this. I am interested in the part on page 5. Do you have the bill in front of you? [LB964]

SENATOR McDONNELL: Yep. [LB964]

SENATOR PANSING BROOKS: And lines...well, basically it has to do with lines 6-20...19 where it talks about mental health board proceedings shall be deemed to have commenced upon the earlier of. And it includes...you've added subsection (iii) the administrator of a jail or Department of Correctional Services facility, if the subject was taken into emergency protective custody as a dangerous sex offender and is being held at a jail or correctional facility. I'm just interested in that whole section and why the change and I'll...I'm trying to skim through your testimony and trying to understand why that provision was added, what's the intent. [LB964]

SENATOR McDONNELL: There is an Omaha police officer who is going to testify. There is also people from the county board and professionals that can probably answer that in a better way than I at this time. [LB964]

SENATOR PANSING BROOKS: Okay. Thank you. [LB964]

SENATOR EBKE: Senator Krist. [LB964]

SENATOR KRIST: Obviously you've seen the fiscal note. [LB964]

SENATOR McDONNELL: I do not agree with the fiscal note. But to be fair to the people that put that together, I've not had a chance to meet with them and ask them more in-depth questions about that. [LB964]

SENATOR KRIST: Yeah, so just for the record, \$1,344,000 in addition because our healthcare professionals are going to detain more people and put them in EPC. The conjecture...the logic escapes me how we get from here to there. And I noticed that this...what Sandy Sostad basically just gave us what the department felt it would take to put additional people (inaudible). So I would...you in your position sitting very close to Sandy I think he would have a conversation about the legislative fiscal note because that's the one we really have to pay attention to. So I don't mean to tell you your job, but that doesn't make any sense to me. [LB964]

SENATOR McDONNELL: And to be fair to Sandy, I've not had the chance to talk to her. But I do not agree with the fiscal note. [LB964]

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SENATOR KRIST: Thanks. [LB964]

SENATOR EBKE: Other questions? Okay. I guess we're good. [LB964]

SENATOR McDONNELL: Thank you. [LB964]

SENATOR EBKE: Okay, thanks. [LB964]

SENATOR McDONNELL: If its okay I'll waive closing and go back to Appropriations and... [LB964]

SENATOR EBKE: It will be more fun there, right? [LB964]

SENATOR McDONNELL: Thank you. [LB964]

SENATOR EBKE: Thank you. Okay, first proponent. [LB964]

LEVI MOHR: (Exhibit 7) Good afternoon Senators. My name is Levi Mohr, L-e-v-i M-o-h-r. My testimony today is on behalf of the Mental Health Action team from Omaha Together One Community. OTOC is a coalition of congregations and community organizations that serve to work together for the common good. I also currently serve as moderator for the board of directors for Metropolitan Community Church of Omaha. I am the widow of Tim Mohr of Omaha. Professionally, I am a registered medical assistant and former paramedic. I'm here today to testify in support of LB964. I won't take much time but I feel my story both personal and professional will enable you to see why this bill should be passed. I worked for many years in the emergency department at Creighton University Medical Center. We always did our best with the tools we were given. In several instances we, as a team, had patients who we felt were in the middle of a suicidal or homicidal crisis. Our pathways to treatment were often limited. As the law stands today, we would have to contact law enforcement to come to the hospital to evaluate the patient in order to place them into emergency protective custody or EPC. Being the world we live in today, an Omaha police officer was not always readily available. So, in some cases, despite the experience of our doctors and nurses and us other professionals, all we could do was to sit and wait until OPD arrived to evaluate our patient. Unfortunately in one case the patient was not going to wait, and left the emergency department. The patient then harmed several members of their family. Had the staff on duty been backed by this new law regarding emergency protective custody, the staff could have immediately placed the patient into EPC. This would have then also given hospital security more authority to monitor and, if necessary, intervene until police arrived. We will never know for certain, but those family members might

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have been spared. One of the ultimate responsibilities we have, as medical professionals, is that of advocate. We are there to advocate for our patients in every possible way. This new tool will be an excellent great way we can advocate for our patients. As for my personal view, please forgive me; this may be difficult. My husband Tim and I were married in 2014 in California. He was my best friend; he was my soul mate. Tim lived for many years with bipolar disease. I did my best with my medical background to help my husband. On July 11, 2016, my husband took his own life by jumping into the Missouri River from the Bob Kerrey Pedestrian Bridge. He jumped from the same spot in July of 2015 in an effort to also end his life. Thanks to witnesses and the Omaha Fire Department, he did not die that day. On July 8 of 2016, I drove Tim to an emergency department in the Omaha area. Tim was despondent over several things and I could tell he was on the verge of a major depressive episode. The emergency room doctor, who I hold high esteem for and knew of Tim's history, I will never pretend to know what was in the doctor's head that Friday evening. Had the ER doctor had this new tool in his inventory, the events of the following week may have been different and I may still have my Tim. So in closing my message, I'm dedicated for the rest of life to make a difference in the memory of Tim. We need to change the current law to give medical and mental health professionals the tools they need to keep citizens of Nebraska who have mental health diseases safe. We can't look at this as a battle between law enforcement and medicine. This new law will strengthen coordination between our law enforcement and medical health agencies. We all owe it to the health and safety of all Nebraskans. Thank you, Senators, for your time. [LB964]

SENATOR EBKE: Thank you, Mr. Mohr. Questions? Thank you for being here today. [LB964]

LEVI MOHR: Thank you. [LB964]

SENATOR EBKE: Next proponent. [LB964]

MARY ANN BORGESON: (Exhibit 9) Good afternoon, Chairman Ebke and the Senators. Happy Valentine's Day. My name is Mary Ann Borgeson, M-a-r-y A-n-n B-o-r-g-e-s-o-n. I am a Douglas County Commissioner and I am here today to speak in support of LB964. I want to thank Senator Mike McDonnell for carrying LB964 and thank you all for hearing our testimony. During my tenure on the county board, I have listened, been a part of many discussions, studies, work groups, task groups, and committees regarding mental health issues and our mental health system. During my tenure on the county board, I have learned so much about mental illness through listening to individuals suffering from the disease, working with families whose loved ones suffer from mental health disease, talking with experts, attending conferences, leading panels, and discussions at the local and national level, but I do not sit here today claiming to be the expert in the mental health field. Instead, I sit here today as a policymaker that has had a lot of passion for this issue and because I want to make our system and processes better and easier

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for those trying to or needing to get help for mental illness. I want to move our system and processes away from the criminalization of mental illness. LB964 is not the end-all, be-all of this but a step towards the decriminalization of mental illness. How many other illnesses are there where we have to call law enforcement, have them assess a medical need of an individual, and then handcuff them and take them to an ER? I would beg that there are none and so why do we treat mental illness in that manner. LB964 allows for the trained medical professionals to make that call when evaluating their patients. Will we still need law enforcement to transport the patient? At this point, yes. But we are currently looking into how we might change that system process as well. But for now, this is a step in the right direction. Having trained professionals such as psychiatrists, psychologists, APRNs, and LMHPs that have had years of schooling and training be involved in this process makes sense. Utilizing our medical professionals for medical issues frees up our law enforcement personnel to be on the streets doing what they are trained to do. I think this statement by D.J. Jaffe and E. Fuller Torrey, M.D., coauthors of the book Insane Consequences: How the Mental Health Industry Fails the Mentally Ill really says it all. Where else, besides the involuntary commitment process, do we narrow the criteria to the point where law now require violence rather than prevent it; the public is endangered; and the mentally ill and their families are forced to suffer. So today, I ask you to support LB964 and move it forward. I thank you for your time and I would take any questions if you have any. [LB964]

SENATOR EBKE: Thank you, Commissioner. Questions? Senator Krist. [LB964]

SENATOR KRIST: Thank you for coming down. And I guess I'm on the money kick today. Do you honestly, because you have huge issues with, in Douglas County, the facility that you have and the other facilities, do you really think there's going to be that many more EPCs or cost more for the county? [LB964]

MARY ANN BORGESON: Senator, no, I don't. I do not believe that there will be more. And even if there were more, I can't imagine that it was going to be costing the system more. It should be less because, again, calling in law enforcement off the streets is, in my opinion, more costly than taking care of the mental illness in a medical facility. [LB964]

SENATOR KRIST: I agree with you, Mary Ann. Thank you very much. [LB964]

SENATOR EBKE: Other questions? I see none. Thank you. [LB964]

MARY ANN BORGESON: Thank you. [LB964]

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SENATOR EBKE: Next proponent. A reminder, if there are other proponents, please move to the front. [LB964]

MARILYN RHOTEN: (Exhibit 10) Good afternoon Madam Chair and members of the Judiciary Committee. My name is Marilyn Rhoten, M-a-r-i-l-y-n R-h-o-t-e-n. I'm the vice president of behavioral health services for CHI Health. CHI Health is a regional health network consisting of 14 hospitals, 2 stand-alone behavioral health facilities, a freestanding emergency department, more than 150 employed physician practice locations, and more than 12,000 employees in Nebraska and southwest Iowa serving communities from Corning, Iowa, to Kearney, Nebraska. As such, we are one of the largest providers of behavioral health services in the state. My testimony in support of LB964 today is on behalf of CHI Health and the Nebraska Hospital Association and I want to thank Senator McDonnell for the bill's introduction. I'm a service line leader, not a clinician, but I have talked with many of our behavioral health providers and know that they view LB964 as a positive addition to our efforts to provide behavioral health services to those in crisis. This is because it provides mental health professionals the ability to pursue emergency protective custody when they deem it necessary. And we believe that having professionally trained mental health practitioners involved earlier in the process will help improve outcomes for everyone involved. I want to make it clear that providers appreciate our relationship with law enforcement and that it is probable that most emergency protective custody situations would still involve law enforcement, especially if transport is needed. But there may be instances when that is not required. For example, when a patient is cooperative or maybe is already in the doctor's office or presenting in an emergency room or inpatient facility. Or maybe it's a circumstance where both mental health professionals and law enforcement are involved and a joint effort would be required. We appreciate that many law enforcement agencies are pursuing additional crisis intervention training and that some communities have engaged crisis response teams, but we ask a lot of our officers every day and LB964 would provide another resource to assist in that partnership. LB964 is not going to solve all of our behavioral health challenges and it's impossible to legislate for every type of situation or outcome that can occur in this area. But we do see it as a positive addition to our work on the issue together as a state. And I think that's why other states surrounding Nebraska such as Colorado, Kansas, and Missouri have already granted mental health professionals some form of emergency protective custody. I'll conclude by saying that we value the discussion we are having today. It is a difficult topic, but we welcome the opportunity to participate in solutions and continue to work on any items of concern. Thank you for your time and your service and I'd be pleased to answer any questions that you may have. [LB964]

SENATOR EBKE: Thank you, Ms. Rhoten. Questions? Senator Krist. [LB964]

SENATOR KRIST: Thank you. Thank you, Senator Chambers. We talked earlier and so you're expecting this question. Just for the record, I'm not coming out of the blue. It really doesn't affect

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this bill as much as my concern for both juveniles and adults who are in protective custody or they're being evaluated. And having spent as much time on juvenile justice issues as I have, one of the major complaints from the judiciary is that when they send someone for an evaluation because they are, he or she is harmful to himself, a danger to himself or to someone else, oftentimes that...and the healthcare professionals now have control of that individual. Oftentimes it's a blessing that day to say that person is not in danger of harming himself or others and (inaudible) it's not necessarily a good communication back to the judiciary to say this person is out. And then we see this revolving door start, whether it's an adult or a child. I know you had some comments before, so I'll just let you address the concern overall. [LB964]

MARILYN RHOTEN: Yeah, I agree with you that that is a concern and we wish communication was...we were more able to communicate without...but there are laws that support patients' privacy. So we would be welcome, we'd be glad to work on anything that could help overrule some of those regulations so we could communicate. A lot of times also there's not a level of care available. They may not meet the criteria for inpatient and we really don't want kids in an inpatient unit if they don't have to be there. So there are some challenges with other levels of care being available for children services. So again, we're on the same page. We would like to work closely with the community, with the Legislature to identify ways. [LB964]

SENATOR KRIST: And kind of full circle there just to make sure that I make the point, we're all in agreement that behavioral, mental health, and substance abuse programs are sadly short all over the state and that needs attention. But as I told you earlier, if it is a HIPAA issue, I won't be around next year to try and change the law. But if it is a HIPAA issue then we can help in that area and try to bring the list to a close so that there is that communication gap. [LB964]

MARILYN RHOTEN: That would be great. [LB964]

SENATOR KRIST: So I hope you'll bring that up to Senator McDonnell or someone who will be here or the Chair. Thank you. [LB964]

MARILYN RHOTEN: Thank you. [LB964]

SENATOR EBKE: Okay. Questions? Senator Chambers. [LB964]

SENATOR CHAMBERS: I'm still looking at the taking into custody. How will this custody be effectuated? Will it be a physical restraint? [LB964]

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MARILYN RHOTEN: What I see happening is that it will not be a physical restraint by the mental health professional. It's more apt to be a situation where they will call law enforcement at that time to come help if that is needed. One of the...the example I think of is in the emergency department. If a family member brings in a patient and they go through the assessment, the person is willing to go through that assessment, and then in the middle of that because of their emotional state, they say I'm not doing this anymore--it's already been decided by the mental health professional in the emergency room that they're a danger to self or others--and that individual can leave the emergency department. So then at this time we need to call law enforcement to come find that person, bring them back. They're in danger during that time. So if this was available, then the emergency department physician, a psychiatrist, a psychiatric nurse practitioner, or a psychologist would be able to say we want to initiate an emergency protective custody. Then that way, as was mentioned before, hospital security and trained mental health professionals that know how to deescalate and help try to stop retraumatizing individuals, get them back to the treatment that they need. [LB964]

SENATOR CHAMBERS: I'm doing this for the sake of trying to compile a complete record. If a person decides to walk away or leave, what would the healthcare worker do in a situation like that? [LB964]

MARILYN RHOTEN: They would...there are techniques that all our security officers and our clinical staff are trained in, in order to deescalate and safely restrain for very short periods of time until that individual is in a position to be able to be treated without that. [LB964]

SENATOR CHAMBERS: But precisely what would this healthcare worker do to keep that person at that location? [LB964]

MARILYN RHOTEN: I am not able to give you the exact steps that we go through. [LB964]

SENATOR CHAMBERS: Okay. [LB964]

MARILYN RHOTEN: I can provide you some information later on what we call CPI that is used and all of our providers are trained. [LB964]

SENATOR CHAMBERS: Okay. Now to go better step before we get to what I was talking about, what would bring the healthcare worker into contact with this person in the first place, some of the situations if you can think of any? [LB964]

MARILYN RHOTEN: The the emergency department is one. Another could be that an individual is seeing an outpatient therapist in an appointment and the patient's condition worsens and that therapist or psychologist who is working with that patient and is unable to deescalate or identifies that they really do need to be hospitalized for their own protection. And at that point they could initiate the EPC, and in my opinion in most cases would contact law enforcement in order to help transport at this point. [LB964]

SENATOR CHAMBERS: I don't want to presume anything. Are you suggesting that this would be a situation where the healthcare worker is familiar with the individual, may have worked with that individual and a situation begins to escalate or becomes troublesome? And if the person says I don't want to talk to you anymore and I'm leaving, would you envision a healthcare worker trying to lock the door or just what? And you don't have to give an answer right now if you don't have it, but if somebody comes up after you and is able to give me some enlightenment that's what I would appreciate. [LB964]

MARILYN RHOTEN: Okay, okay. I understand. [LB964]

SENATOR CHAMBERS: But that's all I have to ask you. [LB964]

MARILYN RHOTEN: It is...I think every situation is going to be different. And I really can't answer specifically if that would ever happen. I suppose it's possible, but I don't think that's the intent. [LB964]

SENATOR CHAMBERS: Then would the custody...what I'm gathering is that it wouldn't change much of anything because a law enforcement person is ultimately going to be called. Or does this envision a situation where you have a patient who is not going to do anything physical and maybe you could transport that person someplace? I'm just wanting to know the kinds of situations that, realistically speaking, might occur that would bring this into being. I don't like the criminalization of a person whose only reason for being in touch with the law is that they have a mental problem of some kind. That part I like. But I need to be sure...or I need to be informed more on the types of situations so I'd have some examples of when this bill would come into play, because currently they can call a law enforcement person. [LB964]

MARILYN RHOTEN: And I believe in that situation, you know, if they called the mental health professional could be the one that initiates the EPC because they really have a better feel for the whole situation than a law enforcement person who's called in at that point. The best example I think...this is going to be most impactful in hospital emergency rooms... [LB964]

SENATOR CHAMBERS: Okay, okay. [LB964]

MARILYN RHOTEN: Yeah. [LB964]

SENATOR EBKE: Other questions? I see none. Thank you for being here today. [LB964]

MARILYN RHOTEN: Thank you very much. [LB964]

SENATOR EBKE: Next proponent. [LB964]

TOM WHEELER: (Exhibit 11) Good afternoon, Senators. Tom Wheeler, W-h-e-e-l-e-r, chief deputy, Douglas County Sheriff's Office. LB964 would authorize mental health professionals to take a person into EPC when there is probable cause to believe that the person is mentally ill and dangerous, or a dangerous sex offender as defined by statute. Under current statute, this authority is solely granted to law enforcement officers. Region VI Behavioral Healthcare is responsible for the planning, developing, funding, monitoring, and evaluating of behavioral health services in Cass, Dodge, Douglas, Sarpy, and Washington Counties. In 2017, law enforcement officers within the Region VI area initiated 2,030 EPCs. In many cases, mental health professionals come into contact with mentally ill and dangerous persons before law enforcement. When the training and experience of these professionals cannot deescalate a mentally ill person in crisis, this bill would give them the authority to place that person into EPC and admit them into an appropriate facility for further evaluation and treatment. The proposed bill to expand the authority of mental health professionals is a commonsense enhancement to existing state law. The Douglas County Sheriff's Office joins other law enforcement agencies in support of this bill. [LB964]

SENATOR EBKE: Thank you, Mr. Wheeler. Senator Chambers. [LB964]

SENATOR CHAMBERS: I'm going to ask you what I was asking the others. If it were a law enforcement situation, meaning that some kind of criminal activity had been engaged in, even then maybe this bill could come into play where it wouldn't be necessarily violence involved, but maybe something that could constitute a violation of the law. And if it's one where the healthcare worker could deescalate the situation...let me let you explain how it would come into play. [LB964]

TOM WHEELER: Most of the time when we effect an EPC or an emergency protective custody it's because we've come in contact with somebody who's mentally ill and in crisis and the officer has determined that this person is a danger to themselves or others. In that case they would place them into EPC. There could be a crime involved. That's not always the case. I would say maybe

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even most of the time that's not the case that we come into contact. It's usually a family member or someone that knows this person who again is in crisis and doesn't know what else to do so they contact law enforcement. [LB964]

SENATOR CHAMBERS: And suppose law enforcement were contacted, then this law being here or not being here wouldn't make any difference. If law enforcement is on the scene, this bill would not come into play. Would the law enforcement officer handle it or would the law enforcement seek advice from the healthcare worker if no crime is involved? In other words, if it's not a situation where an arrest would be effectuated, would the law enforcement officer, since he or she is there, take the person into protective custody or leave it in the hands of this healthcare worker to try to get that individual someplace other than a lockup? [LB964]

TOM WHEELER: A law enforcement officer has to be able to articulate why this person is a danger to themselves or others. So if we're the first on the scene and we make that assessment, we would take them and place them into EPC if they fit that criteria. It could be that if they came into contact with a mental health professional first, either in an ER or another setting, that that professional, that mental health professional can articulate why they're in crisis and a danger to themselves or others. So it depends on who observes what, whether it's a law enforcement officer or the mental health professional, that can be able to articulate why this person needs to be taken into emergency custody. [LB964]

SENATOR CHAMBERS: Even though I'm asking all these questions for my enlightenment, the fact that some people who are healthcare professionals or understand that end of it are not worried about this bill putting them in a difficult situation, I don't have too much concern about the bill being advanced and made part of the law. But I'm trying to get, for my own benefit, the situations that might come into play. And maybe you and the others who have spoken have done as much explaining as is possible really. [LB964]

SENATOR EBKE: Senator Krist. [LB964]

SENATOR KRIST: Maybe it would help just for the record if you...whether you're called or whether you can articulate the EPC, how does putting someone...tell me what's different about an EPC as opposed to an arrest. [LB964]

TOM WHEELER: An arrest involves a crime. Someone has committed a crime we can articulate those elements, those facts we'll place them into custody if there's probable cause. An EPC does not have anything to do with a crime. It is dealing with somebody that is an apparent danger to themselves or others. And we do put them in handcuffs, but that is for their safety, for the

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officer's safety, and for the safety of the others that are around until we can get them to the appropriate facility. [LB964]

SENATOR KRIST: So how they get there, whether they're there during an appointment or they're there in the emergency room, what we're really doing is enabling--I hope I'm not putting words in your mouth, tell me if I'm correct--what we're really doing is enabling that healthcare provider in this case for good reason to initiate EPC procedures or process. [LB964]

TOM WHEELER: Yes, that's how I see it. [LB964]

SENATOR KRIST: Okay. And then once they're in EPC, either way, either the healthcare professional does it or you have to do it on scene or it's...even if it is probably criminally related and you realize this person is a danger, then what happens to the EPC person? Are they immediately transported or are they treated a different way than in other situations? [LB964]

TOM WHEELER: We would transport them to an appropriate facility. It may be, like you just said, where they currently are. And there's 72 hours that they have to evaluate that person and determine are they truly a threat to themselves or others. [LB964]

SENATOR KRIST: In 72 hours, also there may be in the absence of a drug or whatever the issue was that puts them in that dangerous situation. So thanks for laying that out for me. Thank you very much. [LB964]

SENATOR EBKE: Other questions? [LB964]

SENATOR CHAMBERS: I hate to be so persistent... [LB964]

SENATOR EBKE: Senator Chambers. [LB964]

SENATOR CHAMBERS: ...but in the example that Senator Krist gave, did you say it would be in a hospital setting originally? [LB964]

SENATOR KRIST: It could be in a hospital setting, yes. [LB964]

SENATOR CHAMBERS: So being taken into custody by the healthcare worker might be just keeping the person in the hospital, is that possible? [LB964]

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TOM WHEELER: That's how I see it. [LB964]

SENATOR CHAMBERS: Okay. That kind of clarifies something that I couldn't articulate. And I got that word from listening to you and others say articulate. So thank you. [LB964]

SENATOR EBKE: So someone could come into a clinician's office, they could come in to be emergency room or whatever the, as you understand it, the person in question could be seen to be in some sort of a crisis. The physician or psychiatrist, behavioral health professional would say...could say to their...to the person out in the hall, say, hey, call 911. We need to keep this person here. Is that... [LB964]

TOM WHEELER: They could do that in anticipation, yes. [LB964]

SENATOR EBKE: That's sort of...right. So they can see that this is a person in crisis. Let's keep them here until we can get them into...get some more immediate help, is that kind of the way it would...? [LB964]

TOM WHEELER: Yeah, that's how I would understand it. [LB964]

SENATOR EBKE: Okay. Thank you. Other questions? Thanks for being here. Next proponent. [LB964]

GREG GONZALEZ: Hello, Senator Ebke, members of the Judiciary Committee. My name is Greg Gonzalez. I'm a deputy chief with the Omaha Police Department. Last name is spelled G-o-n-z-a-l-e-z. I'm here to support LB964 on behalf of the Police Department and the chief of police for three reasons. Believe LB964 really expands the authority for mental health for committals to licensed professionals as well as police officers. It puts some mental health incident response back to mental healthcare professionals, as we feel that they're the experts in the field. They have a lot of training that we don't. And lastly, it alleviates call load for police officers that don't have to respond to mental health facilities or emergency rooms in a timely fashion or if there's a critical nature. I think I want to address one point that Senator Chambers had talked about. I think the bill does a pretty decent job of actually incorporating a safeguard and that is the true definition for an individual that's going to make this assessment according to state statute is actually a mental health professional that's either licensed doctor, nurse with a certification in psychiatry or mental health. And I think that's an important piece here. We don't want anybody making that assessment. It has to be somebody that's a professional, that's licensed to do it, that has experience, that's going to benefit the patient. And lastly I'm here for any questions that you have. [LB964]

SENATOR EBKE: Questions? [LB964]

GREG GONZALEZ: Thank you. [LB964]

SENATOR EBKE: Thanks. Next proponent. [LB964]

ANNE BUETTNER: (Exhibit 12) I am Anne Buettner, A-n-n-e B-u-e-t-t-n-e-r. I represent the Nebraska Association for Marriage and Family Therapy. Good afternoon, Senator Ebke, Senator Pansing Brooks, and the rest of the committee members. I'm here...we are here to support the bill with some proposed changes, some proposed updates. Okay, so we belong to the support, proponent. We certainly support Senator McDonnell's intention to improve mental health of Nebraska citizens and protection of the public and authorizing mental health professionals who do this EPC, be it from nonviolent, gentle restraint to just simply signing the EPC certificate. The mental health professional definition we believe that it needs to be updated. And when it was first inception, it was in the year 1976. And the last time it was updated it was 2005. And it needs to be updated to include the group of licensed independent mental health practitioners. The credentialing was created in 2007 in order for the licensed independent mental health practitioners to diagnose and treat major mental disorders. And that definitely includes the mentally ill and dangerous or the potentially mentally ill and dangerous. So we are already doing the work. Just to explain somewhat to you about licensed independent mental health practitioner, subsume under it there are three specialties: social workers, marriage and family therapists, and professional counselors. We are primarily clinicians with specialty. So we also have rigorous and high standards. If the practitioner does not come from a nonaccredited program, it takes 7,000 clinical hours supervised, meaning ten years in order to qualify to become a licensed independent mental health practitioner. And if the practitioner comes from a nationally accredited program such as social worker or marriage and family therapist, then have courses and practicum such as risk assessment and also psychopathology and that is attested by a letter attached to the handout from the faculty of UNL and UNO. So we are...at this time licensed independent mental health practitioners are already eligible to sit on Mental Health Commitment Board legislated as of 2011. So there is another advantage which is public access advantage. There are 1,677 of us as of today, where there's 548 psychologists and 112 psychiatric nurse practitioners. So this certainly can strengthen the public access. Now, of course, having the authority does not mandate, you know, that you have to do an EPC. But every day we're already doing the work. We have the exposure. We have the clientele. And if the situation arise, we certainly do not want to inconvenience the procedure to have the person become inpatient, for example, and have to...you know, ask a psychologist or a psychiatric nurse practitioner or a physician to sign the EPC certificate. So with all this update, we believe that will make the bill complete and also reform the Mental Health Commitment Act. Any questions? [LB964]

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SENATOR EBKE: Okay. Thank you. Senator Chambers. [LB964]

SENATOR CHAMBERS: I ask questions when I don't know the answer to it, so I'm not just having a conversation. Who would do the updating? Who would be responsible for that? [LB964]

ANNE BUETTNER: Well, we asked Senator McDonnell and he listened and so on. He indicated that he would like the committee to make the decision. And we certainly want to take this opportunity to give our input. [LB964]

SENATOR CHAMBERS: But who...is there any provision in law that directs any agency or group of persons to do the updating that you say is necessary? Or could a group get together and provide that updating information or language to a senator and then we just put it in the law as an update? [LB964]

ANNE BUETTNER: A proposed amendment is already in our letter, the language and everything. And, of course, this is the law. I would say ultimately the updating would be up to the Legislature. [LB964]

SENATOR EBKE: Sure. I think, Senator Chambers, I think this is part of the 407 process that they run for credentialing of healthcare professionals that comes from DHHS. [LB964]

ANNE BUETTNER: Excuse me, Senator Ebke. This is not increasing or changing anybody's scope or practice. This is simply indicating that this is within our scope of practice, a licensed independent mental health practitioner's, to do this. [LB964]

SENATOR EBKE: Senator Chambers. [LB964]

SENATOR CHAMBERS: Now I can zero in. With what you're offering or proposing as an amendment, we could just do that as the Legislature without going through an outside process, is that what you're telling me? [LB964]

ANNE BUETTNER: Yes. [LB964]

SENATOR CHAMBERS: Okay. That's what I needed to be aware of. I like the idea. When I first read about it in the paper of what was being proposed, that all the different ones involved in dealing with people wanted something like this and if before we would advance a bill we can

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have it in the kind of shape that would let the public know what it is exactly we're talking about, we're not deputizing healthcare workers to be semi-law enforcement officers, we're not going to have more people criminalized, it's going to be designed to facilitate the proper or best handling of people who are in this situation, more or less. [LB964]

ANNE BUETTNER: Correct. [LB964]

SENATOR CHAMBERS: Without criminalization. [LB964]

ANNE BUETTNER: Correct. [LB964]

SENATOR CHAMBERS: Okay. [LB964]

ANNE BUETTNER: I mean, like I mentioned earlier, the intervention can be from gentle, nonviolent restraint to just simply signing...making the recommendation of the EPC certificate. [LB964]

SENATOR CHAMBERS: To use one of my cliches, you have improved my education and I appreciate it. Thank you. [LB964]

SENATOR EBKE: All right. Okay. Senator Pansing Brooks. [LB964]

SENATOR PANSING BROOKS: Thank you for coming, Ms.... [LB964]

ANNE BUETTNER: Anne Buettner. [LB964]

SENATOR PANSING BROOKS: Buettner. Thank you. Did you talk to Senator McDonnell about possibly adding this amendment? [LB964]

ANNE BUETTNER: Yes...yes. [LB964]

SENATOR PANSING BROOKS: And... [LB964]

ANNE BUETTNER: And the lobbyist for the bill too. They are amenable in listening and so on. But ultimately it's the committee to decide. [LB964]

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SENATOR PANSING BROOKS: Okay. But also if the senator wants to bring it forward. [LB964]

SENATOR EBKE: Well, he can certainly bring an amendment to the committee. [LB964]

ANNE BUETTNER: Yes, like I said, the proposed amendment is at the end of the second page letter. [LB964]

SENATOR PANSING BROOKS: I see that. Thank you very much. [LB964]

ANNE BUETTNER: You're very welcome. [LB964]

SENATOR EBKE: Thank you. Next proponent. [LB964]

COLENE HINCHEY: It's hard to sit in your chairs with this belt on, sorry. (Laughter) Might have to sit sideways. Hello, I'm Colene Hinchey; it's C-o-l-e-n-e, last name Hinchey, H-i-n-c-h-e-y, and I'm a captain with the Omaha Police Department and I'm in charge of the Southwest Precinct. I've been on 22 years and of 16 of those years I've also handled all the mental health for the department. So I'm speaking not only as a law enforcement officer but a mental health proponent for the state of Nebraska. I'm in support of the change to the law. I feel, as Anne does, that possibly we need to revisit the definition of a mental health practitioner which is under 71-906 if you're curious. That keeps it in the doctor and APRN legislation. Currently I have received four grants to have a coresponder model within the Omaha Police Department, which means we'll have embedded mental health professionals at our precincts and available to go on calls with officers. And we are requiring that they are LMHPs. If we are able to expand that definition, it could possibly mean taking the burden off of law enforcement and also having a trained mental health professional make the decisions as far as committal process versus a law enforcement officer. I feel that it's a needed change and I think that it would only help take steps towards the decriminalization of mental health in the state of Nebraska and I think it would also help the mental health community take necessary steps to help those in the community that are suffering. I'm open to any questions. [LB964]

SENATOR EBKE: Questions? Senator Chambers. [LB964]

SENATOR CHAMBERS: Captain, I have a propensity to comment on things other than just what's in the bill. I've been around long enough to have seen a time when there would not have been a female captain. And in those days I didn't think I would ever see one. So I'm glad that the reality has materialized before my very eyes here (inaudible). [LB964]

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COLENE HINCHEY: Three out of our four precinct captains are females currently. [LB964]

SENATOR CHAMBERS: Say it again? [LB964]

COLENE HINCHEY: Three out of our four precinct captains are currently female. [LB964]

SENATOR CHAMBERS: (Inaudible.) (Laughter) Thanks for letting me know. [LB964]

SENATOR EBKE: Senator Krist. [LB964]

SENATOR KRIST: This program that you're...it sounds like it's a pilot program with the grants and putting things in place. [LB964]

COLENE HINCHEY: Yes. [LB964]

SENATOR KRIST: You're moving forward with it. Would those LMHPs immediately have, given this definition in this bill, have the authority to EPC? [LB964]

COLENE HINCHEY: No. [LB964]

SENATOR KRIST: Which is why you're suggesting that we look at Anne's proposal as well as... [LB964]

COLENE HINCHEY: Yes. [LB964]

SENATOR KRIST: ...as the definition of healthcare... [LB964]

COLENE HINCHEY: Yes. And I think that your concern about the budget is obviously...that what you guys are facing. But you have to realize that somebody who is suicidal is suicidal. Changing the definition on who can EPC somebody is not going to change the amount of people who are suicidal. And they have to be dangerous to self or others. It's no different. I think what would end up happening is that, one, it would possibly even decrease the amount of EPCs because now you're taking a licensed mental health practitioner or professional or doctor to make the decision instead of relying on a law enforcement officer. So I think you're getting the right tools in the right hands as far as that goes. So I don't see a dramatic increase in EPCs. I see an actual remaining the same or decreasing. That would be mine and hopefully the intent with that. [LB964]

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SENATOR KRIST: That's great that you put it on the record. And also for the record, I think this is bogus, this whole fiscal note. To me, this is one example of death by fiscal note and that should not happen to this bill. [LB964]

COLENE HINCHEY: Yeah, I kind of like it...it's not a very accurate description but it's like saying enhancing a DUI law is going to decrease...increase the amount of...I mean, you know what I mean. It's not...people who are driving drunk are driving drunk. People who are mentally ill or suicidal are suicidal and we're just trying to get the help. And if it takes this law to enable mental health professionals to step in when we're not there, you have to understand that there's a confidence level with mental health professionals versus somebody showing up in a uniform. They're much more likely to state their true intentions with you as their therapist, so you're going to know whether or not they're truly suicidal or not, where just coming in. They could deny the whole accusation and then they're still out there being suicidal. So I think it's incumbent upon us to expand our definition on who's able to do an EPC. [LB964]

SENATOR KRIST: Thank you. [LB964]

SENATOR EBKE: Other questions? Thank you, Captain. [LB964]

COLENE HINCHEY: All right. Thank you. [LB964]

SENATOR EBKE: Next proponent. Are there any other proponents? How about opponents? How many more will be testifying on this bill in any capacity? Okay, thanks. [LB964]

MELISSA LEMMER: (Exhibit 13) Good afternoon. My name is Melissa Lemmer, M-e-l-i-s-s-a L-e-m-m-e-r. I am here today on behalf of the Mental Health Association of Nebraska in opposition of LB964. The Mental Health Association of Nebraska, better known as MHA, is a peer-run, peer-operated organization, which means everyone employed with MHA has personal experience with mental health and/or substance use issues and trauma. MHA prides ourselves on having a voice regarding our own care. Due to our experiences, many of us have had contact with law enforcement and most of us have relationships with behavioral health professionals. From our perspective, just knowing that our provider could potentially take us into custody, would change the therapeutic relationship. Many of us have disclosed difficult thoughts and behaviors that may not have been shared just knowing that an EPC could be possible. We already understand that they have the ability to call law enforcement if they fear we are in danger to ourselves or someone else, but it makes for a different dynamic to know that they could be the one to take us into custody. MHA peers have worked in collaboration with Region V Systems and the Lincoln Police Department to create a culture that enables people to get the community resources they need and hopes to decrease the emergency protective custody rates and the

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numbers of individuals being placed in jail. For the past 9 years, Region V Systems and the Lincoln Police have sponsored a behavioral health training BHTA. During BHTA, MHA peers have provided information on what is helpful for us and what is not helpful and the message that we can and do recover. Approximately 66 officers a year have attended BHTA, in addition to ongoing training for new recruits, in-services, and dispatchers. These trainings were developed by seasoned officers who have a passion for community at little to no cost, as community providers volunteer their time. Statistics show while the population of Lincoln continues to grow, EPC rates are down. Reports also show that mental health investigation calls for service, that do not result as an EPC, were evaluated appropriately. Meaning those who were not placed in EPC, did not harm themselves or someone else after being released. We believe that giving mental health providers the ability to EPC would greatly increase EPC rates and cause further harm to individuals and create a need for more emergency beds in an already overcrowded system. Public safety is the job of law enforcement and providers are to create a safe environment for us to heal and grow. Thank you for hearing from MHA Peers and I would be happy to answer further questions. [LB964]

SENATOR EBKE: Questions for Ms. Lemmer? Senator Chambers. [LB964]

SENATOR CHAMBERS: Would you be opposed to this bill in any form then if the mental health worker could be the one to put the person into temporary custody? [LB964]

MELISSA LEMMER: I would have to say yes because I think there are a lot of...I've been EPCed three times and I think that the EPC process, there has to be a checks and balances. And the EPC process does take away your rights as an individual. It's not just that you're...it's different than just going to the hospital. Your rights as a person are taken away. There is a process in place that you go through an attorney and a hearing and it's a different process than just being placed in a hospital. And so... [LB964]

SENATOR CHAMBERS: So let me ask this and maybe we can...you can communicate to me what you want. [LB964]

MELISSA LEMMER: Okay. [LB964]

SENATOR CHAMBERS: Where would the person be taken, what physical facility would a person be taken to in a situation like this if the bill were in place? [LB964]

MELISSA LEMMER: Well, I can speak to in Lincoln I was taken to the Crisis Center from the hospital, from Bryan Health, to Lancaster County Crisis Center. If there were no beds available

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then I was transported to a different hospital in a different county if the Crisis Center was full. And then, so. [LB964]

SENATOR CHAMBERS: What would be different if this bill were in place from what went on...what goes on now? [LB964]

MELISSA LEMMER: What would be different would be that I would lose that therapeutic relationship with my therapist or doctor. My doctor wouldn't...I mean I guess law enforcement would still be involved because they would have to transport me to another facility if I was...I think, from my perspective, if they were to make that call from the hospital. [LB964]

SENATOR CHAMBERS: Who makes the call now? [LB964]

MELISSA LEMMER: Law enforcement. [LB964]

SENATOR CHAMBERS: In your situation, it was law enforcement that... [LB964]

MELISSA LEMMER: Law enforcement was involved. [LB964]

SENATOR CHAMBERS: Okay. [LB964]

SENATOR EBKE: Other questions? Senator Baker. [LB964]

SENATOR BAKER: Thank you, Chairwoman Ebke. And I'm sorry, I'm not good at remembering names after just hearing them once, so I'll just address you without speaking to you by name. So I take it...asked you were taken to a hospital, a mental health ward of some kind. Were you free to go? [LB964]

MELISSA LEMMER: Was I free to go? Each situation was different. I was not free to go once I checked into the hospital. [LB964]

SENATOR BAKER: So you were somewhat in custody. [LB964]

MELISSA LEMMER: Yes. [LB964]

SENATOR BAKER: Thank you. [LB964]

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MELISSA LEMMER: So I was free to...once I got to the hospital I was...the police were called and I was not free to go. [LB964]

SENATOR BAKER: Thank you. [LB964]

SENATOR EBKE: Other questions? Senator Chambers. [LB964]

SENATOR CHAMBERS: What role would your doctor have had...did the doctor summon the police or what? How did that happen? If you could give me an example of the process you went through and the persons who were involved in carrying it out. [LB964]

MELISSA LEMMER: Okay. I can give...do you want like two different examples because they were both very different? [LB964]

SENATOR CHAMBERS: Okay. [LB964]

MELISSA LEMMER: Okay, so the first example was I went to the hospital voluntarily and the hospital thought that I was a danger to myself, which I was. I was suicidal. So the police were called and I was taken to the Crisis Center. The second time, my family called the police. The police took me to the hospital so it...and so it...I was...both times I was EPCed and went to the Crisis Center I guess. [LB964]

SENATOR CHAMBERS: Is the Crisis Center a locked facility? [LB964]

MELISSA LEMMER: Yes. [LB964]

SENATOR CHAMBERS: And you're not free to leave when...once you're there, you're not free to leave if you want to leave. [LB964]

MELISSA LEMMER: No. [LB964]

SENATOR CHAMBERS: What would have to happen in order for you to be allowed to leave? [LB964]

MELISSA LEMMER: You have to go to a hearing. And the mental health board decides whether or not you can leave. [LB964]

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SENATOR CHAMBERS: And that's the way it is right now? [LB964]

MELISSA LEMMER: Yes. [LB964]

SENATOR CHAMBERS: If this law were in effect, in place, what would the difference be, as you see it? [LB964]

MELISSA LEMMER: Well, I think it would...I... [LB964]

SENATOR CHAMBERS: I'm not trying to put you on the spot (inaudible)... [LB964]

MELISSA LEMMER: No, it's okay. I think that it would just be different that I mean your provider would...I think that law enforcement is still going to be involved either way. And so it's going to put...there's a lot of things with law enforcement and healthcare providers. I think that putting people in restraints, it's going to put mental health providers in a position to putting a person in restraints. I would not feel comfortable if my provider...if I was in a position where I was told that I couldn't leave my doctor's office because I had to stay there until law enforcement came, it would put both myself and my provider at risk until law enforcement got there. And so I think that that's...I mean it's just kind of... [LB964]

SENATOR CHAMBERS: I'm getting clear of what you are actually saying. Let me ask this question and then I will drop it. [LB964]

MELISSA LEMMER: Okay, okay. [LB964]

SENATOR CHAMBERS: The fact that the first time around for you, you went to the hospital voluntarily, whatever the result of that would have been you were prepared to accept that because you knew you needed some kind of help and that's what took you to the hospital. Now the second time when your family called, did you feel that you needed to go? [LB964]

MELISSA LEMMER: No. [LB964]

SENATOR CHAMBERS: So there was an instance where it was involuntary as far as you were concerned. But your provider was not involved in either situation. [LB964]

MELISSA LEMMER: My provider was involved, but the police had to get involved because I didn't want to stay. [LB964]

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SENATOR CHAMBERS: Here's what I mean by that. Your provider did not play any role in initiating the process. The first time, you did. The second time when your family made the call. Your provider was not involved in that at all at that point, is that correct? [LB964]

MELISSA LEMMER: Um-hum. [LB964]

SENATOR CHAMBERS: But you might see your provider after you were taken wherever they were going to take you. [LB964]

MELISSA LEMMER: Well, I didn't get to see my own provider. Once you go to the Crisis Center, you see different providers. [LB964]

SENATOR CHAMBERS: So your provider was not involved in the way you think would be the case if this law were in effect, that you could voluntarily...you could voluntarily, if this law were in effect, go to see your provider. And if your provider thought that the police ought to be called then the police would be called? I'm trying to understand really a difference between what happens now and what would happen if this law were in place that would be different. [LB964]

MELISSA LEMMER: I think that...I mean I kind of understand how it would be different. But I think that the police are still going to have to be involved to transport the individual to the facility where they're going. The call might be made to initiate the EPC, but unless the mental health professional is still...is willing to transport the person to wherever they're going... [LB964]

SENATOR CHAMBERS: But couldn't that happen right now, where the provider, the healthcare professional is not going to transport you? Then would the police be involved, or you just wouldn't go anywhere else? You'd go home, right now. If you went to your healthcare professional and it was felt that you needed the EPC but the healthcare professional was not going to be the one to take you there and you had no family member who would take you there, then how would you get there? [LB964]

MELISSA LEMMER: Well, right now only law enforcement can EPC so because your rights are taken away when an EPC. So I mean it's...like you can't... [LB964]

SENATOR CHAMBERS: Okay, I feel like I'm grilling you now, so I don't have any other questions. Thank you. [LB964]

MELISSA LEMMER: Yeah, no. It's okay. (Laugh) [LB964]

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SENATOR EBKE: Senator Krist. [LB964]

SENATOR KRIST: The facility...I'm going to use your first example to help me understand. [LB964]

MELISSA LEMMER: Okay. [LB964]

SENATOR KRIST: You were in a medical facility. You needed to be EPCed. That's what you alluded to. The doctor or the emergency room physician, whatever, couldn't do the EPC so that he had to disengage and call law enforcement to get you involved and you were taken from that medical facility to another facility, right? [LB964]

MELISSA LEMMER: Um-hum, to the Crisis Center. [LB964]

SENATOR KRIST: So I should have asked this question when CHI was up here, but why didn't you stay in that facility if it was a behavioral and mental health issue? They obviously...did they not have the capability to admit you for treatment? [LB964]

MELISSA LEMMER: You can't stay at the hospital for EPCs in Lancaster County I guess. Like when...I don't know, in Lancaster County you can't stay like because you go to the Crisis Center for EPCs. [LB964]

SENATOR KRIST: Okay. That's okay. I think what we need to find out is...I don't have to explain it. We need to find out whether if you're in a medical facility and what they want to do is have the...not the power but the ability to do an EPC and that facility can take care of you, my question is why did you have to have transportation to another facility? That gets them to where we're actually taking care of (inaudible)... [LB964]

MELISSA LEMMER: I think it's because there's voluntary versus involuntary commitment. And so like once an EPC is no longer voluntary. [LB964]

SENATOR KRIST: Okay. [LB964]

MELISSA LEMMER: And so like once you're placed in emergency protective custody it becomes no longer voluntary. [LB964]

SENATOR KRIST: Okay. Thank you. [LB964]

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SENATOR EBKE: Any other questions? Thanks for being here. [LB964]

MELISSA LEMMER: Yeah. Thanks. [LB964]

SENATOR EBKE: Next opponent. [LB964]

C.J. JOHNSON: (Exhibit 6) My name is C.J. Johnson, C-J J-o-h-n-s-o-n, and I'm the regional administrator with Region V Systems, one of the six behavioral health regions in the state of Nebraska. I'd already submitted a letter in opposition, but in listening to the testimonies there was a lot of questions and just wanted to share some thoughts on some of those questions. First of all, I do want to say that on February 12 my regional governing board, which is made up of county commissioners and supervisors from southeast Nebraska, approved a resolution to oppose LB964. To start with Melissa, the first thing is when somebody is placed on a EPC, they are evaluated over a 72-hour period of time. However, if they are deemed stable prior to that 72 hours, they can be released from that hold. So they don't actually...not everybody goes before a mental health board. In fact, in Region V about 70-80 percent of people are released prior to the 72-hour period of time and never go before a mental health board. About 10 percent of those individuals are subsequently placed on an inpatient commitment, which means that they require additional acute care treatment which can be done in a private hospital. In our region, we generally use Mary Lanning in Hastings or, if necessary, they can go to the Lincoln Regional Center. I also want to just clarify, I heard initiate and place into custody used interchangeably throughout the afternoon. Right now, anybody can initiate an EPC because it requires a call to law enforcement. Law enforcement would come and make the determination if that person can be placed on an EPC. So anybody can initiate. What this law does, LB964, what this bill says is that you're going to expand the number of individuals who can actually place somebody on an EPC, can actually make the determination to place that person on an EPC, remove their civil rights for up to a 72 period of time. And then the issues of transportation do come in. It's very hard for me, also as a licensed clinical social worker, to imagine that somebody who is at danger to themselves or others, number one, they're probably not rational. They probably aren't going to want to, stay, I think you are going to begin to endanger these licensed professionals. But I see my light is on. I'll answer any questions. But in first reading this bill, there have been a lot of questions by a lot of groups. And the one thing that keeps coming to my mind every time I look at this is because it's so unclearly defined and there are so many differing opinions on this it really, without going through those and really doing an extensive study, I really think we're going to open the door for another safe haven law that we experienced a number of years ago because of all the mechanics that go on in this process. So with that, I'll answer any questions. [LB964]

SENATOR EBKE: Thank you. Senator Chambers. [LB964]

SENATOR CHAMBERS: Now I'm going to do like they would do if you were testifying in court. You have the credentials. What...is it your professional opinion that it would better not to enact this law in any form? [LB964]

C.J. JOHNSON: Well, I think it needs to...Senator Chambers, I think it needs to be very well studied for a couple reasons. If you go back before behavioral health reform...or after behavioral health reform, we were averaging 40-60 EPCs from Bryan Hospital off their acute ward into our Crisis Center, okay? Finally, Lincoln Police Department said you are an acute care hospital. We're not going to come up to your ward and place somebody on emergency protective custody hold when you're already providing the highest level of care, okay? So where that concerns me that we've already had somewhat of a demonstration where you had mental health professionals, the highest acute care, still felt the need to place somebody on an EPC, okay, so I'm concerned about when we say is this going to open up the doors for EPCs and we're going to see more? I think it's very possible. The other reason I say that is because we started crisis response teams in 2005 because law enforcement said there were a lot of times when they encountered somebody who maybe they didn't totally feel was at that point of being dangerous to themselves or others, but they didn't know what else to do with the person so they would place that person on an EPC. We started our crisis response teams and in a six-month period of time we literally saw 50 percent reduction in rural county emergency protective custody holds. So what that's telling me is we're expanding the right for somebody to put somebody on an EPC. And I'm not trying to diss professionals that they won't act professionally. But I can see many times when you're sitting there in an office with somebody and you're not sure what to do with them, and who are you going to call? You're giving the right now for that person to literally place that person on an EPC, not just initiate one. So I think the numbers will go up unless there is an extensive study to show that that won't happen. Prior to 2004, we had over 1,000 emergency protective custody holds annually. With some of the processes we put in place, we're down to around 600. So we reduced that significantly. [LB964]

SENATOR CHAMBERS: Madam, may we have a conversation if that will help? [LB964]

SENATOR EBKE: Sure, go ahead. [LB964]

SENATOR CHAMBERS: These, by reducing the numbers, I understand you to say that that reduction comes not because people needed EPC were not being handled that way but people were being EPCed when they didn't need it. Is that what you're saying and that's why the number was so much higher? [LB964]

C.J. JOHNSON: Correct. There was other alternatives, yes. [LB964]

SENATOR CHAMBERS: And if this bill were to be put in place then more people would be able to make the decision that EPC was the thing to do instead of putting that person with somebody who could make a more appropriate decision about it as to whether it should be or not? [LB964]

C.J. JOHNSON: Well, I think for me the concern that I have in association with that is also in earlier testimony for the proponents, number one, is they were all from Douglas County. So I can only...I'm going to assume based on other conversations that I've had that there are others in opposition of this that have written this Judiciary Committee from other parts of the state. So with that said...I'm sorry, could you ask that again, Senator Chambers? [LB964]

SENATOR CHAMBERS: No, I was wondering if...not trying to say everything you said about the numbers. But if there were a hundred or, say, a thousand, then when the system was changed and that number dropped you had people who could make a better, more informed decision and the number was reduced. It reduced not because people who needed to be EPCed no longer were being handled that way, but the number was high because people who didn't need the EPC were put in that situation. Is that what you're saying? [LB964]

C.J. JOHNSON: No. [LB964]

SENATOR CHAMBERS: So tell me how the...what caused the number to be reduced. [LB964]

C.J. JOHNSON: Well, we developed crisis response teams. So when law enforcement...in the past prior to implementing this, law enforcement, if you think about it, they would encounter somebody. They didn't know what else to do with the person. They didn't have an alternative. So it was, if you will, it was just easier to EPC somebody, get them on the road to get them to a facility. Then we brought in crisis response teams. So now if a law enforcement is in a situation where it doesn't feel that person needs to be EPCed but doesn't have an alternative, they can call an 800 number and we actually sent out professionals to meet with the law enforcement and the individual to come up with alternatives. So in the past it was a lot of times a time issue, because we may have people go out on our crisis response teams. They may spend a couple hours with that person working with that person's family to make sure that they're safe overnight and those kind of things, where in the past law enforcement is not going to stay with somebody for hours when there's a different route because they have other activities they have to be doing. [LB964]

SENATOR CHAMBERS: And since Senator Krist has questions, that's all I'll ask now. Thank you. [LB964]

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SENATOR EBKE: Okay. Thanks. Senator Krist. [LB964]

SENATOR KRIST: Now don't take this the wrong way, but I'm going to try to follow this out. You had more EPCs because it was a law enforcement that solely were able to give EPCs. [LB964]

C.J. JOHNSON: Correct. [LB964]

SENATOR KRIST: And the way you reduce the numbers is to get professionals in a crisis action team who really were professionals who could evaluate them in terms of not doing an EPC. [LB964]

C.J. JOHNSON: Not so... [LB964]

SENATOR KRIST: I don't see... [LB964]

C.J. JOHNSON: Sorry, Senator. [LB964]

SENATOR KRIST: Well, who was... [LB964]

C.J. JOHNSON: Not so much about the evaluation part. It was about what alternatives to do with them. [LB964]

SENATOR KRIST: Okay, so who was on your crisis action teams? Who is on your crisis action teams? [LB964]

C.J. JOHNSON: We have licensed practitioners. [LB964]

SENATOR KRIST: Isn't this bill trying to give licensed practitioners more of an ability to evaluate a system? [LB964]

C.J. JOHNSON: Yeah, and let me explain. If you're law enforcement and you're out in a rural county, what we saw--I'm just sharing what we saw--is they encounter somebody and they had...back then it was a choice. Okay, do I spend hours trying to find this person's family? Do I sit here and work with them? [LB964]

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SENATOR KRIST: I get that part. [LB964]

C.J. JOHNSON: Okay. [LB964]

SENATOR KRIST: I'm not going to interrupt you except to get back on the track I was going. If I'm a law enforcement officer in Douglas County, Lancaster County, Box Butte County, I don't care where you are, and I encounter a situation that I'm not sure one way or another, why would I not take them to a licensed professional and have that done by a licensed professional, which is I see one of the benefits to this bill? [LB964]

C.J. JOHNSON: Well, throughout the state, all the Regions have crisis response teams available to law enforcement to come out and do that assessment. [LB964]

SENATOR KRIST: So that relieves the law enforcement officer from being the sole decision processes on EPCs. [LB964]

C.J. JOHNSON: Correct. That's already in place across the state. [LB964]

SENATOR KRIST: Okay, so I...your testimony is great in the fact that you're handling it differently in your Region which we know different Regions handle them different ways. But right now I think my problem with the EPC is it's law enforcement basically that has to do it. If we had clinicians and professionals that were more in line, front line like you're suggesting...I'm missing it I guess. [LB964]

C.J. JOHNSON: I know it seems counterintuitive, but I really...I'm simply up here to really say this needs to be looked at because as good as it sounds to expand this, I mean you're really talking about individuals who are truly imminently dangerous to themselves or others because of their mental health condition. You're not talking...earlier testimony I heard words about people getting their behavioral health needs met, about access. So unfortunately some people are maybe seeing this as a way to get people treatment options. [LB964]

SENATOR KRIST: No, I guess... [LB964]

C.J. JOHNSON: And I...so I'm just expressing my concerns as somebody who's been doing this for 20 years. [LB964]

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SENATOR KRIST: Sure. And I appreciate that. I fly airplanes. You can't fly airplanes. So that's okay. I get it. But point is I want the most qualified...I would like to have ideally in this state the most qualified person capable of either initiating an EPC or starting some alternative kinds of therapies. And you and I have both seen what happens when a law enforcement officer comes into a situation that's already volatile and how that can escalate so quickly. So thanks for coming and thank you for giving me your testimony. I just found...you used a great word: counterintuitive. And it is. For me, it's counterintuitive that we would not want those healthcare professionals which is essentially what you're describing as that team that was for it. But we'll have to consider it. Thank you. [LB964]

SENATOR EBKE: Can I ask a question? [LB964]

C.J. JOHNSON: Yes. [LB964]

SENATOR EBKE: Your current understanding of the current law...do you have a copy of the bill by chance? [LB964]

C.J. JOHNSON: No, I don't have it right in front of me. [LB964]

SENATOR EBKE: There is a strikeout--we'll get you a copy here--on page 2. The current language says, lines 17-22, that, "A mental health professional who has probable cause to believe that a person is mentally ill and dangerous or a dangerous sex offender may cause such person to be taken into custody and shall have a limited privilege to hold such person until a law enforcement officer or other authorized person arrives to take custody of such person." Is that your understanding of the ways things typically are? So if somebody comes into your...to a clinic or whatever and is deemed to be dangerous by a mental health professional they could effectuate sort of a temporary EPC until the police get there? [LB964]

C.J. JOHNSON: My understanding of the current law is that is not accurate in how it is practiced. Law enforcement is the only one that can... [LB964]

SENATOR EBKE: But you can...but this is the current law, because what's being struck out is what's current law. So theoretically anyhow that could happen. Now what happens after that is probably the big issue, once the police get there, whether or not the mental health professional has the ability to, say, take this person or whether they think the crisis has been averted and the police decide not to. But you can certainly hold them, I think. That's what it seems. Okay, thank you. Okay, any other questions or...I guess not. Any other opponents? [LB964]

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AMIE JACKSON: Good afternoon, senators. My name is Amie Jackson, A-m-i-e J-a-c-k-s-o-n. I am an opponent of LB964 because I feel that it would increase the amount of felony charges of assault on healthcare professionals, adding to the already overcrowding issues in our prisons and jails. This also greatly increases the number of people who can EPC that are not trained in taking people into custody. I also believe it would break trust between...trust that is built between the provider and the patient. I'll answer any questions. [LB964]

SENATOR EBKE: Thank you, Ms. Jackson. Any questions? Senator Chambers. [LB964]

SENATOR CHAMBERS: You touched on what I kept asking about in terms at the point at which this provider is going to become the custodian. And I'm using that word so I don't have to say a lot of other words. If the person chooses not to remain with that provider, how is the provider to restrain or detain that person until law enforcement comes? As Senator Ebke pointed out, there's something here existing, and I think they use the word "custody" here where maybe they should have said "detain." Here's what it says. "A mental health professional who has probable cause to believe that a person is mentally ill and dangerous or a dangerous sex offender may cause such person to be taken into custody and shall have a limited privilege to hold that person until a law enforcement officer or other authorized person" would take custody. I think if they would have put the word...and that doesn't mean it's right, to say they could try to detain the person instead of using the word "custody" because custody does mean that the person is not free to leave. If you'd say would attempt to detain, that means something short of using a physical restraint or placing yourself between that person and the door to hold that person. If a law enforcement officer stops me I can ask, am I under arrest? If the officer says no then I can leave. If I'm not free to leave, the courts have said then an arrest has taken place. The way the current language reads, I think it means more the situation where you try to persuade the person to stay there until a law enforcement person can come and take custody, because it says--and I'm taking a little while because this is a complicated matter to me--the health professional "may cause such person to be taken into custody." That doesn't say the health professional takes the person into custody. I think it's saying may take steps to have somebody come from law enforcement to take the person into custody. In other words, the law enforcement person would know that this individual who is calling is authorized by law to call law enforcement in that situation to take the person into custody. [LB964]

AMIE JACKSON: That would be okay if that is how the bill reads. [LB964]

SENATOR CHAMBERS: No, I'm saying I think that's what it's talking about the way the law is now. But with the change, for it to be a change it would mean that the healthcare professional actually becomes the custodian and that's why I kept asking... [LB964]

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AMIE JACKSON: Detains the person. [LB964]

SENATOR CHAMBERS: ...if I don't want to stay there then what can the healthcare professional do if that person is to take me into custody and I'm not going to be taken into custody. Then what I envision perhaps happening is what you put the word to. I would resist physically. Then I would be the one who has committed an assault. And whereas no crime had been committed up to that time, I was provoked into trying to get my freedom. And when I use force to keep from being forcibly detained, I'm the one who will be charged with an offense. And there are laws right now about assaulting different people. That's what I kept trying to get at. And it never was clear to me how this healthcare professional is going to take somebody actually into custody. And with all the discussing that has gone on, I can understand what's being aimed at. But when we come to ground zero and it's you, the healthcare professional, and me, the patient, I'm not going to...I didn't come here to be taken into custody and I'm leaving, you don't have arrest powers. You cannot put me under arrest. I'm wondering if this is another way of saying that the healthcare professional now is temporarily deputized to be an officer without saying it. And I wish that I could have been clearer. I thought I was being clear in asking the question. But you have put into words the situation that I envision perhaps happening and I'm convinced the way law enforcement and the laws are interpreted, the way prosecutors file charges, the one who came to a facility or to the healthcare professional as the patient becomes a law violator and ultimately a criminal who's going to wind up locked up in the penitentiary when it was a mental illness problem that initiated it all. [LB964]

AMIE JACKSON: In the first place, yes. I agree, Senator Chambers. [LB964]

SENATOR CHAMBERS: But anyway, I just wanted to indicate from what you said is what I was trying to get across and I didn't get a real answer to it. [LB964]

AMIE JACKSON: Thank you. [LB964]

SENATOR EBKE: Senator Krist. [LB964]

SENATOR KRIST: Do you agree, your organization basically when you came to talk to me would rather have a deescalation, have somebody who's been there, done that, worn that t-shirt? Someone who's been there, done that, worn that t-shirt has that experience to talk somebody down off the cliff. That's kind of the impression that I get. [LB964]

AMIE JACKSON: Yes, I've seen that to be most effective. Yes. [LB964]

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SENATOR KRIST: So from my perspective, when the captain walks in, now law enforcement is involved and I'm going to escalate because...and I'm not talking about someone--careful how I say this--I'm not talking about someone who's thinking rationally at that point about where I am and what I'm doing. Okay? That's the situation. When that healthcare provider starts to try to talk somebody down off the cliff or brings in, as the gentleman testified, a specialized team that's going to do that, there may not be a need for a law enforcement officer to come in and intervene in that case. Would you agree with that? [LB964]

AMIE JACKSON: There may not be. [LB964]

SENATOR KRIST: Okay. And the way that it may not be and so that you can voluntarily...if you don't want to voluntarily be EPCed, you can stand up and walk out of that facility because those are your rights. But in some cases, when all else fails, then I need to call the captain to get it done. This to me is a logical step to reduce it to a lowest level where there's medical professional training...professionally trained behavioral mental health folks in the room who can affect the situation. And Senator Chambers is right. What was not clear during this conversation is what you put in perspective. Maybe this bill does need to go back to the drawing board. Maybe it's not ready for prime time. But I think the intent, which I think we both see, is to have the best care we can for people. And how we get to that point is not clear here. And Senator Ebke intelligently articulated the fact that people don't...people I don't think even understand the words that are in the statute right now that are being struck. So that's more of a comment than a question. But I get it. Thank you. [LB964]

AMIE JACKSON: Thank you, Senator. [LB964]

SENATOR EBKE: Other questions? Thanks for being here today. Are there any other opponents? [LB964]

LARRY STORER: My name is Larry Storer, S-t-o-r-e-r, Omaha, Nebraska. Do I need to give a street address? [LB964]

SENATOR EBKE: No. [LB964]

LARRY STORER: I'm going to approach this from a little bit of a different standpoint and I will try not to raise my voice. Mr. Chambers, I agree with you. And I want to give you a perspective from a grandparent. But also, when I was a teenager I was in trouble a few times. I don't know whether you could write it off to bad behavior or just immaturity. I don't have a copy of that bill in front of me, but I have some experiences. (Inaudible) as well as a grandchild that's in the

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system. Rightfully or wrongfully, the healthcare system, the mental healthcare system, we all need to use some judgment here and the first piece of judgment, critical judgment, is that police officer that doesn't know how to listen to you whether you're mentally ill or not, doesn't know how to diagnose what your mental illness is. Do you have ADHD or you missing a part of the brain or are you just intoxicated? That puts them in danger. A mental healthcare professional, I think you need to define that very much more than it is. I probably knew more about a certain situation with my grandson than so-called mental health experts, and Douglas County youth people, the emergency hospital people, and why? Because a lot of them aren't trained in answering the right questions. Did they ask you, Senator Chambers, if you were mentally ill before they arrested you? Did the police officer ask me before he arrested me? No. And I might go a little bit longer here. The next person in danger is the person that makes the call, but the mental health professional is also. I'll try to cut it short in that because of the privacy laws, and you've heard me (inaudible) on this, although I was closely involved in most situations with my grandson, with his mother, under the misinterpretations or misunderstandings of the privacy laws I was not allowed input. I could be sitting in the meeting with them, in the doctor's office with them. I could be the one that had taken him. And under the federal law I'm a part of that team whether they like it or not. That's what it says. But in practice in this state, if you don't...you don't practice it that way. Multiple times I've been allowed in the room but not allowed to say anything. And I was not allowed to ask the behavioral expert, excuse me, this is not just bad behavior and don't tell me that it is because your child doesn't act that way. This child has a defect that affects his ability to reason, quickly, particularly. It may or may not be autism, which we all disagree about. But the process, even if you're not mentally ill, you're arrested without input, you're not going to process exactly very good either. So now you have an out-of-control youth or person, whether or not they're mentally ill. [LB964]

SENATOR EBKE: Mr. Storer,... [LB964]

LARRY STORER: And the police officer needs the training. Can he have the person next to him that's trained? Is that person trained thoroughly or just a student? Nobody knows, do they? But there's a lot of mistreatment of people because of it. [LB964]

SENATOR EBKE: Thank you, Mr. Storer. [LB964]

SENATOR CHAMBERS: May I ask him a question? [LB964]

SENATOR EBKE: Sure. Can I ask you, your sheet said neutral. We were still on opponent testimony. Which is it? [LB964]

LARRY STORER: I'm opposed to it. [LB964]

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SENATOR EBKE: Okay, thank you. [LB964]

LARRY STORER: ...because of... [LB964]

SENATOR EBKE: Okay, thank you. [LB964]

LARRY STORER: ...because of what Mr. Chambers was asking. [LB964]

SENATOR EBKE: Okay. Thank you. Senator Chambers. [LB964]

SENATOR CHAMBERS: The question that I was going to put, did I understand you to say that your grandson became an angry, unruly youngster at some point (inaudible)...? [LB964]

LARRY STORER: There's been times. [LB964]

SENATOR CHAMBERS: And were there police...was there at least one police officer in the room at that time? [LB964]

LARRY STORER: Usually, yes. [LB964]

SENATOR CHAMBERS: And what would the police officer do if that situation arose? [LB964]

LARRY STORER: Well, in most of those situations I was not present at the time. [LB964]

SENATOR CHAMBERS: Oh. [LB964]

LARRY STORER: Some of those situations were the mother had no choice. Some of the situations the extended family home, if you excuse me, had no choice. Sometimes they have no choice. [LB964]

SENATOR CHAMBERS: Okay. [LB964]

SENATOR EBKE: Any other questions? [LB964]

LARRY STORER: And if I may add just one more thing, I did see a program where some city somewhere they were training police how to talk the situation down. And there needs to be more

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of that. While they're talking it down, the mental health person can maybe arrive. That needs to be included. [LB964]

SENATOR CHAMBERS: My understanding is that in Omaha, after a recent very unfortunate incident where a person wound up dying in police custody, officers will be given training. And I don't know whether they said somebody with such training would accompany them on calls. But they recognize that something other than strictly law enforcement tactics would be required. The reason I said that this bill made some kind of sense is because if the circumstances were such that the patient is not doing anything that's criminal, if it's a crime then whether the person has a mental problem or not, an arrest can be effectuated. What I was looking at is if there is not a crime and somebody felt that this person is a danger and called the police. Then a mental health professional would be the one on the scene to offer an opinion as to whether this person ought to be taken into typical custody or protective custody. I am concerned, and I indicated that at the beginning, when you're taking somebody, you're taking somebody's freedom who has not committed a crime. And I kept saying I didn't want to see a criminalization where there was no crime involved. But if it is a matter of the person dealing with the healthcare professional and the healthcare professional tells that person I think you need help and you're going to have to get it and I'm not going to let you leave here until it comes. If that's what the law is saying, then that leads to the criminalization because that patient is going to say I'm not going to stay here. And I never got an answer as to what is to be done, what kind of physical restraint would the healthcare professional utilize. And if this bill is quasi-deputizing a healthcare professional to effectuate an arrest, then that person no longer is a healthcare professional but a part of the law enforcement machinery. [LB964]

LARRY STORER: That's correct. [LB964]

SENATOR CHAMBERS: And this person is now in the role of a criminal in effect. And if he or she resists, then he or she becomes a criminal in fact because an assault... [LB964]

LARRY STORER: That's correct. [LB964]

SENATOR CHAMBERS: ...has been committed. And that's what troubles me. And I still don't have an answer. But I don't want to prolong it. We need to work that out in the committee proceedings and in discussions with people who want the bill. [LB964]

LARRY STORER: That's correct and that's all unfortunately a matter of judgment, good judgment. [LB964]

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SENATOR CHAMBERS: And that's all that I have. Thanks for helping. [LB964]

LARRY STORER: But you've heard the term rat in a row. When a rat wants to get out what does he do? When a squirrel wants to get out of your house what does he do? [LB964]

SENATOR CHAMBERS: Whatever is necessary. [LB964]

LARRY STORER: Well, what does it do? Whether you're arrested correctly or not, a normal person would want to get out. But if you're a person with a mental illness of one form or another, even autism, you're not necessarily hearing things, you're not necessarily reacting properly. So are you going to train the police officer and the mental health person be this and that? Careful. You've got to be real careful. [LB964]

SENATOR EBKE: Thank you, Mr. Storer. Okay, do we have any other opponents? Anyone speaking in a neutral capacity? And while you're stepping up here, we have a couple of letters. (Exhibits 1-6) We have three letters in support, one from Pete Festersen of the Omaha City Council; one from Frederick Echternacht; and one from Donald Zebolsky; and three opposed, one from Brandon Lorenson, Police Officers Association of Nebraska; one from Kathy Seacrest of Region II Human Services; and C.J. Johnson of Region V Systems. Okay, hi. Welcome. [LB964]

ANNETTE DUBAS: Good afternoon. Good afternoon, Senator Ebke and members of the Judiciary Committee. My name is Annette Dubas, A-n-n-e-t-t-e D-u-b-a-s, and I am the executive director for the Nebraska Association of Behavioral Health Organizations, otherwise known as NABHO. And we are a statewide organization representing providers, regional behavioral health authorities, hospitals, and consumers. Our mission is to ensure that quality substance use and mental health services are accessible to everyone in our state. We thank Senator McDonnell for introducing LB964 and believe that this bill is the start of a much-needed conversation. Our association had initially put this bill on our list to support. But as we convened a work group and took a deeper dive into the bill, our conversation very much reflected what this hearing's conversation has been today. We are supportive of the concept and we believe mental health professionals should be involved with these things, but when you really started looking at defining a mental health professional, initiating custody versus actually taking someone else into custody, liability, a patient's civil rights, all of those things just gave us pause. And so we are coming in today in the neutral capacity with a very sincere desire to work with Senator McDonnell during the interim and return next year with a bill that really will serve the best interests of all involved. We also see this bill as a vehicle that could allow us to really take a deep dive, an in-depth look at all of the commitment statutes and make sure that they reflect the ethical and professional obligations of the practitioner, respect a patient's rights, and the need for

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care and safety for all involved. Doing just a quick review over the last day or two of how other states deal with involuntary commitments revealed that it's not an easy subject to legislate, yet everyone recognizes the need to have very clear yet compassionate statutes in place. So again we're very thankful to Senator McDonnell and his staff for looking into this and introducing this legislation and look forward to working with him on this subject. And I'd be happy to entertain any questions if there are some. [LB964]

SENATOR EBKE: Any questions? You got out of here. Thanks for being here. Okay, do we have any other neutral testimony? That closes the hearing on LB964. I will begin LB836, Senator Howard, but I would just make note that at this rate we'll be done at 11:00. [LB964 LB836]

SENATOR CHAMBERS: That early? [LB836]

SENATOR EBKE: (Laugh) Huh? Just...welcome, Senator Howard. [LB836]

SENATOR HOWARD: (Exhibits 11 and 12) Thank you, Senator Ebke. I will talk very quickly for your benefit because I can hear the anxiety in your voice and I want you to go to bed early. Okay. Good afternoon, Chairwoman Ebke and members of the Judiciary Committee. My name is Senator Sara Howard, H-o-w-a-r-d, and I represent District 9 in midtown Omaha. Today I'm here to introduce LB836, a bill to provide for minors to consent to outpatient mental health treatment without the permission of a parent or guardian under certain circumstances. This bill was brought to me by a group of providers and practitioners who will follow me today to testify very quickly, as quickly as I am, and answer any questions you may have from their professional expertise and collective work, collective work on this proposal to meet an identified need. One of the reasons why this became sort of...came to my attention is when I was working at a federally qualified health center in south Omaha, we actually worked on an adolescent health project. And while that was very specific to sexually transmitted diseases, one of the issues around the transmission of sexually transmitted diseases among youth was because they were afraid to go to the doctor, they didn't want their parents to know. And so when we think about sort of statistics in the state of Nebraska around mental health for youth, which are actually concerning in the sense that we have consistently seen an increase in teen suicide since 2014, that year it actually doubled for the state, and so we've seen this consistent increase. We also have the youth risk behavioral survey, youth risk behavior surveillance that we do, the YRBS (sic--YRBSS). I only know it by its acronym. And they ask a question of kids who are in high school, so grades 9 through 12, and it asks the question, have you felt sad or hopeless for the past 12 months? And 24 percent of kids in Nebraska responded yes to that question. I think there's a bigger mental health issue here than we realize. And even we're seeing it with providers having to think of new ways to reach out to youth. So the Boys Town hot line, between 2012 and 2016, saw a 12 percent increase in youth reaching out to them about their mental health needs, and that's obviously a

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help line where their parents necessarily wouldn't be involved. And because of that, the help line actually added texting so that kids could text them when they had an emotional issue. I will pass out an amendment that I will get to but I want to make sure you can see it. Thank you, Grady. Okay, so what does LB836 do? It provides that a psychiatrist licensed under the Medicine and Surgery Practice Act, psychologist licensed under the Psychology Practice Act, and mental health practitioners listed under the Mental Health Practice Act--so LMHPs or LIMHPs--may provide diagnostic testing, evaluation, and treatment for outpatient mental health, alcohol addiction, and drug addiction services to a minor without the consent or notification of a parent or guardian. These services may occur at the request of the minor if the licensed mental health practitioner determines that the minor is knowingly and voluntarily seeking the services and provision of the services is clinically indicated for the minor's well-being and documented in the clinical record. Treatment may only continue for six sessions without parental consent or notification unless the requirement of parental consent or notification would be seriously detrimental to the minor's well-being as documented in the minor's record. LB836 does not authorize a minor to receive convulsive therapy, psychosurgery, surgery, or, except as otherwise provided, psychotropic drugs, although we have gotten a lot of feedback about psychotropic drugs and the amendment that you have in front of you actually removes the administration of psychotropic medications, which I absolutely agree with. So today, Grady, today I'm passing out a list of the 34 other states that allow minors to consent to some type of outpatient mental health service. We've highlighted the row just because the language is very small. And I think there are a lot of issues that we can consider when thinking about minors consenting to mental health, outpatient mental health services, and I'm pleased that practitioners and providers are here today to share their experiences and concerns with you. I'm very interested in listening to any concerns that may be raised today and I'm invested in working on this issue because I do think that it's very important but it's also something that I think would improve the mental health status of youth across the state of Nebraska. I will say you should have a copy of the letter from the department. They came in neutral, which is a win for a Howard bill, and I will reiterate that I am happy to work with them as well. They made some really great suggestions around clarifying which practitioner. They really looked at it from a practitioner standpoint and we were looking at it from a service provision standpoint, what type of services may be offered. And so their suggestions are welcome. Their final suggestion was around the Department of Children and Family Services and their federal obligations for ensuring that youth in their care and custody have appropriate access to outpatient mental health services. And so I am happy to do a deep dive on their own federal requirements and make sure that this bill would align with them. But I think if 34 other states have figured out how to do it, I'm certain Nebraska can as well. I'm happy to try to answer any questions you may have. [LB836]

SENATOR EBKE: Senator. [LB836]

SENATOR CHAMBERS: Are you going to have experts testifying for the bill? [LB836]

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SENATOR HOWARD: Yes, sir. [LB836]

SENATOR CHAMBERS: Then I'll save my questions. [LB836]

SENATOR HOWARD: Okay. All right. [LB836]

SENATOR EBKE: Any other questions? I have one question. Who pays? [LB836]

SENATOR HOWARD: So, oh, my goodness, I forgot that part. Okay. This is a good question. So we've actually asked a third-party payer to come in neutral to explain any sort of billing questions you might have because that's a little...it's somewhat in my wheelhouse but not as much. I know there is the ability for an anonymous billing cycle. I know that a youth could pay directly to the provider, that you wouldn't necessarily have to bill through a provider if you didn't want to. Some payers, some providers prefer not to take third-party payers. And so the youth themselves would have to pay, however, understanding that there is the potential that their parents could find out about this visit based on the biller...billing. [LB836]

SENATOR EBKE: Okay. Thanks. [LB836]

SENATOR HOWARD: But that's a great, that's a good question, and I'm very glad you asked it. [LB836]

SENATOR EBKE: Okay. Any other questions? Okay. [LB836]

SENATOR HOWARD: Okay. [LB836]

SENATOR EBKE: First proponent. [LB836]

SARAH ANN KOTCHIAN: (Exhibit 13) Good afternoon, Chair Ebke and members of the Judiciary Committee. My name is Sarah Ann Kotchian, S-a-r-a-h A-n-n K-o-t-c-h-i-a-n, and I am here today in support of LB836 on behalf of the Holland Children's Movement, a nonpartisan, not-for-profit organization founded by Richard Holland that strives to fulfill his vision for Nebraska to become the national beacon in economic security and opportunity for all children and families. And we'd like to take this opportunity to thank Senator Howard for the introduction of this bill and for your time here today. As she mentioned, at least 34 states have enacted statutes to...that allow minors to consent for some outpatient mental health services. These statutes contain a variety of limitations with respect to the age of minors who may

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consent, the type of care that may be provided, the healthcare professionals who are covered, and the number of visits for which a minor may be seen without the involvement of a parent. The idea for LB836 arose from the identified needs of a group of providers and practitioners committed to reducing barriers associated with the stigma and fear experienced by some youth in accessing mental healthcare and to increase access to trained professionals. Based on the recognition that the majority of states do allow minors to consent to outpatient mental health services, alongside a review of statutory language from these states, a number of providers and practitioners convened and have considered the proposed language in LB836 for introduction in Nebraska. And I understand you may have received several letters of support from providers in agreement and support today. The overall intent of LB836 is to increase access to mental health services for minors. Mental health factors consistently rank among the top risks for underserved adolescents in the United States with anger management, depression, and thoughts of suicide ranking higher for adolescents age 10 to 20 years than drug use, alcohol consumption, and unprotected sex. Based on the fact that suicide is the leading cause of death for Nebraska youth ages 10 to 14, it is incomprehensible that we would continue down the current road of preventing access to the preventive healthcare our children need to lead healthy and productive lives. And from a fiscal standpoint, we are very aware that you have many difficult decisions ahead of you this session and it is no easy task to design an option to increase access to mental health services for youth without a fiscal note, but LB836 offers just this type of commonsense solution. To this end, we would urge you to advance LB836 to General File and thank you for your time, your public service, and your thoughtful consideration of this important proposal. [LB836]

SENATOR EBKE: Thank you. Questions? Senator Chambers. [LB836]

SENATOR CHAMBERS: Will these services be provided at no cost? [LB836]

SARAH ANN KOTCHIAN: The...so the billing questions, I'm glad someone is here to testify in a neutral capacity, I think that's going to be on a case-by-case basis depending upon whether the minor that is seeking services is on their parent's insurance or if their private funds could cover the services or if the youth themselves can pay out of pocket. I think it's going to vary. [LB836]

SENATOR CHAMBERS: Well, now, if a child is allowed to make the agreement, then the parents cannot be made liable for a contract they did not enter into, something they did not consent to, something they may have objected to, and you'd let somebody on the outside who's doing something. They could say it's not for profit, but the ones providing the service are in business to make a profit. And those who are coming after you can answer that question, but the fact, I would say, that other states have done this mean nothing to me. I'm not trustful of the medical profession. I am not trustful of the pharmaceutical profession. And I just want to give you a reason why I say that. There is an attempt by the current national administration to allow

people to use drugs that have not been totally tested, have not been FDA approved, but the theory is that they have the right to try it if they want to. And the pharmaceutical industry agrees. Well, the pharmaceutical industry is going to make money. These drugs will not be provided for free. They have not been adequately tested. On the other hand, when it comes to medical cannabis, which has been shown to work for some children, it is the pharmaceutical industry that is opposed to it because if medical cannabis is allowed to be used and it's shown to be effective, all of these anti-, I'll say, anti-symptoms that these children have, all of those drugs would be rendered obsolete, the pharmaceutical people would make no money. But now they're going to say, well, we haven't done enough testing and so forth. But with these drugs that have not been tested that the pharmaceutical industry will make money, they say, yeah, let that go ahead and be used. Maybe it'll kill somebody. Maybe it'll kill a lot of people. Maybe the utilization of it under these circumstances can comprise a test to see whether the drugs work. Now if a child, 16, comes in, and I'm sure that the professional wouldn't say we're going to use a psychotropic drug on you because the child wouldn't know what's...what that means, so if you could give me, or if somebody after you can give me a scenario where a 16-year-old child would be in a position to make a decision which might be against the wishes of the parent, which might be contraindicated even by other professionals, but the child doesn't know to get a second and third opinion, those are the questions I'd want the ones who follow you to answer because you're not a medical person, right? You're with this organization. [LB836]

SARAH ANN KOTCHIAN: I am not. [LB836]

SENATOR CHAMBERS: Okay. And I don't want to ask you questions that you wouldn't be expected to answer, but I want to give a heads-up to those who are coming of the kind of questions I'm going to ask them. [LB836]

SARAH ANN KOTCHIAN: And to that point, we would support the amendment that Senator Howard has proposed today to eliminate all the language regarding minor consent to psychotropic drugs. We really want...our support today is really to find a solution we can all agree with that will best serve the interest of children and open up access to the mental health services that they need. [LB836]

SENATOR CHAMBERS: I want them to have access, too, but I don't want to put it in a situation where the child makes the decision. Based on the language in the bill, the child has the final word, even if it might be against the parents' wishes. And if I'm misunderstanding, I want those who are really knowledgeable about how this would work in detail to answer those questions for me. So don't think I'm being dismissive of you, but it wouldn't serve you or me any purpose for me to go through all of that at this point. [LB836]

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SARAH ANN KOTCHIAN: Very fair. [LB836]

SENATOR EBKE: Other questions? Okay. Other questions? Okay, thanks. [LB836]

SARAH ANN KOTCHIAN: Thank you very much. [LB836]

SENATOR EBKE: Uh-huh. Other proponents? [LB836]

LANA TEMPLE-PLOTZ: Good afternoon. Chairperson Ebke, happy Valentine's Day. Members of the Judiciary Committee, my name is Lana Temple Plotz, L-a-n-a T-e-m-p-l-e, hyphen, P-l-o-t-z, and I am the CEO of Nebraska Children's Home Society, otherwise known as NCHS, a statewide nonprofit agency that has put children first for 125 years. Our mission is to provide safe and loving care to children of all ages. Through our ten offices across the state we provide an array of services, including adoption, foster care, family supports, and early childhood education. I'm testifying in support of LB836 which would allow minors to receive some mental health services without parental consent. At NCHS we serve a large number of youth, primarily young women, who are pregnant or parenting or participating in our youth education programming. These services include home visitation for teen moms, after-school programs like our Teen Chat program, and discussing parenting and adoption as options for youth experiencing unplanned pregnancies. As a secondary service, NCHS has mental health therapists on staff to work with children, youth, and families. If one of our home visitors believes a young mom may benefit from counseling, she can get an appointment right away with one of our mental health professionals instead of being referred to a provider outside in the community where sometimes the wait can be a long time, up to a month. Unfortunately, the current consent law sometimes blocks our ability to provide the much-needed mental health services that youth are interested in accessing. In some cases the youth in our programs are estranged from their parents. They have...are living in informal living arrangements with aunts, uncles, or other individuals and don't...aren't connected with their parents and don't have an idea of how to reach their parents. In other cases a parent might not fully understand the benefits of mental health therapy or might feel that there's a stigma against a teen participating in services. We work very hard to educate parents on what therapy is and isn't and to inform them and to work with them to get that consent currently. I have a couple of examples and then I also have a personal example, if people are interested in that, that's outside the scope of my work. So my work examples: Recently, a pregnant 17-year-old was referred to us by her school for parenting services and therapy. She reports that her mother wanted us...wanted her to have an abortion and did not want her to get any services from us. We tried our best and have been trying to build a relationship with her mom and explain what we do and why we're doing it. But if she continues to say no, it's unfortunate that once the baby is born, she'll have the ability to consent for care of her child but doesn't have the ability right now to consent for care of herself, i.e., mental health counseling.

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And I'm...the yellow light is on so that we also have another situation with a 16-year-old male who is a brother of a current client. They lost their mother to suicide and they do not know where their father is. The older sister is taking...has custody of the younger children and the 16-year-old boy lives with his grandmother, so there's an informal arrangement there. There's no legal custody there. And so she sought counseling for herself and the younger children to deal with her grief but is not able to get counseling for the 16-year-old male because they do not know where the father is and they don't have...and grandmother has an informal relationship. So I'm going to stop there and take questions. [LB836]

SENATOR EBKE: Okay. Thank you. Senator Chambers. [LB836]

SENATOR CHAMBERS: Are you trained in medicine? [LB836]

LANA TEMPLE-PLOTZ: I am not. [LB836]

SENATOR CHAMBERS: Okay. I collect articles and I'm upset about a type of physical examination that a doctor was giving... [LB836]

LANA TEMPLE-PLOTZ: Okay. [LB836]

SENATOR CHAMBERS: ...to females who were going to become members of the State Patrol. [LB836]

LANA TEMPLE-PLOTZ: Uh-huh. [LB836]

SENATOR CHAMBERS: It was sexually invasive, not medically indicated. I filed a complaint against that doctor and it's taking HHS forever so I think it's like a cover-up in the way the State Patrol has covered up and others. [LB836]

LANA TEMPLE-PLOTZ: Um-hum. [LB836]

SENATOR CHAMBERS: But here's what I'm getting to. I have articles where Catholic priests, where those who headed Boy Scouts troops, teachers, doctors, therapists, foster parents, and others have sexually abused children. I'm very distrustful and mistrustful of adults who want to have this kind of relationship with these children. [LB836]

LANA TEMPLE-PLOTZ: Sure. [LB836]

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SENATOR CHAMBERS: And the parents may not even know about it. I would never agree to something like this that's being presented with what I can see at this point. I'm going to listen to these medical people. [LB836]

LANA TEMPLE-PLOTZ: Sure. [LB836]

SENATOR CHAMBERS: But there are cases where the state itself stands, as they call it, in loco parentis, in place of the parent, and will make decisions that are in the best interest of the child. But this that you're talking about could be a secretive,... [LB836]

LANA TEMPLE-PLOTZ: Sure. [LB836]

SENATOR CHAMBERS: ...clandestine-type relationship between your organization and the child. There is no way to document what has happened. Recently that Dr. Nassar, he was dealing with young girls,... [LB836]

LANA TEMPLE-PLOTZ: Um-hum, yes. [LB836]

SENATOR CHAMBERS: ...made them think that when he penetrated their vagina it had something to do with dealing with problems with their back. And they didn't know. It didn't seem right to them. But then when they said something about it, then the people who ran these organizations did not want to do anything about it. And there was one man who didn't know this was going on and when he found out what had happened to his daughter, he tried to get hold of the doctor in court. What assurance is there that this won't be some scheme to sexually abuse children? [LB836]

LANA TEMPLE-PLOTZ: So... [LB836]

SENATOR CHAMBERS: Now I'm sure people would not say, even I wouldn't say that the Catholic church was organized for the purpose of making these children available for these predatory priests. [LB836]

LANA TEMPLE-PLOTZ: Sure. [LB836]

SENATOR CHAMBERS: But they happen to have gotten into the church. [LB836]

LANA TEMPLE-PLOTZ: Sure. [LB836]

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SENATOR CHAMBERS: They became priests. They had many victims. And then there were bishops, archbishops who would transfer these known predatory profile priests... [LB836]

LANA TEMPLE-PLOTZ: Sure. [LB836]

SENATOR CHAMBERS: Yeah. [LB836]

LANA TEMPLE-PLOTZ: Okay. [LB836]

SENATOR CHAMBERS: I have to calm myself down when I talk about this issue. [LB836]

LANA TEMPLE-PLOTZ: Okay. So... [LB836]

SENATOR CHAMBERS: They were pedophiles. They...the...well, take Cardinal Law. He knew what these priests were doing in Boston and he presided over one of the worst, longest ongoing abusive operations. [LB836]

LANA TEMPLE-PLOTZ: Sure. [LB836]

SENATOR CHAMBERS: When Benedict XVI, he was known as Joseph Ratzinger in Berlin, and when he was a cardinal he presided over the worst child sexual abuse in Germany, and then he became a Pope. I don't think the church itself, and I blame the hierarchy,... [LB836]

LANA TEMPLE-PLOTZ: Sure. [LB836]

SENATOR CHAMBERS: ...but I don't believe the church was organized for that purpose. So people can say all they want to and I don't trust them. [LB836]

LANA TEMPLE-PLOTZ: Right. [LB836]

SENATOR CHAMBERS: I spent months trying to get something done about a teacher at one of the high schools, Nathan Hale, I think it was, who was having inappropriate sexual contact and influence over young black girls. And it was not taken seriously. I wrote letters to the county attorney. I wrote articles about it. And then finally they did something to him. They may have given him five years or something. Now there was some guy who was doing it with white girls in school and he got 20 or 30 years. Our children don't count for anything. So my mind is open but I want these medical people to understand what I'm thinking. [LB836]

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LANA TEMPLE-PLOTZ: Sure. [LB836]

SENATOR CHAMBERS: And I'm very distrustful and I doubt their motives. [LB836]

LANA TEMPLE-PLOTZ: Sure. [LB836]

SENATOR CHAMBERS: I'm not putting all that on you because you're just here to express support for what they say that they want to do? [LB836]

LANA TEMPLE-PLOTZ: Right. Well, and we provide mental health services within the context of our organization, so we have therapists that are part of what we do as an organization. So, yes, so I'm testifying in support of that to allow children who are minors to be able to seek out services. Now I will say to you that we engage families and we talk with parents and we want parents to be part of this process and we work very hard to make that happen because you cannot work in conjunction with a child unless you're working directly with the family and engaging the whole family in that process. [LB836]

SENATOR CHAMBERS: I thought I was reading where it might even be against the parents' consent or their wishes that this type of activity occurred. [LB836]

LANA TEMPLE-PLOTZ: So can I give you a personal example that has nothing to do with my work? [LB836]

SENATOR CHAMBERS: One example is...you can but one example won't matter to me. [LB836]

LANA TEMPLE-PLOTZ: Okay, well, then I won't give it to you. [LB836]

SENATOR CHAMBERS: (Inaudible) look at the word, look at the word "therapist." I break it into two: t-h-e r-a-p-i-s-t, "the rapist," and I know of cases where it happened and I know of families where it occurred to their children. I'm very, very skeptical. And if it happened to my child and I found out about it, I'd be in the Penitentiary right now. I wouldn't have attempted, like that father did. I would have waited until there was a situation where I could have gotten the one who did it and I would have taken care of it and then they would take care of me. But as a father, I would die and go to hell ten times before I would let somebody abuse any one of my children. And the schools that they went to were schools where they wanted to use corporal punishment. I said: Don't you touch my child. I'm the one who buys their food. I provide their clothing, their shelter, and obtain medical care for them. If you have a problem, you talk to me. Don't you touch

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my child. You don't discipline my child. So don't do it and don't you put your hands on a child in this room where my child is because when children are mistreated it makes my children nervous. And during all the years that my children were in public school in Omaha, do you know that no children were ever touched by the teachers in those classrooms although they were doing things to the other children because they didn't have parents, those children, like I am? I care about children and I don't trust adults, so I want those people who are going to testify to know that they have an unsympathetic juror here but I'm only one vote. I don't want you to not be able to say what you want to say, but I've said all I want to say and they, my colleagues, are free to ask any questions they want to or ask for any information they please. I used you kind of as a sounding board. [LB836]

LANA TEMPLE-PLOTZ: That's okay. [LB836]

SENATOR CHAMBERS: And I didn't want to ask you a lot of the specific questions that I want to ask because you may not be able to answer and it would be a waste of time, not that you wouldn't try to be helpful. [LB836]

LANA TEMPLE-PLOTZ: I appreciate it. [LB836]

SENATOR CHAMBERS: Okay. [LB836]

LANA TEMPLE-PLOTZ: Thank you. [LB836]

SENATOR EBKE: Any other questions? I see none. Thank you for being here. [LB836]

LANA TEMPLE-PLOTZ: Thanks. [LB836]

SENATOR EBKE: Next proponent. And just as sort of a housekeeping note, when we finish with LB836, we will take just a couple of minute break so that our staff can get up and move around but we will return. So next proponent. I see no more proponents moving this way. Opponents? Any opponents of the bill? [LB836]

LARRY STORER: I'm ready for a cigarette break, too, Laura. Again, my name is Larry Storer, S-t-o-r-e-r, Omaha, Nebraska. The main reason I'm opposed to this is somewhat same as the other one and again, Senator Chambers, somewhat in agreement with you. I'm not afraid of legal consequences so if I say something that's illegal, so be it. But in my somewhat close association almost every two weeks with a grandson in the system, I can tell you some horror stories. I've already mentioned about being on the team. There's been two situations I want to recall to you,

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two different times a psychologist where at my behest, my "bequest," a meeting was held and I was allowed to go. His mother was present and he was present. And a psychologist refused to answer questions about the side effects of the medicines he was on. Apparently he was not told why I was going to be there, got frustrated, and lost it. She was replaced with another one who in another situation when I was there with the grandson and with a DD home supervisor or worker who I knew more about him than he did, and the psychologist wanted all the answers from my grandson, who can't necessarily be honest about it. He doesn't necessarily know all of that. And nobody really observes it when they're in home care...out-of-home care. At my insistence that the psychologist let me speak on behalf of my grandson, which, again, I think was outside the bounds of the privacy law, he, in fact, walked me out of his office with a rather upsetting situation because, like the rat in the room, I'm sorry, I want to talk about the side effects because some of this behavior that you say is behavior is maybe caused by these medicines. I read about them. Why will you not discuss it? That's why I'm against this bill. And again, it's a matter of judgment by all the professionals. I don't want to be negative about all the professionals, but it's professionals like that who think they have the power over children and over parents and over grandparents who are part of the team. And the state needs to clean that up, not just for me and my grandson but for all the others. Thank you. [LB836]

SENATOR EBKE: Thank you, Mr. Storer. Any questions? I see none. Thank you for being here today. Any other opponents? Any neutral testimony? [LB836]

ERIC DUNNING: Good afternoon, Madam Chairwoman. Members of the committee, my name is Eric Dunning, E-r-i-c D-u-n-n-i-n-g. I'm a registered lobbyist for Blue Cross and Blue Shield of Nebraska and I'm here on a neutral basis to testify on the bill. Just as a quick level set, if a young person is covered by our policy, we're going to pay those claims so long as the services that are provided are medically necessary. But that's a threshold there. And with that, I'm happy to answer questions. [LB836]

SENATOR EBKE: Senator Krist. [LB836]

SENATOR KRIST: Just a quick question. If it's my policy as an adult, as a parent, as a father, and my daughter or son would go in and have services, they're still covered whether I give them...it's a question, a question mark. They'll still be covered if I give them permission or not? [LB836]

ERIC DUNNING: Yes, so long as it's...again, so long as it's medically necessary. [LB836]

SENATOR KRIST: Yep. Thank you. Just want to put it on the record. [LB836]

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SENATOR EBKE: Other questions? Okay, thanks. [LB836]

ERIC DUNNING: Thank you. [LB836]

SENATOR EBKE: (Exhibits 1-10) Are there any other neutral testifiers? Okay, we have some letters. We have letters of support from Anne Buettner of the Nebraska Association of Marriage and Family Therapy; Wendy Patterson of the National Association of Social Workers-Nebraska Chapter; Scout Richters of ACLU of Nebraska; Andrea Skolkin of OneWorld Community Health Centers, Inc., Nick Juliano of Children and Family Coalition of Nebraska; Kim Hawekotte of the Foster Care Review Office; Julia Tse of Voices for Children; Jeanee Weiss of Building Healthy Futures; Mary Fraser Meints of Youth Emergency Services; and none opposed; one in the neutral capacity from Sheri Dawson of the Nebraska Department of Health and Human Services. I probably mangled some of those names. Senator Howard. [LB836]

SENATOR HOWARD: I feel like you were very close on... [LB836]

SENATOR EBKE: Okay. [LB836]

SENATOR HOWARD: ...on 95 percent. [LB836]

SENATOR EBKE: Okay. [LB836]

SENATOR HOWARD: I appreciate the committee's time and attention to this issue. And, Senator Chambers, I want you to know that I listen to you and it's very rare for me to disagree. When it came to Larry Nassar, the parents were often in the room and had consented to the care for their children. In this instance we're looking at a very limited-scope opportunity for a minor to consent to six visits with a mental health practitioner. I would...I think there are opportunities in this to consider other conditions, to clarify the age range, to limit it to two visits, to maybe only allow them to get that diagnostic support. But right now in the state we allow for a minor to consent to HIV treatment but not the counseling that would go with it. We allow them to consent to STD treatment but they don't receive any other support outside of that to help them understand why they might need some sort of treatment for STDs or HIV. And so I worry that that limits the opportunity for our providers to really help a youth understand what's happening for some of these treatments. The amendment really strikes out some of the more difficult, challenging sections around psychotropic medications and that sort of thing, but I do really appreciate the committee's attention to this issue because I think it reveals a symptom of a broader issue which is the, sort of, the mental health status of kids in this, in our state. And with that, I'm...I will close. I will tell you that I am equally outraged by what happened in our State Patrol. I was in

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committee with you on Monday and I spent my ride home talking to women in the State Patrol who felt comfortable calling me and telling me what was actually happening. You've been very busy and I have some phone numbers to share with you later. But I would never want a young woman to not have the opportunity to talk to a professional when something like that has happened. And so that's really sort of my...where my heart is when we think about something like this. And we may disagree but we always disagree respectfully. [LB836]

SENATOR CHAMBERS: But, Senator Crawford, I was waiting for those experts... [LB836]

SENATOR HOWARD: I'm Howard. [LB836]

SENATOR CHAMBERS: I meant Senator Howard. [LB836]

SENATOR HOWARD: It's all right. I'm used to it now. [LB836]

SENATOR CHAMBERS: I was, I was waiting for those experts who were going... [LB836]

SENATOR HOWARD: I...you know, and I apologize. I should have been more aggressive to get you a medical practitioner who works in the field. We had oodles of letters from... [LB836]

SENATOR CHAMBERS: No, but here's what I'm saying. I had asked you were they going to testify and you said yes. [LB836]

SENATOR HOWARD: Yes. [LB836]

SENATOR CHAMBERS: So forget that. But here's...with that school, I had talked to Donald Kleine. I was at his office. I was outraged. I said, I want some action taken because the law requires that anybody who has reason to believe that misconduct--I'm paraphrasing--with a child... [LB836]

SENATOR HOWARD: Right. [LB836]

SENATOR CHAMBERS: ...must immediately report it and then they have to get it to the appropriate authorities. You know what Donald Kleine told me? I couldn't, I wouldn't...I wouldn't be able to get the teachers to testify. I said, what? He said, well, they would all take the Fifth, the teachers who knew. I said, then that would tell the public what's going on. To take the Fifth would mean if they testified they could incriminate self. It's not I refuse to testify because I

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don't want to incriminate so-and-so. The Fifth is a protection for me. I said, then that would let the public know that these teachers were complicit. But again, they were black children. You know why I know so much? I went to the homes and talked to the families. I talked to the girls. One of the girls said she didn't want to say anything because she thought she might have a scholarship to go to one of these high schools and if she said anything they let her know that they would talk to the school and that she's a troublemaker and she wouldn't be able to play basketball. That's what they were doing to these children. I don't trust these adults. And here's something that I'm looking at and I acknowledge that it's in an explanation of the bill. Convulsive therapy, psychosurgery, and psychotropic drugs would generally not be authorized without parental consent. [LB836]

SENATOR HOWARD: And the amendment removes that. [LB836]

SENATOR CHAMBERS: It would remove all of it? There's no possibility of it? [LB836]

SENATOR HOWARD: No, sir. [LB836]

SENATOR CHAMBERS: I still don't like the bill. (Laughter) And here's why. It's because I don't trust the adults. Let's say that I have a 16-year-old child who has a mental disability of some kind or other and this child is going to go to a therapist and that child is going to be able to give consent for this kind of therapy? [LB836]

SENATOR HOWARD: If the child is developmentally disabled, I don't believe they would be able to give consent. [LB836]

SENATOR CHAMBERS: You don't believe but what would the law...under the law, that child could give consent. It says the parent doesn't have to know, the guardian doesn't have to know, and the court doesn't have to consent. Nobody has to consent. And this...who would be giving, providing these services? [LB836]

SENATOR HOWARD: Licensed professionals,... [LB836]

SENATOR CHAMBERS: And... [LB836]

SENATOR HOWARD: ...so physicians who are psychotherapists, psychiatrists, licensed mental health professionals, and licensed independent mental health practitioners. [LB836]

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SENATOR CHAMBERS: Is it this Holland organization that asked for this bill? [LB836]

SENATOR HOWARD: It is. Yes, sir. [LB836]

SENATOR CHAMBERS: Henry VIII had a wife and she... [LB836]

SENATOR HOWARD: No, it's okay. Are you going to talk about Catherine Howard losing her head? It's fine. I'm ready. [LB836]

SENATOR CHAMBERS: And you know what happened to that particular one, okay. [LB836]

SENATOR HOWARD: I do, I do. [LB836]

SENATOR CHAMBERS: I'm not going to put you through a lot. [LB836]

SENATOR HOWARD: No, you can. [LB836]

SENATOR CHAMBERS: But I was waiting for those other people to testify so I don't even have anything that I will ask at this point. [LB836]

SENATOR HOWARD: Okay. [LB836]

SENATOR EBKE: Senator Krist. [LB836]

SENATOR KRIST: We in the Judiciary Committee sometimes get off track in different areas, so I feel like I just need to mention something, to put it on the record. The State Troopers Association attempted to bring the issue with those physicals to the attention of the administration for over five months, documented fact. The lawyer has all the information. So I think that Mr. Rice is gone. There's new leadership. I hope it never happens again. But just to be clear, the association, the troopers themselves, were saying there is something wrong with this situation, and it was ignored, ignored, so. And you're free to say anything you want to. [LB836]

SENATOR EBKE: Or nothing. [LB836]

SENATOR KRIST: Or nothing. [LB836]

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SENATOR HOWARD: Senator Ebke would like me to say nothing. Unfortunately, there was a woman who came and talked about systemic sexual harassment that was not only ignored by the State Troopers Association but it was also ignored by the administration when they were asked... [LB836]

SENATOR KRIST: The troopers' administration or leadership in the troopers? [LB836]

SENATOR HOWARD: So leadership in the troopers finally brought this issue up, but it continues to this day and she still works there. And further, she brought this issue to the administration, to human resources, and their findings were inconclusive, years of abuse and harassment, and they were (inaudible). [LB836]

SENATOR KRIST: Yeah, well, we have to differentiate between the association itself and the leadership in the troopers... [LB836]

SENATOR HOWARD: Absolutely. [LB836]

SENATOR KRIST: ...because that is clearly being construed as some kind of hodgepodge mess and I know for a fact because I've seen it. The Troopers Association brought it to the administration. It was, indeed, the senior leadership in the troopers that kept it squashed, quashed, whatever you want to say it, so... [LB836]

SENATOR HOWARD: Yes. [LB836]

SENATOR KRIST: ...just for the record. [LB836]

SENATOR HOWARD: Yeah, I...this is... [LB836]

SENATOR KRIST: Okay? [LB836]

SENATOR HOWARD: ...going to be a great record. And in conclusion, I very much appreciate the opportunity for us to discuss an opportunity for youth to be able to consent to a limited amount of mental health services, six visits total, although I would be happy to consider less or allow for a diagnostic screening so that youth can have access to behavioral health services right when they need it the most. And I do very much appreciate your time. [LB836]

SENATOR CHAMBERS: Senator Howard,... [LB836]

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SENATOR HOWARD: Senator Chambers. [LB836]

SENATOR CHAMBERS: ...I got your name correct. [LB836]

SENATOR HOWARD: Yay! [LB836]

SENATOR CHAMBERS: My opinion is that you, you do nothing but good. [LB836]

SENATOR HOWARD: I am trying. [LB836]

SENATOR CHAMBERS: And if I had been aware that there are no experts who were going to testify, I would have just let the bill be presented, I wouldn't have asked a question, and then I'd try to kill it. [LB836]

SENATOR HOWARD: Oh. [LB836]

SENATOR CHAMBERS: But I didn't want those experts to be caught in an ambush and not have an idea of how strongly I was opposed to it. But since no experts showed up, I... [LB836]

SENATOR HOWARD: Right. I will find you an expert. They will contact you. Thank you so much for paying attention to this issue. [LB836]

SENATOR CHAMBERS: Okay. Thank you. I don't have anything else. [LB836]

SENATOR EBKE: Thank you. Thank you, Senator Howard. This concludes the hearing... [LB836]

SENATOR HOWARD: Thank you. [LB836]

SENATOR EBKE: ...on LB836. We're going to take about...well, we're going to start back up at 4:20 so we're going to take about seven minutes, let people get up and move around. [LB836]

BREAK

SENATOR EBKE: Well, welcome back. We are going to begin the hearing on LB1082, Senator Vargas. [LB1082]

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SENATOR VARGAS: Thank you very much. Chairwoman Ebke, members of the committee, good afternoon. My name is Tony Vargas, T-o-n-y V-a-r-g-a-s. I represent District 7, the communities of downtown and south Omaha, in the Nebraska Legislature. I'm here today to talk about my bill, LB1082. The technical aspects of the bill are as follows. LB1082 would require any law enforcement agency that enters into an agreement with any other public agency to enforce immigration law to notify the governing body of the political subdivision at least 30 days prior to entering said agreement. The notice would then be placed on the agenda of the next regularly scheduled public meeting of the governing body. I'll speak a little bit about a situation where this occurred and why I believe it's important that...it's imperative that we pass this bill. This past summer the Dakota County Sheriff applied for a federal program known as a 287(g). This program authorizes U.S. Immigration and Customs Enforcement, or ICE, to enter into agreements with state and local law enforcement agencies to allow officers to enforce federal immigration law. No one in Dakota County was notified about this action which fundamentally changes the way that law enforcement interacts with the community by eroding trust between police and community members. It would make some of our most vulnerable Nebraskans unwilling to engage with law enforcement to report crimes in investigations and seek help in dangerous situations. Now local community members found out that the Dakota County Sheriff applied for the program as a result of a national article done on the huge increase of 287(g) applications where Nebraska was listed. Aside from that issue, 287(g) agreements have consistently cost communities in other ways. They bring unnecessary risks and high costs. When a local law enforcement agency enters into a 287(g) agreement, it does so at its own cost. Agencies elect to take on costly additional work and reporting and the federal government does not provide any funding to address liability that may arise from violations of civil rights and immigration laws, nor does the federal government provide funding for related enforcement efforts that may arise. For example, Prince William County, Virginia, spent \$5 million more than anticipated in the first year of its 287(g) program. Alamance County in North Carolina, which has a population of only about 150,000, spent \$4.8 million for just one year of its 287(g) program. Harris County, Texas, chose to end their program in February of 2017 because it ended up costing an additional \$675,000 per year. Conversely, the Department of Homeland Security's Officer of Inspector General has estimated that ICE saves \$120,000-250,000 per year for every 287(g) agreement because law enforcement agents then perform similar functions to ICE officers at a local rather than a federal expense. Local subdivisions are picking up the tab. Should local tax dollars be diverted to enforce local federal immigration law...let me say that again, sorry. Should local tax dollars be diverted to enforce federal immigration law? Now I'm going to argue that taxpayers have a right to know how their tax dollars are being spent and what they're being used for and, more importantly, if they're being spent responsibly. And I believe taxpayers should have the opportunity to have a voice in the process, as well. Now all that said, LB1082 does not prohibit anyone from entering into a 1087(g) (sic--287(g)) agreement or any other partnership with a public agency to enforce immigration law. LB1082 merely states that if a local law enforcement agency would like to do so, that they must notify the political subdivision and the

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public must have an opportunity to comment and react. This level of transparency with our local law enforcement agencies is minimal and it is the very least that we should expect when facing a potentially harmful policy change. I urge the community to support LB1082 and advance it to General File. I'm happy to answer any questions at this time. I do want to make one addition to this. We have had conversations with NACO around some misunderstanding of the language in the bill. We're more than happy to work with them on some concerns that they have that they've voiced to us. [LB1082]

SENATOR EBKE: Thank you, Senator Vargas. Questions? I see none. Okay. [LB1082]

SENATOR VARGAS: Thank you very much. [LB1082]

SENATOR EBKE: Going to hang around or go back to Appropriations? [LB1082]

SENATOR VARGAS: I'm going to be going back to Appropriations, yeah. [LB1082]

SENATOR EBKE: Okay, so you'll waive. Okay, first proponent. [LB1082]

ROSE GODINEZ: (Exhibit 3) Good afternoon, Senators. My name is Rose Godinez, spelled R-o-s-e G-o-d-i-n-e-z, and I am here to testify on behalf of the ACLU of Nebraska. The ACLU has continuously been assessing law enforcement's role in immigration enforcement, particularly the practices, policies, and procedures in connection with agreements with the Department of Homeland Security. We also investigate the impact of such agreements on people of color and we analyze whether those agreements are consistent with our constitutional values and equal protection and fundamental fairness and immigration and criminal law enforcement. LB1082 requires law enforcement agencies, jails, and Nebraska State Patrol to merely give notice of their intent to enter into agreements with Department of Homeland Security or to enforce immigration law in general. Without such notice and crucial information, community members are left with many questions. First one that comes up is taxpayer dollars and whether they are going to something that they truly support. Second, there's also a question of whether they are safe in their community if their neighbor is not willing to call law enforcement, fearing that they could be deported. It is important to clarify that LB1082 does not ask you or ask of you to decide whether law enforcement agencies are able to participate in these agreements. It merely asks...asks to continue that Nebraska proud tradition of an open and transparent government. And civilians and citizens can participate and give their voice to important governmental functions such as this agreement. The ACLU of Nebraska urges the Legislature to pass this measure in order to ensure we continue that proud tradition. If you have any questions, I'd be happy to answer them. [LB1082]

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SENATOR EBKE: Questions? I see none. Thanks. [LB1082]

ROSE GODINEZ: Thank you. [LB1082]

SENATOR EBKE: Next proponent. [LB1082]

CRISTINA TOPETE: (Exhibit 9) Hello. My name is Cristina Topete, C-r-i-s-t-i-n-a T-o-p-e-t-e. I'm a community organizer at Unity in Action, a 501(c)(3) with a mission to empower the Latino community in Dakota County, Nebraska, through workers' rights, civic engagement, and justice through education, training, and advocacy. I want to thank the Chairperson Senator Ebke and the fellow members of the committee for allowing me the chance to speak. As Senator Vargas said last summer, the Dakota County Sheriff applied for 287(g). But on October 31, 2017, I received an e-mail forwarded to me from our partners at Nebraska Appleseed notifying us that our Sheriff Chris Kleinberg had submitted a 287(g) application to be certified by Homeland Security to enforce immigration law in Dakota County. We were completely blindsided about this happening. We reached out right away and had no success in reaching our sheriff. It was not until I attended a county commissioners meeting that I was able to communicate with the sheriff, who stands proudly by his actions. He promised to meet with a group of citizens prior to signing the agreement, yet on January 24, via e-mail, he requested a private meeting with me to inform me that he had already signed the agreement two weeks prior to January 24. I am here in support of LB1082 because I believe that it's not only the right thing, but the responsible action to take for our elected governing body to speak to the people who elected them prior to entering agreements with government agencies. Sheriff Kleinberg's comments to me in our meeting was that if we wouldn't have found out about it and started our advocacy against it, no one would even have found out about it. That, to me, shows me why it is important for LB1082 to happen in our state. Agreements such as 287(g) have ominous presence in our community. We have many community members who have approached us with fears and concerns. This bill would help to bridge the communication to those who are fearful and concerned and require our elected officials to hear those concerns. As of now, our fears and concerns are overlooked and seen as ridiculous and blown out of proportion. We're not being heard nor taken into consideration. That is why I completely support LB1082. Thank you for listening, and if you have any further questions, I'd be glad to answer them. [LB1082]

SENATOR EBKE: Thank you for being here. Any questions? Safe travels home, I guess. [LB1082]

SENATOR PANSING BROOKS: I have a question. [LB1082]

SENATOR EBKE: Oh, we...oh, I'm sorry. [LB1082]

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SENATOR PANSING BROOKS: That's all right. Thank you. Thank you for being here, Ms. Topete. Have other...do you know of other states that have passed these laws to counteract this? Have you heard of any yet? Or maybe, maybe somebody behind you would know. [LB1082]

CRISTINA TOPETE: Yes. Who follows me would have more of like the exact place. [LB1082]

SENATOR PANSING BROOKS: Comparison, yeah. [LB1082]

CRISTINA TOPETE: I know that there was somewhere in...I don't want to say exactly where but it's somewhere in Wisconsin that they had tried to pass it and then it got approved in another county in Wisconsin. There has also been some in Texas and there's...there's other counties that have had this. In the state of Nebraska we are the first. [LB1082]

SENATOR PANSING BROOKS: Well, thank you for your courage and thank you for coming to talk with us today. [LB1082]

CRISTINA TOPETE: Thank you. [LB1082]

SENATOR EBKE: Other questions? I see none. Thank you. [LB1082]

CRISINA TOPETE: Thank you. [LB1082]

SENATOR EBKE: Next proponent. [LB1082]

DARCY TROMANHAUSER: (Exhibit 10) Good afternoon, Senators. My name is Darcy Tromenhauser. I'm the director of the Immigrants and Communities program at Nebraska Appleseed. We're a nonprofit, nonpartisan organization dedicated to justice and opportunity for all Nebraskans. We are also here today to testify in support of LB1082 because this is an important issue for local communities. When local law enforcement take on the added burden of serving as immigration agents, it affects us all, because when some members of the community fear contacting the police to report crimes or assist with investigations, then police can't do their primary job of protecting public safety. As one police officer once put it, we can drive around in our cars all day, but if no one will talk with us, we can't fight crime and we can't keep the community safe. It's partly for this reason that historically over the years the role of immigration enforcement and local policing were kept separate. Many Nebraska law enforcement officials have also testified here at the Legislature over the years about the importance of keeping those roles separate so that local law enforcement can do their primary job of fighting crime and keeping the community safe. There was a brief time when some law enforcement agencies

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around the country, to Senator Pansing Brooks's question, did sign up to serve this function with federal Immigration and Customs Enforcement under what is called the 287(g) program. And then a majority of these groups backed away after realizing the local cost that it created and the deeply negative impact on community policing. So by the end of the fiscal year 2016, only 32 agreements were left in place, down from a peak in 2010 of about 70. Studies have since shown that the program imposes significant costs on local law enforcement agencies, harms community trust and crime prevention, and that half of the people detained under these programs had committed only traffic or other minor violations. So I have a few extra points in my written testimony on those local costs and problematic outcomes. I've also attached a short fact sheet that's a quick overview of the 287(g) program. And then if you're interested in the history of law and policy in this area, I've cited this Appleseed guide that we created a few years back on this area and it's cited in my testimony and available on our Web site. So given the risks to local communities of programs like this, this bill would simply ensure that before such an important decision is made, the local community is informed and has the opportunity to have a local conversation about it. For these reasons we support LB1082. [LB1082]

SENATOR EBKE: Okay, thanks. Any questions? Senator Pansing Brooks. [LB1082]

SENATOR PANSING BROOKS: Thank you for coming, Ms. Tromenhauser. So what if...my question was really, have there been states who have done something similar to what is being attempted? [LB1082]

DARCY TROMANHAUSER: Oh, sorry, like this bill. [LB1082]

SENATOR PANSING BROOKS: Yes. [LB1082]

DARCY TROMANHAUSER: I missed that. That I don't know but I would be happy to find out. [LB1082]

SENATOR PANSING BROOKS: Okay, thank you. [LB1082]

DARCY TROMENHAUSER: Yep. [LB1082]

SENATOR PANSING BROOKS: Appreciate it. Thank you for coming. [LB1082]

SENATOR EBKE: Other questions? I see none. Thank you. [LB1082]

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DARCY TROMENHAUSER: Thank you. [LB1082]

SENATOR EBKE: Other proponents? [LB1082]

TOM VENZOR: (Exhibit 11) Good afternoon, Chairwoman Ebke and members of the Judiciary Committee. My name is Tom Venzor; that's T-o-m V-e-n-z-o-r. I'm the executive director of the Nebraska Catholic Conference which represents the mutual public policy interests of the three Catholic bishops of Nebraska...serving in Nebraska. The Catholic church recognizes the right of a country to regulate its borders and to control immigration. As the United States Conference of Catholic Bishops has noted, we should not view the work of the federal government, its immigration control as negative or evil. Those who work to enforce our nation's immigration laws often do so out of a sense of loyalty to the common good and compassion for poor people seeking a better life. But such enforcement must be done in light of the common good and should adequately balance a need for justice and mercy. The Nebraska Catholic Conference believes that LB1082 provides a reasonable balance to local immigration enforcement agreements by ensuring that a local governing body receive notice from the law enforcement agency regarding the agreement. This would permit for greater discussion within the local community regarding the public policy and public safety implications of an enforcement agreement. In particular, the Nebraska Catholic Conference would raise concerns with these local enforcement agreements, especially to the extent that they have the ability to undermine the trust between immigrant communities and local law enforcement. This could decrease the willingness of undocumented immigrants from reporting crimes or other public safety concerns to local law enforcement. By providing a, quote unquote, notice in the hearing process for immigration enforcement agreements, the local community will better be able to determine the needs and assess the public safety effects that such enforcement agreements can have for the immigrant, for the immigrants against whom they are directed. We ask the committee to advance LB1082 to General File. Thank you for your time and consideration. [LB1082]

SENATOR EBKE: Thank you, Mr. Venzor. Questions? I see none. Thank you for being here. [LB1082]

TOM VENZOR: Thank you very much. [LB1082]

SENATOR EBKE: Any other proponents? [LB1082]

LAZARO SPINDOLA: (Exhibit 12) Good afternoon, Chairwoman Ebke and members of the committee. Thank you very much for receiving me this afternoon. For the record, my name is Lazaro Spindola; that's L-a-z-a-r-o S-p-i-n-d-o-l-a. And I am the executive director of the Latino American Commission. I'm here in support of LB1082 and I wish to thank Senator Vargas for

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introducing this bill. Dakota County Sheriff Chris Kleinberg has applied to join the ICE 287(g) program. In an Omaha World-Herald article by Paul Hammel, Sheriff Kleinberg said that his application changes little and has been blown out of proportion. The sheriff said that he just recently began housing ICE detainees in his 136-bed jail to increase revenue. The county is hurting for funds, he said, and he typically has 25 or 35 empty jail beds that can be leased to the federal government. Well, so much for little change. I am happy to see that the crime rate in Dakota County is so low that 25 percent of the jail is empty. But I am troubled by the fact that the jails budget shortfall is being solved at the expense of supposedly undocumented immigrants. Sheriff Kleinberg also said that the officers being deputized would be trained jailers, in other words, jail workers whose jobs would be in jeopardy with further budget constraints. And I wonder, isn't this a conflict of interest? Furthermore, Sheriff Kleinberg declared that he did not believe that joining the 287(g) program would bring more detainees and money to Dakota County, so was he wrong before or is he wrong now? And if he's right now, why do it? Even more disturbing, is this a new trend in Nebraska? Do undocumented immigrants, besides being demonized, persecuted, and underrepresented, must be a solution to a state's penal system budget shortfall? There needs to be transparency as to why some decisions are made. Even if an act is legal, it can also be unethical. Law enforcement, above many other institutions, needs to be transparent about the means and motivations of its actions in order to maintain the trust of the citizens. I urge you to advance LB1082. And I would be happy to try to answer any questions that you may have. [LB1082]

SENATOR EBKE: Thank you. Any questions? Guess not. Thanks. Other proponents? There any other proponents? Opponents? [LB1082]

LARRY STORER: You didn't opponents? [LB1082]

SENATOR EBKE: Proponents, for the bill. Okay, opponents? [LB1082]

LARRY STORER: Hello again. Larry Storer, 5015 Lafayette, Omaha, Nebraska. I'd first like to ask a question that doesn't necessarily get an answer today, but how many of these agencies that are fighting against our constitution and for this bill are taxpayer funded? Do you know? Have you ever asked the question? Do you know what a progressive is? I'm here because of this and this and I'm here to fight the progressive assault not just in our state but in the United States. I experienced it last night. I experienced it again today and now. And I'm telling you, do...are you going to throw away your State Constitution, are you going to throw away the United States Constitution, because we do enforce our laws according to the constitution. If you don't want to do that, you should probably get out of office because the groundswell people want our laws enforced, not for people that are undocumented, which are mostly illegal. And don't call me a hater. I am not the one that's encouraging them to come across the ocean and drown or to

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dehydrate and die in the desert. That's not me. That's people like this that want more of them to come, that want them to stay, and they want to handcuff our law enforcement agencies to do their job. Why in the world would any commonsense person write a bill like this? Require our state and local people to do what, to not enforce a law when it needs to be enforced? It sounds like you're saying don't do anything for 30 days and we're going to require an audit. Okay, how do you do an audit? Do you take people's private information to do that audit? Of course you do. That's illegal, isn't it? Of course it is. So you should just downright stop debating on...well, you're not even debating it yet. You should just downright rewrite this bill or scrap it. Either support the constitution or leave office. Real quickly, last week, Taxpayer Day, Conservative Day at the Legislature, another assault by George Soros foundations. Eagle Forum is one of them. There's 17 agencies here all lobbying you last week. They had a version of this in red. One of their people went around, tried gather them up and hide them before they had a chance to distribute them to you. And in here is the Eagle Forum. The Eagle Forum rejects the constitution. The progressives reject the constitution. And these people are progressives and they are paid with taxpayer dollars or foundations. I don't have that power. But if I am the second house in this state, I want you to support the constitution and do your job. Thank you. [LB1082]

SENATOR EBKE: Thank you, Mr. Storer. Questions? I see none. Thank you. Other opponents? Other opponents to LB1082? I see none. Neutral to LB1082? I have some letters. We got some in support from Joeth Zucco; one from Meghan Petersen; one from Alexis Steele, of the Immigrant Legal Center; one from Carmen Stark; one from Andrea Paret; and one from Tessa Foreman of Nebraskans for Peace. One opposed from Larry Dix of the Nebraska Association of County Officials. Senator Vargas, are you going to...you going to close or do you want to waive? Okay. Senator Vargas waives. This closes the hearing on LB1082. We will move to LB982. Senator Morfeld, would you like to proceed? [LB1082]

SENATOR MORFELD: Senator Ebke, members of the Judiciary Committee, my name is Adam Morfeld, for the record spelled A-d-a-m M-o-r-f-e-l-d, representing the "Fighting 46" Legislative District here today to testify on LB982, a bill to lower the age of majority to 18 for individuals seeking consent for mental health services. And for the record, I also love the constitution and I am progressive. Nebraska is only one of four states where the age of majority is not 18. And of those four states, Nebraska is only one that requires parental consent for mental health services until 19. Beyond first year out-of-states students who may need consent from parents thousands of miles away, we also have Nebraskans who cannot engage in personal and sensitive treatments with services with mental health professionals without parental consent right at home. We should be making access to critical mental health services easier and more robust. Instead, our statutes current serve as a barrier to those potentially life-saving services for those suffering from mental health issues. According to information from the National Institute on Mental Health and World Health Organization, approximately one in five Americans have a mental illness. And of these, two-thirds will never seek treatment. That means among minors in Nebraska, we have nearly

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64,000 who have a mental illness, but may not take the important steps to get help because of these barriers. And currently, we're failing these Nebraskans in many ways. I think LB982 takes an important step in the right direction. LB982 keeps the age of majority in Nebraska at 19, with an exception of 18 year olds seeking consent for mental health services. In Alabama where the age of majority is also 19, they have lowered the age of majority consent to mental health services to the age of 14. However, I'm just asking 18. And I know that Senator Howard's bill also is somewhat parallel in this sense as well. I was not aware she was going to introduce this, so there could be some working together that can be done with these two pieces of legislation. I'm very grateful for the students that came forward to share their stories with me and contribute to this important conversation regarding mental health. I urge your favorable consideration of LB982 and look forward to working with this committee to ensure the well being of our young Nebraskans. Thank you. [LB982]

SENATOR EBKE: Senator Baker. [LB982]

SENATOR BAKER: Thank you, Chairman Ebke. Senator Morfeld, did you consider changing age of majority in Nebraska to 18? [LB982]

SENATOR MORFELD: I think that we can consider that. It's been something that's been talked about for a long time. The problem with doing that is there's a lot of Nebraskans that would lose critical services with the age of majority being 19. [LB982]

SENATOR BAKER: Okay. [LB982]

SENATOR MORFELD: So I think that we just need to make some...some carve outs that are limited exceptions. [LB982]

SENATOR BAKER: Thank you for your answer. [LB982]

SENATOR MORFELD: Yep. [LB982]

SENATOR EBKE: Other questions? Okay. [LB982]

SENATOR MORFELD: Thank you. [LB982]

SENATOR EBKE: First proponent. [LB982]

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JACKSON GRASZ: (Exhibits 5 and 6) Good afternoon, Chairman Ebke...Chairperson Ebke and members of the Judiciary Committee. My name is Jackson Grasz, J-a-c-k-s-o-n G-r-a-s-z. I'm testifying before this committee today as representative of the Association of Students at the University of Nebraska, often referred to as ASUN. As the acting student government at the University of Nebraska in Lincoln, ASUN represents and gives a voice to the 26,000 students attending our university. I have submitted copies of the legislation our student senate passed unanimously in support of LB982. Mental health of students has been a great concern in our university for quite some time. We've seen a continued increase in the need for mental health services for students on our campus. For years our student government has sought to decrease the stigma surrounding mental health problems through awareness campaigns. Now, we look to implement changes that will have a substantial lasting impact on the lives of our students and the ways they are able to access mental healthcare. Last semester alone, four students at UNL completed suicide. A single student losing their life to suicide is too many, but we experienced that tragedy four times over. I believe the time to act on this tragedy is now. I, like many university students around the state, began my college career when I was 18 years old. If I decided to attend college elsewhere in the country, in nearly any other state, I would have been considered a legal adult and had full access to mental health services at my own discretion. But under current Nebraska law, that is not the case here. While I understand the good intentions of a higher age of majority, this is no doubt a harmful unintended consequence. Students experiencing one of life's most stressful transitions as they begin...as they begin to take on the challenges of the university are being denied reasonable access to mental health services. These life-saving services were already available to out-of-state students in their home states, and there is no reason they should not be readily available to them or to native Nebraska students here. I can attest first hand how difficult the obstacle that 18-year-old students are being asked to overcome. There was a time during my college experience when I was not well. I'd begun to lose my sense of purpose and to feel very alone in this world. I spent countless agonizing nights alone believing the lie that my life was not worth living. I usually consider myself to be a very brave person, and yet it took me more than three months to build up the courage to talk to my own parents about my depression. Three months is far too long to wait and I consider it by God's grace today that I'm here to speak to you. Currently, our laws force 18-year-old students suffering from experiences like my own to overcome that hurdle before they get the help they desperately need. Three months was far too long for me, but these students are being required to wait up to a full year if they cannot get past that hurdle on their own. Suicide can be completed in just a matter of seconds. These young men and women are...do not have that full year to wait. Today is a very tense but special day for the University of Nebraska. In addition to the festivities of this holiday, a rally to unite students of all races and ethnicities is being held in response to racism on our campus. In this very same building, our upper administration is speaking to other state senators about the future of our institution as they prepare for possible budget cuts. But I believe that the opportunity before this committee today is of equal, if not greater, importance. It may not draw the large crowds or be dissected by swarming media, but make no mistake, the

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effects of this bill, if passed, will save lives. And so I humbly ask that every one of you support this bill. Thank you, Chairperson Ebke, and the members of the Judiciary Committee. I'd be happy to take your questions. [LB982]

SENATOR EBKE: Thank you, Mr. Grasz. Questions? I don't see any. Thanks. Other proponents? [LB982]

CLAIRE ADAMS: (Exhibit 7) My name is Claire Adams, C-l-a-i-r-e A-d-a-m-s. I'm here on behalf of University Housing as a resident assistant. As a resident assistant in the dorms, I've mentored many incoming students who struggle with mental illness. Something I've seen repeatedly is parents in denial about their child's mental health. Some parents don't allow their child to receive badly needed treatment. I've never seen the current age of majority do anything but harm when it comes to mental health; and lowering it would remove this hurdle for getting treatment for many students. I've been diagnosed with four different mental illnesses: Generalized Anxiety Disorder, Major Depressive Disorder, ADHD, and Schizotypal Personality Disorder; and I suffered from these from age 11 until about 19 or 20 when I started to seek treatment and that became effective for me. I worked extremely hard with professionals to essentially completely overcome my mental illness within the last two years. I'm very lucky because my parents supported me when I told them I needed help. And I can't imagine how much more difficult getting better would have been if my parents had not supported me. I know many people trying to combat mental illness without parental validation and it's tough. Lowering the age of majority is the first big step to allow youth in desperate need to receive counseling. Suicide is the second leading cause of death for young people ages 10 to 24. And by recent counts, tragically an average of one UNL student per month completed a suicide that we know of between July and December; and I did believe it was four, but in talking to the administration within the past month, that is the new number that I've become aware of. And I know a lot of that isn't publicized, but that is my most recent understanding of what's occurred unfortunately. Most students living on campus are freshmen, so it's safe to assume most of them are too young to seek help without parental consent. I think it's likely part of them not getting help has to do with them not being able to do so confidentially. Having to ask your parents for permission adds another layer to this already difficult task. This extra hurdle disproportionately affects the LGBT community. Being queer in Nebraska is much more difficult than being queer in more liberal places. A lesser likelihood of being treated with acceptance equates to a higher likelihood of mental illness. As much research has proven, microaggressions and discrimination faced by LGBT people increases likelihood of mental illness. LGB youth are suicidal at almost three times the rate of heterosexual youth according to the CDC. LGB youth are almost five times as likely to have attempted suicide compared to heterosexual youth. Mental illness skyrockets for transgender people. Forty percent of transgender adults report making a suicide attempt at some point; 92 percent of them do so before age 25. As a member of the queer community, my experiences corroborate these upsetting statistics. Many of my closest friends are gay and trans.

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It's abnormal for queer youth in Nebraska to be mentally healthy. These factors all serve to make mental illness treatment all the more necessary for Nebraska youth. Age of majority again creates another hurdle for youth without providing any benefit to them. The age of majority further disadvantages groups who struggle enough as is. The current age of majority limits availability to counseling at a time when youth need it most. The college transition exacerbates symptoms for those already struggling. The age of majority fails to support students at what is for many the most stressful time of their life up to that point. Lowering it would be in UNL and the state's best interest. Increasing mental health availability would increase retention and lower rates of self-medication by overdoses and suicide attempts. Thank you. [LB982]

SENATOR EBKE: Thanks for being here. Senator Krist. [LB982]

SENATOR KRIST: Thanks for your courage. Thanks for coming. [LB982]

CLAIRE ADAMS: Thank you. [LB982]

SENATOR EBKE: Thanks to both of our students. Senator Baker. [LB982]

SENATOR BAKER: Thank you, Senator Ebke. Claire, just curious, you listed ADHD as a mental illness. Do you believe it is a mental illness? [LB982]

CLAIRE ADAMS: It is, I understand your question because it's definitely different than many other typically...things typically seen as mental illnesses, but it is still definitely listed as one and it is treated with psychiatry and it's listed in the guidebook that our country has under things that affect people's mental well being because it does make a lot more difficult for people to concentrate. It's different than emotional mental illness, but it is still one. [LB982]

SENATOR BAKER: Thank you for your answer. [LB982]

SENATOR EBKE: Good questions. Senator Pansing Brooks. [LB982]

SENATOR PANSING BROOKS: I just want to thank you both for coming forward and for your courage and, again, to repeat Senator Krist, it's really appropriate that you come and speak about these difficult issues. Thank you. [LB982]

CLAIRE ADAMS: Thank you. [LB982]

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SENATOR EBKE: Okay, thank you for being here. [LB982]

CLAIRE ADAMS: Thank you. [LB982]

SENATOR EBKE: (Exhibits 1, 2, 3, and 4) Are there any other proponents? I don't see anybody moving. Are there any opponents? I don't see anybody. Anybody in a neutral capacity? Senator Morfeld waives. This concludes...oh, I'm sorry, here's the...not concluded yet, we have a couple of letters. We have Jenni Benson of the Nebraska State Education Association; Wendy Patterson of the National Association of Social Workers; Scout Richters of the ACLU of Nebraska; John Else and Sherry Miller of the League of Women Voters of Nebraska all in support. None in opposition. This closes the hearing on LB982. Senator Krist, you've got six hours before it's 11:00, so. [LB982]

SENATOR KRIST: I can fill it. Let's try to fill it up. [LB1118]

SENATOR PANSING BROOKS: It is Valentine's night,... [LB1118]

SENATOR CHAMBERS: That's not a challenge, Senator Krist. [LB1118]

SENATOR PANSING BROOKS: As a reminder, it is Valentine's night. [LB1118]

SENATOR EBKE: Yeah, and...? [LB1118]

SENATOR KRIST: We all love you too. [LB1118]

SENATOR PANSING BROOKS: Yeah. [LB1118]

SENATOR KRIST: Okay. Good afternoon, Senator Ebke and members of the Judiciary Committee. For the record, my name is Bob Krist, B-o-b K-r-i-s-t. I represent the 10th Legislative District: northwest Omaha, unincorporated parts of Douglas County, and the city of Bennington. I'm here to introduce LB1118. LB1118 would establish a Coordinated Reentry Council. The bill outlines two reasons for this coordinated reentry effort: one, to establish comprehensive and successful system of correctional reentry programs throughout this state; and the second, to include an array of interests in the establishment and growth of this system. You will see a detailed list of people that I would recommend to be on that council. It includes the executive director of State Community College Association, business owner, two individuals formerly incarcerated, one mental health worker, one social worker, one...a researcher from the

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field of criminal justice, one full-time officer or employee of law enforcement agencies. And you'll see that the description of what I would prefer that they concentrate on is also in there. A lot of this is an opinion based upon my experience with the LR424, LR34, and the findings of LR127, all of which I was either part of or introduced. I will say in the interest of time that I'm completely negotiable on the makeup of the committee, and you'll also see that there's a sunset on there of 2028. The reason for the sunset is I think that it's going to take us that long to straighten the mess up--no pun intended. But it's...I think it needs to be there for a period of time and then it needs to go away once those issues are...have oversight and are corrected. And with that, I'll take any questions. [LB1118]

SENATOR EBKE: Questions for Senator Krist? Okay. [LB1118]

SENATOR KRIST: I think I'll stay for closing. [LB1118]

SENATOR EBKE: Okay. First proponent. [LB1118]

DOUG KOEBERNICK: Good evening, Senator Ebke and members of the Judiciary Committee. [LB1118]

SENATOR EBKE: You're the first one that gets to say that. [LB1118]

DOUG KOEBERNICK: I know. I looked at the clock there. I thought I wasn't even going to get my kids to basketball practice later, but it's going to happen, so I'm happy. The...my name is Doug Koebernick, spelled K-o-e-b-e-r-n-i-c-k. I work for the Legislature as the Inspector General for Corrections. I want to thank Senator Krist for introducing this bill. I think this bill really builds on a lot of the things that, like he said, have been done in the past. Currently there's a group, the Sherwood Foundation, that has brought in people from different areas of reentry. And their work, it's a work group and they're trying to decide what they should invest their money in. And so they're doing a lot of work. They've brought all these people in to the table that are kind of consistent really with what you see in this bill in a way. And I think what this bill really does would allow all the key stakeholders to come together and develop some good public policy on what we need to do as a state in the field of reentry. We want to make sure that we have a reentry system that will lead to success for people and looking at best practices in other states and getting all the key people around the table who can make decisions and provide input is...would be very beneficial. I brought along just a couple...three little reports...well, two little ones and one big one. But in the past, the Legislature has created different task forces and study groups that have really led to some positive results. Back in around 2000...or 1999-2000, they created a Substance Abuse Treatment Task Force that had a lot of...some of the similar people on it and they really laid the groundwork for some reform in the area of substance abuse treatment

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and in corrections, and I think that was...that had three different senators on and Parole, Probation, all the key people on there, and it led to some really good outcomes. We had several juvenile justice groups that met back then when I was working for Senator Thompson that really set the stage for some really positive developments in juvenile justice reform. And then we also had a Nebraska State Patrol study work group. Senator Chambers was a member of that. And that kind of looked into the Nebraska State Patrol and it was administered by UNO and led to some other positive results. And I think that this bill would kind of go along the same lines as that, and as far as the Community Corrections Council back in the day too. So with that, I'd ask for your support of LB1118. [LB1118]

SENATOR EBKE: Any questions for Mr. Koebernick? I see none. Thanks for being here. Next proponent. Go ahead. [LB1118]

KI-RAKA ATWATER: Good evening, Senator Ebke and members of the Judiciary staff. My voice is kind of low, so sorry. [LB1118]

SENATOR EBKE: It's okay. [LB1118]

KI-RAKA ATWATER: First time testifying here. My name is Ki-Raka Atwater. I'm chairman of RAN, Reentry Alliance of Nebraska, located here in Lincoln, Nebraska. I was informed by a member of RAN about the legislative deal... [LB1118]

SENATOR EBKE: I'm sorry. Could you spell your name for the record, for the transcribers? [LB1118]

KI-RAKA ATWATER: Oh, that's right. [LB1118]

SENATOR EBKE: Yeah. [LB1118]

KI-RAKA ATWATER: Thank you. [LB1118]

SENATOR EBKE: Yeah. [LB1118]

KI-RAKA ATWATER: Ki-Raka is spelled K-i, dash, R-a-k-a. The last name is spelled as Atwater, A-t-w-a-t-e-r. May I continue? [LB1118]

SENATOR EBKE: Go right ahead, yes, I'm sorry. [LB1118]

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KI-RAKA ATWATER: (Exhibit 6) As I was reading this LB1118, I really liked it. Thank you, Senator Krist. This is real nice. I am a reentry. I've been in the institution three times. First time I went in was in 1974, got out in 1980. There was no programs available. There's not many in the institution, in Corrections, so when I got out of prison, what else do I normally do? What you see in your records is a lot of us are recidivists. And I feel that one of the things that is necessary that is related to this bill is programs inside the institution and also programs outside the institution so that when a person is released not only do they have the benefit of getting through the programs inside (inaudible) Corrections, but also as outside programs. I'm here to testify for the bill, in support of it. I believe a Coordinated Reentry Council in the state of Nebraska can remove a lot of barriers for men and women who are leaving Corrections and they can also make sure that there are effective programs inside Corrections. I have been incarcerated, like I said, in the State Penitentiary three times on two occasions. Just being released, there's nothing much to do, so, you know, I take back to the same old habits I had before, you know, learning what I've learned before and grew up with, so it's hard when you get in the institution and there's no one to give you proper direction, so. But I believe this Coordinated Reentry Council is an amazing idea for state representatives from the field of criminal justice, the Board of Parole, Parole Administrator, Health and Human Services, business owners. And what got me the most was that Senator Krist requested two individuals who were formerly incarcerated. That's terrific. To me, that's very good, because I see it as not only are you going to look from the outside in prison but from the inside out. And my light is just going off. [LB1118]

SENATOR EBKE: Keep going. [LB1118]

KI-RAKA ATWATER: Okay. And by the way, the members of RAN are...we support this bill. We totally support this bill and we hope that this bill will get to its final stage. And we're looking forward to its creation. And now I most graciously thank the Judiciary Committee for allowing me to testify before you and this bill, LB1118. Thank you very much. I'm not good on answering questions but I'm here. [LB1118]

SENATOR EBKE: We'll see what happens. Okay. Thank you, Mr. Atwater, for being here. Any questions? [LB1118]

KI-RAKA ATWATER: Thank you. [LB1118]

SENATOR EBKE: I don't see any. Thanks. [LB1118]

KI-RAKA ATWATER: Sure. [LB1118]

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SENATOR EBKE: Next proponent. [LB1118]

JASON WITMER: I'm Jason Witmer, W-i-t-m-e-r, and I just find a way to sum it up. I kind of ran up here so I sound winded because I am. Happy Valentine's Day. So this bill, the way I understand it, is bringing a board together to try to formulate a cohesive plan of reentry which, with the record, at least for the last ten years, of the prison system and what's been happening, I think it speaks on itself of the falling apart. The importance of my presence and the brother's presence here and other people's presence that we feel we're speaking on is involvement of former inmates. You have some people that were in Corrections involved in this, that were incarcerated in Corrections involved in this, and I think a business member, somebody that had...can show a record of employing people within Corrections and what that can do. And the reason I think it is important, because when you deal with a problem, usually the best source of solving the problem is somebody who has been through the problem and then been reeducated or educated on how to deal with the problem and in this you have both sides of it, the people who have been educating them self on dealing with problems, and I'm sure some of them have some records of it, and then you have the depth of the people who are in the problems, especially those of us who were incarcerated, especially for serious things that we in some way knew we'd be incarcerated for, and so we would really be...outside and inside and the people who's pulled us out of it also pulled with us understand how we got out of this. And with this board together, I feel like as far as people like myself, the contribution that I could give to this could be huge, especially if you deal with people like the people...MHA, for instance, they have people who have been through mental illnesses, and I believe some of them spoke today, people who have been through substance abuse, people...and they have took the chance on me, somebody who's been incarcerated for violent offenses, as I've spoken to this board before, and done a considerable amount of prison time and did a considerable amount of that prison time living the past behavior I had--gang membership, etcetera, etcetera. Then when MHA comes and looks, finds you doing something, trying to do something better with yourself, some already doing it, they train you in like (inaudible) care support, how to give this back in the most progressive way, not just say, hey, this is what I've been through, you can do it, but a meaningful way. And this is what could go into this board. This board, I don't think Don Kleine would come up here and say the source of the problem is them guys getting in trouble, doing all these crimes, which is true, but this source of problem can't help us solve it, why would I ever employ the source of the problem to solve the problem? Which seems ridiculous if you think about it, because who better to solve your problem than the source? If I could take cancer, cure cancer and no longer have cancer, I'm about to start dealing with the cancer. If I can take a man who's going to be tremendously terrible and teach him something and he can teach the next man not to become this trauma that he would inflict on society, who would not incorporate this person into the solution? [LB1118]

SENATOR EBKE: Thank you. Questions for Mr. Witmer? Senator Hansen. [LB1118]

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SENATOR HANSEN: You stopped short. Did you get everything you wanted to say? [LB1118]

JASON WITMER: The only thing I would like to add, if I could try--I'll try to keep it brief... [LB1118]

SENATOR EBKE: Go for it. [LB1118]

JASON WITMER: ...because I know you guys have been here for like 70 hours (laughter)... [LB1118]

SENATOR EBKE: It hasn't been that long but... [LB1118]

SENATOR MORFELD: Thanks for realizing. [LB1118]

JASON WITMER: ...is the only thing I would add are I hope it's...I would try to keep short, then I would add that you should look in Nebraska when you look at something like this and what it could possibly be, you should look, and I'm not just doing this to tout an organization, but organizations like RAN, like AVP, like MHA, the Mental Health Association that decided to take people who's been through trauma, people who's caused trauma, three, to help educate them, to help funnel what they're trying to do to become a solution. And look at what they're doing and you would have an answer to what this could be. It's not just the Parole Board members saying now I just, like, I feel like I could work with this person, we'll let them out, we'll see what...take these programs, we'll see. Now they're having face-to-face conversations with somebody that's trying to do better. They're having...that's when the light goes off when you deal with somebody else that's looking from the outside or the inside and they say something that maybe it was in the back of your mind, but maybe not, and it clicks, like, oh, you know, I should...I knew that but I don't know why that came to the forefront, but it's because you was dealing with somebody that's have another perspective. That's how I've changed, somebody that's had another perspective, and it started inside with the fellows who I would never contribute to being the source of the solution, who are still inside because of what they've done but chose to be a part of the source of the solution. So with that summing up, I would say, as an example, look at MHA and what they're doing and what efforts they have put to put faith in people and to continue maintaining them in a sense not just saying go out and do better but, hey, we will make you fishers of men, we won't just catch fish for you. Thank you. [LB1118]

SENATOR HANSEN: Thank you. [LB1118]

SENATOR EBKE: Thank you. Any other questions? Okay, thanks, appreciate it. [LB1118]

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JASON WITMER: Thank you. [LB1118]

SENATOR EBKE: (Exhibits 1-5) Other proponents? I don't see anybody moving. Any opponents? I don't see anybody moving. Anybody in a neutral capacity? We have some letters in support from Kelly Keller of the National Association of Social Workers-Nebraska Chapter, Fran Kaye, Karen Bell-Dancy of the YWCA, and opposed, Scott Frakes of the Nebraska Department of Correctional Services, and Sheri Dawson of the Nebraska Department of Health and Human Services. Senator Krist. [LB1118]

SENATOR KRIST: Just wanted to put on the record that I sent all of you an e-mail and it contains a Nebraska Department of Correctional Services Vocational and Life Skills quarterly report. I think you'll be pleased that some things are happening and I think you'll be disappointed that other things are not. But rather than kill trees, I just sent it to you on e-mail. So with that, I think this deserves a spot potentially in our Corrections package and I'd ask you to consider that. [LB1118]

SENATOR EBKE: Senator Pansing Brooks, you have a question? [LB1118]

SENATOR PANSING BROOKS: Yes, thank you. Thank you for bringing this, Senator Krist. So, and I'm sorry I had to run out for a quick meeting on something, but I know we had somebody from the Reentry Alliance of Nebraska come and speak just when I was gone. And so I presume...having gone to see their incredible work and what they're doing, I see that possibly a member of that group might be included in subsection (iii) which is "A social worker, a business owner who employes formerly incarcerated individuals..." Did you think about trying to include more of them? [LB1118]

SENATOR KRIST: So to answer the question--I realize you did have to run out--in my opening I said that is pretty much Mr. Koebernick's and my best guess of a population that would fill the commission but we're completely open to looking for others or additional, so I'm not locked into that at all, Senator Pansing Brooks. [LB1118]

SENATOR PANSING BROOKS: Okay. All right. Thank you. Great. [LB1118]

SENATOR EBKE: Other questions? I see none. We got done before 11:00. Wow. [LB1118]

SENATOR KRIST: And you don't have to go home, but you can't stay here. [LB1118]

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SENATOR EBKE: That's right. That's...this closes the hearing on LB1118. Have a good evening.
[LB1118]