

## Judiciary Committee 2-27-18 Room 1113

**EBKE:** [00:00:10] We got four of us. We'll get going. Okay. Good afternoon and welcome to the Judiciary Committee. My name is Laura Ebke. I'm from Crete, representing Legislative District 32. I'm the Chair of the Judiciary Committee. I'd like to start off by having my colleagues introduce themselves.

**HANSEN:** [00:00:28] Senator Matt Hansen, District 26 in northeast Lincoln.

**KRIST:** [00:00:36] Bob Krist, District 10, Omaha and Bennington.

**BAKER:** [00:00:36] Roy Baker, I'm from the Norris Community. I represent District 30, Gage County, southern Lancaster County.

**HALLORAN:** [00:00:40] The "late" Steve Halloran from District 33, Adams County and part of Hall County.

**EBKE:** [00:00:49] And I think we will probably have others joining us. Assisting our committee today are Laurie Vollertsen, our committee clerk; Dick Clark, our-- one of our two legal counsels. Our committee pages are Rebecca Daugherty from Doane University in Lincoln and Sam Baird from University of Nebraska at Lincoln. On the table sitting over there you will find some yellow testifier sheets. If you are planning on testifying today, please fill out one and hand it to the page when you come up to testify. This helps us to keep an accurate record of the hearing. There's 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-- well, never mind that because we're done for the year. We will begin bill testimony with the introducer's opening statement. Following the opening we will hear from the proponents of the bill, then the opponents, followed by those speaking in a neutral capacity. 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 name, first and last name, spell them for the record. If you're going to testify, I ask that you keep the on-deck chairs filled at the front-- in the front of the room. If you have any handouts please bring up at least 12 copies and give them to the page. If you do not have enough copies, the page can help you make more. We will be using a three-minute light system. 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 that you wrap up your final thought and stop. As a matter of policy, I'd like to remind everyone that the use of cell phones and other electronic devices is not allowed during the public hearings, which I know some of you will be texting and things like that. Now we aren't going to-- the big thing is we don't want ringers, so check your cell phones now, make sure that your phones are on silent or vibrate mode. And please, if you do need to take a phone call, please step out into the hall. One more thing, you may notice committee members coming and going. This has nothing to do with the importance of bills being heard but we have a lot of other meetings going on right now, Executive Sessions for committees and there's a few other committee hearings happening. So if somebody gets up and leaves, it's probably not-- probably has nothing to do with the quality of the bill but, rather, that they have someplace else they need to be. So with that in mind, let's begin with LB690 and Senator Blood.

**BLOOD:** [00:03:25] It's nice to not be running here for once. Good afternoon to the Judiciary Committee. Thank you for allowing me the opportunity to speak with you today about my counterfeit air bag legislation. My name is Senator Carol Blood, spelled C-a-r-o-l; B, as in boy, l-o-o-d, as in dog, and I represent District 3 which includes western Bellevue and southeastern Papillion, Nebraska. Today I'm here to share some new information, much of it concerning for our Nebraska consumers, on LB690, also known as the Counterfeit Airbag Prevention Act. Hidden dangers may be lurking in cars across Nebraska as a result of counterfeit air bags. Shrapnel, shards

of metal, plastic, and explosives can hit you in the face with the force of a bomb. In fact, in L.A., the LAPD bomb squad was recently called out to the scene of a bust to destroy confiscated air bags because they were too dangerous to be transported. Believe it or not, this industry is a \$600 billion a year industry and is considered to be more profitable than narcotics. It is important to also note that a segment of the profit from these sales also helps to financially support serious crime organizations here in the United States and around the world. The rest of the profits are going to greedy individuals or organizations who have zero concern about the damage these counterfeit air bags cause or the deaths that are the result of these dangerous items. As you can see in the bill, when I refer to an air bag that is counterfeit, I'm referring to a motor vehicle inflatable occupant restraint system device that is part of the vehicle's supplemental restraint system. A counterfeit supplemental restraint would be a replacement that displays a mark that is identical or similar to the genuine mark of a vehicle manufacturer or manufacturer parts supplier that is not authorized by that manufacturer, this part being obviously designed to fool consumers. A counterfeit restraint system will include one or more air bags and all of the components required to make sure the air bag deploys as it designed-- was designed by a vehicles manufacturer. The problem with these bags are that they are usually non-functional and that they may have been previously deployed or damaged or it may have an electrical fault that is detected by diagnostic system when installed or includes part of an object that is designed to specifically trick a consumer into believing that a functional air bag has been installed. A person would violate the Counterfeit Airbag Prevention Act if they knowingly and intentionally manufactured, imported, installed, reinstalled, distributed, sold, or offered for sale any device intended to replace a supplemental restraint system component in any motor vehicle if the device being used as a replacement is counterfeit, non-functional, or does not meet said federal safety requirements. It would also be a violation to knowingly do any of those things if the device causes the motor vehicle's diagnostic system to fail to warn when the motor vehicle is equipped with a counterfeit supplemental restraint system component, non-functional air bag, or no air bag is installed, also when you knowingly and internationally misrepresent to another person that what you are installing is a counterfeit or non-functional. For example, there was a case when the installer literally used a black garbage bag as a decoy to an air bag. Lastly, if you cause a person to violate this act or assist another person in violating this law, you can also be held accountable since you are participating and being deceitful to consumers. As you may have already discovered, Nebraska's current statute that pertains to this issue is very vague. It does not address issues associated with the sale, distribution, or marketing of these air bags. It was adopted in 2003 as LB17, Statute 28-635, and Section 6 reads that no person shall knowingly install or reinstall in a motor vehicle as part of the motor vehicle's inflatable restraint system any object or material other than an air bag designed for the make, model, and year of the motor vehicle. A person violating this section is guilty of a Class I misdemeanor. LB690 provides varying levels of charges that include repeat offenders and violations that result in bodily injury, serious injury, or death. In December you may have read about the recent court case in Missouri. A southwestern Missouri man pleaded guilty to a scheme to sell counterfeit automotive air bags and components on-line across the country. The man admitted he sold counterfeit automotive air bags and air bag components on his on-line eBay store. It was called CarPro 417 and his second store was CarPro Electronics. He had received shipments from various Chinese manufacturers of air bags, air bag covers, and other items that contained the trademarks of Honda, Toyota, Chevy, Ford, and other companies. Each of these imported air bags contained trademarks and markings that made it appear the legitimate holder of the trademark had manufactured the air bags. The suspect fraudulently marketed these items as air bags that had been manufactured by the legitimate trademark holder when he knew the parts were counterfeit and not manufactured by the legitimate trademark holder. The fact that the air bags and the air bag component parts were counterfeit and not manufactured by the legal holders of the displayed trademark or logo on the item was never truthfully disclosed to the consumers. After his hearing he was required to turn his existing inventory, which consisted of--and I want you to hear the inventory to show you how rampant this is when they do partake in this crime--it consisted of 150 counterfeit Toyota air bags and components; 77 counterfeit Honda air bags and components; 70

counterfeit Chevy/GMC air bags and components; 54 counterfeit Ford air bags and components; 207 counterfeit Nissan air bags and components; 8 counterfeit Infiniti air bags; 10 counterfeit Acura air bags and component parts; 13 counterfeit Hyundai air bags and component parts; 7 counterfeit BMW air bags and components; 4 counterfeit Subaru air bags and components; 4 counterfeit Lexus fully assembled air bags; and 1 counterfeit Mazda air bag and component part. Another individual who owned an auto shop in North Carolina bought an estimated 7,000 fake air bags from China and sold them on eBay, making a yearly profit of approximately \$1.4 million a year, also knowingly using these defective air bags in cars he repaired in his auto shop. These are only two examples of the concerns that the Internet and its ease of access brings when it comes to public safety and the sale of these air bags, not to mention the greed involved at the expense of public safety. You may be asking yourself, especially since there's so many lawyers here, why Nebraska should have legislation on counterfeit air bags when federal agencies usually monitor this type of crime. And that's a great question and you should know that the feds have authority to seize and prosecute only counterfeit air bags with a company logo or trademark. There is no authority to seize or prosecute for the ones in the vehicle that don't have a trademark or logo. The only one in the vehicle with a trademark or logo is the driver air bag in the steering wheel. There are up to ten air bags in a vehicle these days. None of these others may be captured and there may be no prosecution for them. In fact, we're seeing proof that the importers are aware of this loophole and are now sending bags without logo and shipping the logo or trademark separately so they can be attached once in the U.S. This bill covers counterfeit, the ones that have the logo and those that don't have logos and are non-functional replacement air bags. State authorities have authority in this bill because we've seen incidents in other states where there are cases that the feds have had to let go and not prosecute because of lack of manpower. This would allow states to address both counterfeit and non-functional air bags. I'm personally really concerned about this issue and I think it's always unfortunate when a state must create legislation based on an incident such as someone being seriously hurt or losing a loved one. I want Nebraska to be proactive before something happens and we end up with legislation like "Bobby's" [phonetic] bill because we didn't take a good look at the growing problem of counterfeit car parts being readily available on the Internet and someone in Nebraska lost their life to a counterfeit air bag. I hope you'll take a hard look at this bill as it does have the potential to protect the lives of our constituents and the ones we love. With recent severe weather across the United States, there is currently an influx of used cars that have been damaged by storms and floods. With that influx means there will be people who believe that they can take shortcuts for maintenance and save a few pennies by buying counterfeit parts on-line, ultimately bumping up the profits made on the vehicle while endangering the buyer's life, who will be oblivious to the upgrades made illegally. At least 15 other states have adopted similar legislation as more and more are educated on this impending safety issue. Those states are Alabama, California, Connecticut, Florida, Georgia, Iowa, Louisiana, Maryland, New Jersey, New Mexico, New York, Ohio, South Carolina, Texas, and Washington. And what's really interesting is that the combined--combined votes for those states were 2,247 to 3. I'm sure many of you remember that in 2015 this bill was adopted as model legislation by the CSG. And I hope that you help me make Nebraska state number 16. I'm hoping to have the full support of this committee on voting in favor of this bill and kicking it out of committee as I feel this is an excellent candidate for the consent agenda. And it is my understanding that you are having an Executive Session after today's hearing. I'd be appreciative if someone would make a motion to send it out of committee. I thank you for your time today and I'm happy to answer any of your questions at this time but would also like you know that we do have Ember Brillhart from Honda North America who has worked with a long list of states on the same legislation and is a wealth of knowledge.

**EBKE:** [00:13:56] Questions? I see none. Thanks. Okay. First proponent, those in favor of the bill.

**EMBER BRILLHART:** [00:14:11] Good afternoon. My name is Ember Brillhart, E-m-b-e-r B-r-i-l-l-h-a-r-t, and I'm here representing Honda. I'm here to represent today Honda and express our

strong support for HB690 [sic--LB690], our legislation to revise Nebraska's air bag fraud laws to address the problem of proliferation of counterfeit SRS components and otherwise non-functional air bags. Counterfeit parts are not new to the auto industry but in recent years we've seen a dramatic number of critical safety parts being counterfeited. In our experience, most of these products originate in China and are sold on-line, both wholesale and retail. While customers buy some of these parts themselves, the overwhelming majority of these are bought by unscrupulous repair shops who knowingly and intentionally then install them in a customer's vehicle without their knowledge or consent. While a customer may not be able to recognize a counterfeit product, repair professionals can because the product is sold on a platform where it should not be, the Internet, or because it's sold at an unreasonable price point significantly lower than what an average air bag would cost, because it's designed improperly, or because the product has even been shipped to them in a [inaudible] box. Testing by both the government and industry has shown that these counterfeits have 100 percent failure rate. Not a single one of the counterfeit air bags that have been tested--and these have been thousands--have met the Federal Motor Vehicle Safety Standards. Some deploy too much, some deploy too fast, others not enough, and some not all. Because the technology is so complex, the vast majority of the counterfeits do not even bother to try. They simply stuff the bags with things like Styrofoam, trash bags, or newspapers. There are-- in my testimony we've included examples for you with my written testimony. Currently, as Senator Blood has said, Nebraska does have air bag fraud laws. But there are some loopholes, as she suggested, and her legislation will fix this. As she stated, it doesn't address importation, manufacturing, and we've created definitions for counterfeit and non-functional. By doing this bill and passing it, you can provide a disincentive for those organized bad actors who are trying to make millions of dollars at the expense of public safety. This would also get the loophole where they can-- federal authorities can also get things besides the counterfeit bags in violation of trademark law. As she said, there were 15 states that passed and really would encourage Nebraska to do the right thing and to pass this, make this the 16th state. Thank you for listening to me and for your consideration. I'm glad to welcome questions.

**EBKE:** [00:17:19] Any questions? What-- just for the record, there will be some who will argue that this is an effort to prevent "do-it-yourselfers" from doing it themselves. Just to make sure we've got it on the record, this is just for air bags, right?

**EMBER BRILLHART:** [00:17:40] Just for air bags.

**EBKE:** [00:17:41] And just for counterfeit air bags, right?

**EMBER BRILLHART:** [00:17:44] Well, it's for counterfeit-- counterfeit is for the logos, so the ones with logos, which is-- are only in the-- in the steering wheel, and it is for the other ones.

**EBKE:** [00:17:53] And the nonfunctional?

**EMBER BRILLHART:** [00:17:53] In the-- if-- if-- when-- when we look at our car and go back, and I was noticing in the rental car I got from the airport today, they're very difficult to get to.

**EBKE:** [00:18:06] Sure.

**EMBER BRILLHART:** [00:18:06] The-- it's not like you could go into your driveway and take apart the car. It's really complicated. It's very rare that somebody would be able to do that and knowingly and intentionally meet that standard of I'm going to put a counterfeit in unless they were a professional.

**EBKE:** [00:18:22] What about-- are there on the market air bags that are functioning but that aren't-- but they're off brand?

**EMBER BRILLHART:** [00:18:34] No, this isn't like where you can go into Pep Boys and buy a new part, a new body part. There are no after-market counterfeiters. There are no aftermarket bags. Simply, as we stated in the testimony, it's too expensive. Why would they put the effort and the time into it when they can more simply just do a fender or a bumper? It's just not profitable enough. And so they go into this business with no intention of creating any protection.

**EBKE:** [00:19:06] Okay. Any other questions?

**EMBER BRILLHART:** [00:19:06] By the way, if somebody does--I want to reinforce--if somebody does go into the market and want to make aftermarket air bags, this doesn't change it.

**EBKE:** [00:19:15] Doesn't change that.

**EMBER BRILLHART:** [00:19:15] -- as long as they meet federal safety standards. This isn't about creating [inaudible]. This is about saving lives.

**EBKE:** [00:19:22] Okay. Thank you. Any other questions? Don't see any. Thanks.

**EMBER BRILLHART:** [00:19:26] Thank you for your consideration.

**EBKE:** [00:19:29] Any other proponents? Any opponents? Anybody in a neutral capacity? Okay, Senator.

**BLOOD:** [00:19:53] Short and sweet. I know I sent several of you a video and I hope that you had an opportunity to watch it. I think if you do take the opportunity-- have not done so, please look at the video on how the counterfeit air bags deploy. There's a great one on YouTube--don't eat before you watch it--where a woman literally has shrapnel in her eye. And it's very scary and very unfortunate. I think once you watch the videos it's very telling about the difference between an air bag that is counterfeit and one that is not. One of the things that we haven't talked about is that counterfeit air bags are usually \$100-250. One that is not counterfeit is around \$1,000. And so the people in general that are looking to buy these types of items knowingly are buying them because they know they're counterfeit and putting them in cars and the consumer does not know unless they go through some place like Carfax where they actually do check things like that. But if they buy them from a small-time dealer who's not savvy, does not have a garage, so there are a lot of people who knowingly participate in it and the ones who are not doing it knowingly are not the criminals. One of the concerns I heard somebody say was in reference to-- and I believe it was actually the correctional system who put in the fiscal note, of which there was no fiscal note, that this would help to fill up the prisons. I just want to point out that it actually starts off as a Class IV felony which does not come with mandatory jail time but does come with a fine. Bodily injury carries a Class III felony. If it causes serious bodily injury it's a Class IIA. And if someone dies, it's Class II. And technically the only time we're mandating prison is if someone is dead. And someone that kills you knowingly with counterfeit air bag should certainly do prison time regardless of where we're at with the prison population. I'm really proud of this bill. I think it's always good for us to get ahead of the concerns. The Internet's not going away. The federal government has enough on its plates with immigration. This is not going to be a huge priority for ICE. So let's do something right at the state level.

**EBKE:** [00:22:06] Okay. Any questions? Okay. We have some letters in support: one from the Douglas County Board; one from Isabel Villa-Garcia, the Global Automakers; one from Matt Schaefer on behalf of Madonna Rehabilitation Hospital; one from Dennis Schworer of Honda Cars of Bellevue; one from Matthew Smith, Coalition Against Insurance Fraud; William Forsythe,

Automotive Anti-Counterfeiting Council; Laurie Klosterboer of the Nebraska Safety Council; and Rose White of AAA Auto Club Group. That closes the hearing on L690 and we will move on to LB1126. Thank you, Senator Blood.

**BLOOD:** [00:22:43] Thank you, Chairperson Ebke.

**BOLZ:** [00:22:58] Good afternoon, Chairman-- Chairwoman Ebke and members of the hardworking Judiciary Committee. I am Senator Kate Bolz and for the record that is K-a-t-e B-o-l-z. Today I bring you LB1126, the Sexual Assault Survivors' Bill of Rights Act. The bill establishes a process for informing sexual assault survivors of their rights and lays out time frames for the processing of forensics DNA evidence kits. It was brought to me very close to the session by passionate advocates who want to protect the rights of survivors. My office has been working with the Attorney General's Office as well as those advocates on this issue and we plan to continue working on this issue so that we can bring forward a bill that really does protect survivors' rights. But we recognize that there is work to be done on it. Nonetheless, we thought it was vitally important this year that we bring the Sexual Assault Survivors' Bill of Rights Act because of the #MeToo movement and because we wanted survivors to know that we've heard what they had to say and that we were working with advocates and doing our part to try to move forward legislation that made improvements. Sexual assault, as you know, is forced, manipulated, or coerced sexual contact. It includes rape, sexual-- child sexual abuse, same-sex assault, acquaintance rape, harassment, and marital rape. The perpetrator uses sex to inflict physical and emotional violence and humiliation on the victim or to exert power and control over the victim. Each day hundreds of Americans are affected by sexual violence. In fact, every 98 seconds an American is sexually assaulted and every eight minutes that victim is a child. Men, women, and children are all affected by sexual violence. One out of 6 American women and 1 in 33 American men are the victim of rape or attempted or completed rape in their lifetimes. Sexual assault is traumatizing and after an assault it's hard for victims to know how to react. They may be physically hurt, emotionally drained, and unsure what to do next. They may consider working with the criminal justice system but be unsure of where to begin. Learning more about what steps to take and what resources are available following sexual violence can help calm victims in a difficult time and protect their rights. LB1126 offers consistent guidelines for the support and information that must be provided to every victim of sexual assault, including consistent requirements related to the victim's right to have timely processing of any forensic DNA evidence collected. LB1126 does not specifically create new rights but it does require that survivors be notified of their rights. Those rights included: to be treated with fairness, dignity, and respect; the right to consult with a sexual assault counselor or victim's advocate; the right to be heard and participate in the criminal justice process; the right to timely disposition of the case; the right to communication about the status of the case; and the right to have evidence collected and processed in a responsible manner. According to the Attorney General's Office, Nebraska currently has more than 2,000 backlogged forensic evidence kits. As the state works to address this challenge, LB1126 will help ensure victims' rights to have these kits processed in a timely manner. Following my introduction, you will hear from testifiers who work on this issue on a regular basis. I do thank all of them for coming together and beginning this very important conversation so that we can continue the dialogue on protecting the rights of victims of sexual assault. I'd be happy to take your questions. I do have an amendment and a fact sheet coming around.

**EBKE:** [00:26:51] Questions for Senator Bolz? Senator Krist.

**KRIST:** [00:27:02] Would you address the fiscal note for us a little bit?

**BOLZ:** [00:27:02] Sure. So the fiscal note references the staff members and operating costs that would be needed to process the backlogged DNA kits and to process in the timely manner as

outlined in the bill. I think that there are probably adjustments that could be made to address the fiscal note, but it's helpful to know what the cost of the idealized version, as introduced, would be to the state.

**KRIST:** [00:27:25] It seems to me, if I could [inaudible] -- it seems to me like there's kind of cross-purpose here and a difference in the fiscal note for another bill that we heard. I think that this one's a little more expensive, right?

**SENATOR PANSING BROOKS:** [00:27:39] It is, yeah.

**KRIST:** [00:27:39] And it's curious because I think we're going on the same subject matter but it doesn't make any sense. So I would invite you to, you and Senator Pansing Brooks, to spend some time with both of your fiscal notes because they don't-- they don't jibe.

**BOLZ:** [00:27:57] Sure. Well, I think reviewing those fiscal notes and getting to the bottom of the actual cost of processing the kits and protecting the rights and evidence of survivors is a priority and I'm happy to work with any member on this committee on that.

**PANSING BROOKS:** [00:28:15] It certainly is. Thank you.

**EBKE:** [00:28:17] Other questions?

**KRIST:** [00:28:17] Thank you.

**CHAMBERS:** [00:28:17] One.

**EBKE:** [00:28:17] Yes.

**CHAMBERS:** [00:28:17] Is this your amendment that was handed around?

**BOLZ:** [00:28:17] Yes, sir.

**CHAMBERS:** [00:28:17] And is the bill prioritized?

**BOLZ:** [00:28:20] It is not.

**CHAMBERS:** [00:28:21] Okay.

**BOLZ:** [00:28:21] Thank you.

**EBKE:** [00:28:27] Other questions? I see none. Thank you. First proponent. And if we have other people speaking on the bill, if you can move towards the front, that would help us keep things moving.

**ROBERT SANFORD:** [00:28:45] Good afternoon, Senator Ebke and committee members. My name is Robert Sanford, R-o-b-e-r-t S-a-n-f-o-r-d, and I am the legal director for the Nebraska Coalition to End Sexual and Domestic Violence. The Nebraska coalition is a membership-based, nonprofit organization and through our membership we seek to enhance safety and justice by changing the beliefs that perpetuate domestic violence and sexual assault. I am here today to express the coalition's support for LB1126. I cannot imagine many crimes worse than that of a sexual assault. First is the crime itself. It is a crime that is included as a serious violent crime in statistical reports by the Bureau of Justice Statistics and many in society believes it ends there. The

reality is that it is much more than a serious violent crime. It is a crime often committed by people we know and society says we can trust. But through the use of force, threats of force, or coercion, that trust is destroyed. It is a crime that forces many victims to second-guess nearly every decision they make from that point forward, sometimes for the rest of that person's life. After the crime itself, a victim is faced with many decisions, the least of which can be whether to even report the crime to law enforcement. Other decisions include whether or not to seek medical help, allow a forensic exam to be completed, and knowing who to tell. At the center of each of these decisions is a question of trust. When the one who violated the victim is supposed to be a person the victim can trust, the victim often questions whether or not anyone will even believe what happened. According to a 2013 BJS report cited by the national organization RAINN, 20 percent of the victims who did not report a sexual assault feared retaliation and 13 percent believed that police would not do anything to help. These and other fears are reflected in a 2015 National Crime Victimization Survey which suggested that only 310 sexual assaults for every 1,000 victimizations are reported to law enforcement. LB1126 is an attempt to help victims transform into survivors. It does this by creating rights for victims that ensure access to information that is necessary to make decisions as this individual moves forward. The ability to make informed decisions is an essential part of regaining autonomy and dignity lost through this crime. LB1126 ensures access to sexual assault services throughout the reporting and investigation process. It also gives a victim the ability to request who can do investigatory interviews with the victim. These changes may seem trivial to many but information and autonomy are a significant part of transforming into a survivor. With this in mind, the Nebraska coalition stands alongside Senator Bolz and supports LB1126. We ask that you advance this bill out of committee. Thank you.

**EBKE:** [00:31:59] Thank you, Mr. Sanford. Any questions? I see none. Thanks.

**ROBERT SANFORD:** [00:32:03] Thank you.

**EBKE:** [00:32:03] Other proponents?

**KRIST:** [00:32:06] Madam Chair, just kind of a note, I want to welcome members-- students and members of the second annual Black and Brown Legislative Day, organized by the Urban League, are with us today.

**EBKE:** [00:32:17] Oh, so you're not all coming here to testify. Well, welcome.

**MORFLED:** [00:32:20] Welcome, all of you.

**EBKE:** [00:32:29] Thanks for being here today. Are there any other proponents? Thank you, Senator Krist. And, Senator Conrad, I think maybe you had something to do with that?

**KRIST:** [00:32:47] Little bit.

**EBKE:** [00:32:47] Right.

**WESTIN MILLER:** [00:32:48] Good afternoon, Chair Ebke, members of the Judiciary Committee. My name is Westin Miller, spelled W-e-s-t-i-n M-i-l-l-e-r, and I'm here to testify in support of LB1126 and I'm representing myself. My testimony today is informed by two previous experiences: first, as a former employee of MOCSA, which is the Metropolitan Organization to Combat Sexual Assault, based in Kansas City, Missouri; and second, as a former graduate teaching assistant and a resident adviser at Creighton University, during which I knew and supported several survivors of sexual assault, all of whom could have greatly benefited from this legislation. When I worked for MOCSA, I worked our 24-hour crisis line, which is an anonymous hot line open to



anyone who has questions or issues related to sexual violence. I was trained to provide emotional support, crisis intervention, referrals, and safety planning. But in almost every instance my job became primarily providing information. Now obviously I'm not allowed to keep personal records of these calls but I want to summarize quickly some of the individuals I worked with, both at MOCSA and at Creighton, who could have benefited from this legislation. This includes: a young woman who didn't even consider reporting her attacker or pressing charges because she thought she couldn't afford it; a woman who refused to have forensic evidence collected because she thought that would require pressing charges, which she wasn't yet sure she wanted to do; a young man who feared public humiliation at the thought of testifying in open court; a woman who waited too long to have a useful forensic exam because she thought she needed insurance; and multiple survivors who believed having a forensic exam conducted was a waste of time because they knew the kits would get thrown away or never used. So, Senators, to me, this bill's merits rest on one pretty simple but also undeniable fact: Being well informed about your options and your rights in the face of trauma is invaluable in starting down the road to healing. But the opposite is also true and I think needs to be discussed and that is that trauma is by definition rooted in confusion and rooted in misinformation. So if we know that and we don't do something to combat that confusion and combat that misinformation, I believe that we are complicit in exacerbating that trauma. So whether you are a Republican, a Democrat, or a Libertarian, I think that everybody in this room can agree that one of the most basic functions of government is to provide for the security of its citizens. If someone is raped in our state, that means we already failed them at least one time. The least that we can do is provide clear, unambiguous information about their options and their rights to put them on the road to recovery. Senators, I believe this is as foundational as it gets. So I urge you to support this most basic protection and advance LB1126 to General File as quickly as possible. Thank you for your time. I'd be happy to answer any questions or provide more information. Thank you, Mr. Miller. Any questions? Senator Chambers.

**CHAMBERS:** [00:35:32] Just being frank, are you aware there's not much chance that this bill will go anywhere this session?

**WESTIN MILLER:** [00:35:37] Yes, sir. I know the-- I know the fiscal note is bad news for sure. A couple thoughts I had on that. One, I think Senator Krist is correct that there's a lot of overlap between a lot of great legislation surrounding sexual assault that I think there's some work to be done. I also think it's worth pointing out that a huge part of the merit of this bill is simply the government owning its duty to inform survivors and that's not going to cost anything more than printing a couple sheets of paper. So I don't know. I wouldn't pretend to do the committee job for it. But I think the two huge pieces of this bill are the information and the 90-day processing of the kits and only one half of that actually costs money, which I think is worth--

**CHAMBERS:** [00:36:19] And it is good to compile a record on something like this whenever you get the opportunity.

**WESTIN MILLER:** [00:36:20] Absolutely.

**CHAMBERS:** [00:36:20] So your time wasn't wasted.

**WESTIN MILLER:** [00:36:21] Thank you. I appreciate it. I agree.

**EBKE:** [00:36:27] Other questions? I see none. Thanks for being here today.

**WESTIN MILLER:** [00:36:28] Thanks.

**EBKE:** [00:36:28] Are there any other proponents? Do we have any opponents to LB1126? Do we

have anybody speaking in a neutral capacity? We have some letters: one from the Douglas County Board; one from Marcia Blum of the National Association of Social Workers-Nebraska Chapter; one from the League of Women Voters of Nebraska; one for-- one from Michelle Zych of the Women's Fund of Omaha. I'm always-- Senator Bolz waives. That concludes the hearing on LB1126. Thank you. Our next hearing is on LB680. Senator Krist. Senator Krist, you get the grand and glorious honor of having the last bill before this committee in the One Hundred Fifth Legislature. Aren't you excited?

**BAKER:** [00:37:34] And my last.

**PANSING BROOKS:** [00:37:34] Oh, no!

**EBKE:** [00:37:34] And your last bill, your last hearing?

**KRIST:** [00:37:36] And my last--

**EBKE:** [00:37:38] And your last hearing.

**KRIST:** [00:37:38] --the last bill I will ever introduce--

**EBKE:** [00:37:42] Wow! Okay.

**KRIST:** [00:37:42] --in the Nebraska Legislature.

**EBKE:** [00:37:42] Pretty exciting.

**KRIST:** [00:37:48] Good afternoon, Senator Ebke, 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 in northwest Omaha along with north-central portion of Douglas County, which includes the city of Bennington. I appear before you today in introduction and support of LB680. LB680 relates to behavioral health services and adopts the Interstate Placement for Involuntary Admitted Patients Agreement Act. The purpose of the Interstate Placement Agreement Act is to enable the appropriate behavioral health services to be provided to individuals across state lines from the individual's home state of residence in qualified healthcare facilities that are closer to the homes of individuals than our healthcare facilities available in that individual's home state. Unless prohibited by law and subject to the exceptions listed in a-- listed, a region or a chief executive officer of the Department of Health and Human Services may contract with a healthcare facility in an authorized state for behavioral health services for residents of Nebraska, and a healthcare facility in Nebraska may contract to provide services to residents of authorized states. Authorize states are Iowa, South Dakota, Wyoming, Colorado, Kansas, Missouri, or Minnesota. Responsibility for payment of the cost of care remains with the sending agency--in other words, the home state or county or area that the-- that the person is from. I'm hoping that this has a place yet this year but I'd be happy to hand this down to anyone who feels as much compassion about this issue as I do. I know that you know that we do not have all the facilities to take care of folks in Nebraska. One good example is women who are sexually abused and need therapy. We have no specific organization, nor do we have the capability of doing that here, and most times that care is taken for a woman at a facility in Kansas, which is the closest to this part of the state. So it is critically important that we have these kinds of exchange agreements and if I look at the areas around the state, I would say Scottsbluff, for example, has a closer proximity to Colorado and some facilities, or Wyoming and some facilities who-- that are there. It wouldn't be my last bill if I wasn't cynically looking at the fiscal note so I will just say that our own Department of Health and Human Services believes that this is going to cost us money. Well, these folks would need the services here if they stayed here and potentially have to travel longer distances

to go from the center of the state to-- or from parts of the state to-- to Omaha or to a surrounding area. So the fiscal note will make it tough this year but in theory the process has great merit and I'm hoping that somebody picks it up and carries it forward. We have, just on the eastern side of the state between Council Bluffs and Omaha, an incredible wealth of facilities and some facilities are closer and are better equipped and/or would have the bed space that another facility might not have. So there might be three good reasons why you would use the facility in Council Bluffs as opposed to Omaha. If you need that service now and there's not a bed available within the Omaha area and there is in Council Bluffs, this would certainly help a great degree. With that being my last, I'll end.

**EBKE:** [00:42:03] Okay. Got any questions for Senator Krist? I see none. There any proponents for this bill?

**ELAINE MENZEL:** [00:42:29] Chair Ebke and members of the Judiciary Committee, for the record, my name is Elaine Menzel; that's E-l-a-i-n-e M-e-n-z-e-l. I'm here on behalf of the Nebraska Association of County Officials in support of LB680. We appreciate Senator Krist for introducing this legislation. I'd like to say I'm glad to be a part of the last for the committee as well as Senator Krist's legislation. This is a bill similar, or I'm not so sure that it's not exactly the same, as LB625 that was introduced in 2015 and we did support that legislation as well. If I recall correctly, Dakota County was one of the counties that came forward and was talking about some of the issues they have in terms of the placement and that type of thing. I, similar to probably all of you, have heard stories from county officials and individuals who are having placement issues in terms of various programs that Senator Krist talked about. And so for those reasons we would be glad to support this. And as Senator Krist said, we would hope this would be able to be moved forward this year. So if you have any questions I'd be glad to try to answer them.

**EBKE:** [00:43:49] Thank you. Any questions? I don't see any.

**ELAINE MENZEL:** [00:43:49] Thank you.

**EBKE:** [00:43:50] Thanks for being here. Other proponents? Do we have any other proponents? Opponents? Anybody speaking in a neutral capacity? We have letters of support from the Douglas County Board; Andy Hale of the Nebraska Hospital Association; Pete Festersen of the Omaha City Council; and Marilyn Rhoten of CHI Health. We have two letters in a neutral capacity from Sheri Dawson of Nebraska Department of Health Services and Linda Jensen. Senator Krist.

**KRIST:** [00:44:29] It's been an honor.

**EBKE:** [00:44:30] It's been a privilege. Okay. That closes the hearing then on LB680. I'm going to ask the committee to hang around for an Executive Session but, everybody, we're going to take a break for about five minutes, let everybody clear out.