

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee February 16, 2023

**WAYNE:** All right. Welcome, welcome, welcome. Good afternoon. Welcome to this jury-- cold Judiciary Committee. My name is Justin Wayne. I represent Legislative District 13, which is north Omaha and northeast Douglas County. We will start off by having committee members and staff do self-introductions, starting with my right, Senator Ibach. Oh. Senator Geist.

**GEIST:** Suzanne Geist, District 25, east side-- southeast side of Lincoln and Lancaster County.

**ANGENITA PIERRE-LOUIS:** Angenita Pierre-Louis, committee clerk.

**HOLDCROFT:** Rick Holdcroft, District 36, west and south Sarpy County.

**DeKAY:** Barry DeKay, District 40, Holt, Knox, Cedar, Antelope, northern part of Pierce and most of Dixon County.

**IBACH:** Senator Teresa Ibach, District 44, eight counties in southwest Nebraska.

**WAYNE:** Also assisting us are committee pages Logan Bar-- Brtek from Norfolk, political science major and criminology major at UNL; and Isabel Kolb, from Omaha, who is a political science major and pre-law major at UNL. This afternoon we'll be hearing five building-- buildings-- bill-- bills that we will be taking them up on the order outside of the room. On the table, on the side of the room, you'll find blue testifier sheets. If you are planning to testify, please fill one out and hand one to the pages when you come up. This will make sure we have accurate records. If you do not wish to testify, we want to make sure that your presence and your position is recorded. Please use the gold sheet on the side of the room. Also, I'll let-- let you know that that's not true today. But due to inclement weather, the-- the deadline for online comments or for bills for the public hearing today will be extended to 5:00 p.m. due to the weather and will be entered in as an exhibit. Any handouts submitted today by testifiers will also be part of the record. We ask that you-- if you have handouts, please have ten copies. If you don't have ten copies, ask-- please provide them to the page before you come up so we can get additional copies made. Testimony for each bill will begin with the introducer's opening statement, followed by proponents, then opponents, then those speaking in neutral capacity. Then we'll have the introducer close their-- any closing statements. As you begin your testimony, please make sure you use your first and last name and spell them for the record. We will be using the three-minute light system: green, please start your testimony; yellow means there's one

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minute left; and red, we ask you to wrap up your thoughts. I would like to remind everyone, including senators, to please turn off your cell phone or put them on vibrate. And with that, we will begin with LB435, Senator Geist.

**GEIST:** OK.

**WAYNE:** Welcome to your Judiciary.

**GEIST:** I feel like I was just here, but anyway. Well, thank you, Chairman Wayne, and good afternoon, members of the Judiciary Committee, for the record. My name is Suzanne Geist, S-u-z-a-n-n-e G-e-i-s-t, and I represent District 25, which is the southeast corner of Lincoln and Lancaster County. LB435 is a bill that is the result of several years of listening to a number of families who have children who are caught up in the juvenile justice system. I want to say again today that it's been an honor to walk with these families, but also a very difficult journey and one of the hardest I've taken as a state senator. Because of this journey, I've become aware of some of the gaps in our system and have spent time researching how I can help relieve some of the stress that parents experience as their children are going through the juvenile justice system. The system is set up with the child in mind and not the parents, and I understand the reasons behind that structure, but I've mostly been working with custodial parents who have found there is great frustration and confusion for them as their child is put through a system that they rarely understand. Unfortunately, it's difficult for a parent to know how to advocate for their child or who to contact in the-- in the justice system to have their voices heard. The state has provided lawyers, CASA advocates, guardian ad litem for children, and yet it seems we've left out the parents, who still in some cases have custody and they want to maintain the involvement in their child's life. The parents I have talked to have mentioned that when they share what their family is going through, many treat them like the issues their child is experience-- experiencing is because of bad-- their bad parenting. This is insensitive and should-- we should be careful treating parents who are going through trauma and in many cases the very most difficult times of their lives. My bill, LB435, was created to provide an adviser or a guide to help parents and guardians navigate a very complicated system. There has been some confusion around who I intended a parental adviser to be and who can employ them. This bill has created the parental adviser to be an employee of the Department of Probation Administration. A parental adviser will only be appointed at the discretion of the judge and, therefore, why I created this position to be under the Office of

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Probation. My goal is to give priority to hiring those who have had previous experience navigating the juvenile justice system with their own child. I will be bringing an-- bringing an amendment to add this to my bill. I do not have that with me today. Some have assumed my intent is to have these guides be lawyers for the parents, and I want to provide some reassurance that that-- that the goal is to not have attorneys as guides. My goal is to have someone who has already walked this path and can relate to how the parent or guardian is feeling. This guide will also provide support and resources for the family. As we heard yesterday, there is a need for family support and a need for knowledge of where to access services for the child and for their families. Probation would be asked to provide training for the parental adviser so they can pr-- provide the most up-to-date and accurate information when discussing possible outcomes of proceedings for-- proceedings moving forward, possible disposition options for the juvenile, options available to the parent, guardian or custodian in navigating the juvenile justice system. The parental adviser will have the opportunity to attend hearings, meetings, and any other proceedings concerning a case with a parent if the parent wishes, and that should say concerning a case with a child if the parent wishes. I remain committed to working with these families. I believe this solution will help bring clarity and relieve some of the stress and frustration that comes from having a child caught up in the juvenile justice system. With that, I would be happy to answer any questions.

**WAYNE:** Any questions from the committee? Seeing none--

**GEIST:** I will stick around till close.

**WAYNE:** OK. First proponent, first proponent, proponent.

**SPIKE EICKHOLT:** Good afternoon, Chair Wayne and members of the committee. My name is Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t, appearing on behalf of Voices for Children in support of LB435. We want to thank Senator Geist for introducing the bill. As Senator Geist explained, when parents have a child who becomes involved in the juvenile court system, in many respects, it is bewildering to them; it's overwhelming; they are confused by the process. It's often a result of the time when they are-- already experienced months, if not years, of frustration and emotion in their child or children before they get to the court system. And as Senator Geist explained, the court system does take a great deal of parental authority away from the parents in that situation and does give it to the prosecutors, to the guardian ad litem, to the child's attorney. And so this concept is a good one because this situation with a child in

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the juvenile court system can be very challenging for parents, primarily-- particularly those parents who don't really have any understanding of the process and what can happen. They have a mixture of emotions, fear, concern of what might happen with their child or frustration that they're not getting listened to, and involving the parents in that situation could really help accentuate or help facilitate the rehabilitative process in the juvenile. In other words, if the parents have confidence in the system, if they understand why the judge is doing certain things, if they understand why the juvenile's lawyer is doing certain things, then that will hopefully lead to a more positive result of a child and a family reunification and that sort of thing. Senator Geist did mention-- we did email Senator Geist and suggested things that she might want to consider, and she did reference those, I think, in her introduction. One would be that perhaps the bill could carefully explain that the parental adviser is not legal counsel and does not make any legal recommendations to the parents who are involved in the court system. They're not lawyers, and it doesn't look like and we should-- I think her bill does reference that, but perhaps that could be more clearly explained. And we did actually also suggest, and I think Senator Geist mentioned in her introduction, that perhaps like a mentor program of involving parents who have had prior experience in the juvenile court system, that they could be prioritized or encouraged to serve this role because they have at least some sort of insight that they could share with other parents who are involved. So we want to thank, again, Senator Geist, for introducing the bill, and I'll answer any questions if anyone has any.

**WAYNE:** Any questions from the committee? Senator Holdcroft.

**HOLDCROFT:** I'm sorry I missed it. Who are you speaking for today?

**SPIKE EICKHOLT:** Voices for Children.

**HOLDCROFT:** Thank you.

**WAYNE:** Any other questions from the committee? Seeing none, thank you for being here. Next proponent. Proponent.

**JOHN SKRETTA:** Good afternoon, Chair Wayne, Senators, members of the Judiciary Committee. My name is John Skretta, J-o-h-n S-k-r-e-t-t-a. I'm the Administrator of Educational Service Unit 6. We're headquartered in Milford. We serve 16 public school districts across five counties. Nebraska's ESUs deliver an extensive range of services in professional development, technology and student services. We're

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offering this testimony in support of Senator Geist's LB435 to provide for court-appointed parental advisers. I'm here testifying today on behalf of Educational Service Unit 6, where I'm the administrator, and also the Educational Service Unit Coordinating Council, which is our umbrella organization, representing the 17 ESUs across Nebraska. Few words about why I'm here as an ESU administrator. ESUs provide student programming from birth to age 21. We deliver early interventions through an extensive network of service providers. I think we have five service providers, early development network service providers who strive to ensure students' developmental needs are met, birth to three. Then we have preschool programming, we have behavioral programs for students and administer those, and we provide vitally important 18- to 21-year-old transition services for exceptional students moving into adulthood to try and help equip them with independent living skills and employability skills. So our experience with all these programs informs our perspective on LB435 We're acutely aware of the crisis-level situation in juvenile justice in Nebraska and the challenges facing families with children who are being adjudicated in the system. Years of educational research and a whole lot of common sense clearly indicate that children's life chances are better when they're part of caring, compassionate and intact families. Couple things about this bill in particular. Parental advisers are noted and their role; the important impact of partnering with schools is spelled out in Section 3 and appropriately foresees the key role that a parental adviser has in that capacity. Service providers, school districts, and school personnel shall cooperate with all reasonable requests of the parental adviser. We believe that this provides an excellent parental safety valve and we're grateful to Senator Geist for bringing LB435 forward, and we'd urge the Judiciary Committee to advance this. Thank you.

**WAYNE:** Any questions from the committee? Seeing none, thank you for being here.

**JOHN SKRETTA:** Thank you.

**WAYNE:** Next proponent, proponent. Seeing none, any opponents, opp-- wait. Yeah, we're still on proponents. Welcome.

**LEIGH ESAU:** Thank you. Thank you, Senator Wayne. My name is Leigh, L-e-i-g-h, Esau, E-s-a-u. I'm here as a parent working with a child in the juvenile justice system. We have been court-involved for about three years now. I am one of the parents that Senator Geist has been working with to bring this bill forward. The reason that I believe

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strongly in it is because oftentimes parents do not understand the lingo that is used between county attorneys, probation and judges. I'm fortunate that I work in the foster care world, so I understand a lot of what is going on, but that's because of my experience in the foster ca-- care realm. The reason that I believe that this bill would be successful for the outcomes of our youth is because it is another way of reaffirming to our kids who are already struggling that the parents want to be involved. We want to help them walk through the process. And when we can understand better what is the process and what is happening in the process, we can walk alongside our kids better. And I just know from personal experience with my daughter, she may hear one thing, and in her mind she's made up that a certain outcome will happen or a certain time frame, and as a parent you don't always understand because you may be believing the same thing. And as I've walked through this long enough now, I understand-- I have a better understanding of what to expect as I'm walking through this process. And that's all that I have to say.

**WAYNE:** Thank you. Any questions from the committee? Seeing none, thank you for being here.

**LEIGH ESAU:** Thank you.

**WAYNE:** Next proponent, proponent. Any opponents, opponents? Welcome.

**DEB MINARDI:** Good afternoon. Chairperson Wayne and members of the Judiciary Committee, my name is Deb Minardi, D-e-b M-i-n-a-r-d-i, and I am the Probation Administrator for the Administrative Office of the Courts and Probation. I'm here today to provide testimony in opposition of LB435. While we support in concept the idea of parental advisers, LB435 presents a conflict of interest under probation. Probation provides comprehensive investigations to the judge and supervises individuals placed on probation by the court in order to accomplish behavior change, increase public safety, and reduce recidivism. The role of the parental adviser under LB435 is to serve on behalf of the parent, provide guidance, advocacy, and was already been mentioned, as pre-- as currently written, potentially legal advice. We see these two roles under the same umbrella as a conflict. We would note that there are currently existing enti-- entities across the state who serve in a similar capacity as described in LB435. An example of such is the Family Support Network. And as a matter of fact, we've had conversations with these organizations, who would be willing to step up in this capacity and currently serve in the child welfare capacity, and they would be much better ser-- suited to expand their role. Again, while we support in concept the

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idea of parental advisers, we oppose LB435 as written based on the conflict of interest that a parental adviser being hired, supervised, and supported by the same office that supervises the juvenile. I'd be happy to answer any questions.

**WAYNE:** Any question from the committee? You're saying there's a conflict because-- but isn't there a conflict already in all the services you provide, like particularly family counseling and all-- I mean, it involves the parent and the kid.

**DEB MINARDI:** Well, we refer out to those. That would be the-- that-- that's why we would suggest, if it was an outside entity, we would serve in that same capacity where we would refer the person to a parental adviser but not serve as a parental adviser.

**WAYNE:** OK.

**DEB MINARDI:** We don't do the treatment. We don't do the counseling. We are the referral source in those kind of instances.

**WAYNE:** OK. Any other questions? Seeing none, thank you for being here. Any other opponents? Opponents? Oh, I saw somebody stand up, so I was just double checking. Anybody testifying in a neutral capacity, neutral capacity? Seeing none, as Senator Geist comes to close, we received three letters of support. Welcome back, Senator Geist.

**GEIST:** I was thinking of waiving, but I almost feel like I have to say something. I appreciate Leigh coming forward, and her bravery through all of this has been-- actually, this-- the seed of this idea was actually hers, so I appreciate all the people that have helped this concept, and I would look forward to getting it out of committee.

**WAYNE:** Thank you.

**GEIST:** That's it. Thank you

**WAYNE:** Any questions from the-- Senator DeKay.

**GEIST:** Oh, sure.

**DeKAY:** Real quick, Senator Geist--

**GEIST:** Yes.

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**DeKAY:** --hey, I missed the first time around. You said you'd be provided an amendment. What--

**GEIST:** I will.

**DeKAY:** Would you re-- tell me what that is again?

**GEIST:** I will. It's-- let me just double check. I'm pretty sure it's to say that we're-- these aren't supposed to be attorneys. And, yes, it's that the guides are not intended to be attorneys. It's intended to be people who have previous experience, who have gone through the juvenile justice system themselves or with a child, but the intention is for it to not be attorneys. It's not an attorney for the parent.

**DeKAY:** OK. Thank you.

**WAYNE:** Any other questions from the committee?

**IBACH:** I have one.

**WAYNE:** Senator Ibach.

**IBACH:** Thank you very much. Thank you for bringing this.

**GEIST:** Sure.

**IBACH:** I just have one simple question, and especially with-- with Ms. Minardi's comments in opposition. Would it help if we-- can you define the-- the word "professionals" in the Section 3? It says all government agencies, service providers, professionals. Would it help if we maybe defined those better-- better or can you define what a professional will be?

**GEIST:** As far as the providers, that's who you mean?

**IBACH:** Yeah. Well, it says service providers, professionals,

**GEIST:** Oh, the professionals that would help--

**IBACH:** Yeah. Are they--

**GEIST:** --who the parental adviser will cooperate with?

**IBACH:** Yeah.

**GEIST:** Actually, it could be anyone who is involved in this process, and the vision is-- and maybe if that gives clarity to the discussion



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here, but this is like a friend who goes through this process with the family. When a parent goes to a hearing with a child, a child gets an attorney and the attorney pleads on the child's behalf to the judge, but the parent has no say in what happens in that proceeding. So what this person, in my mind, does is tells this parent what's going to happen, advises the parent, but doesn't give-- this is not giving legal advice. This is giving moral support. So whatever that parent needs from this person, whether that's going to an appointment with them or-- but it is not legal. It is not to give them legal advice. It's just, from my experience, this is what happened, this is what you can expect, this is what this means. Does that help? And--

**IBACH:** Yeah, I'm just-- I-- you know, when you read this, it says government agencies, service providers, school districts, school personnel. I just--

**GEIST:** And--

**IBACH:** I just want to make sure that the professionals aren't too broad, if they're--

**GEIST:** OK.

**IBACH:** --you know, doctors or attorneys or who those professionals might be, to kind of streamline a little bit.

**GEIST:** OK.

**IBACH:** Does that make sense?

**GEIST:** It does. [INAUDIBLE]

**IBACH:** Just to give it maybe a little more definition or--

**GEIST:** OK.

**IBACH:** --clarity. That's probably simple, but thank you.

**GEIST:** Thank you.

**IBACH:** Thank you, Mr. Chair.

**WAYNE:** Thank you. Any other questions? Seeing none, thank you for being here.

**GEIST:** Thank you.

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**WAYNE:** And that our closing hearing on LB435 and open the hearing on LB687. Senator Machaela Cavanaugh, welcome to your Judiciary Committee. And I have to step out. I have a meeting. So, Senator Holdcroft, until Senator DeBoer comes back.

**HOLDCROFT:** OK. Well, I guess I am the oldest. [LAUGHTER] Thank you. Senator Cavanaugh may open.

**M. CAVANAUGH:** Thank-- thank you. I have some handouts. Well, good afternoon, members of the Judiciary Committee. I am Machaela Cavanaugh, M-a-c-h-a-e-l-a C-a-v-a-n-a-u-g-h, and I represent District 6 in west-central Omaha. I'm here today to introduce LB687, which will create the Nebraska Integrated Juvenile Data Governing Body. This is the third time I am intro-- introducing this bill, a version of this bill. In 2021, in my opening remarks, I said, this bill is very similar to a bill I introduced last year, but with a few changes that recognize the progress made at the Crime Commission with their data system and some additions to the governing body itself. Since then, the director of the Crime Commission has informed me that their effort at building a data system has ceased. So I had to take another look at the bill, and I and Anne Hobbs and Monica Miles-Steffens from UNO have made met with Probation-- with Probation and the Court Administrator, the Crime Commission, and we are working on setting up a meeting with the Department of Health and Human Services. I have an amendment that has just been passed out that is not as prescriptive as the green copy of the bill, that I think will still get the job done. Since we are still trying to meet with stakeholders, I am still open to-- open to changes, but I hope that AM411 is written broadly enough we can go forward with the current language. I do need to state that, yes, we have met with some stakeholders, but they have not agreed to this particular language, only to the concept of data integration. Overall, the purpose is the same, to create an integrated data system that can correlate multiple data sets from different departments and programs. Probation data, education data, YRTC data, HHS and Medicaid data together will go a long way to create a holistic picture of our various systems that a juvenile-- that a juvenile comes into contact with. The integration of the data will provide ways to analyze the effectiveness of our programs and interventions in the agencies involved. We will be able to determine if what we are doing across systems actually makes a positive difference for the youth we serve. We will be able to see racial or demographic disparity in outcomes and assess whether the juvenile justice system is effectively processing cases. We have heard many times that the data we need to answer these questions largely doesn't exist in a usable format, that it's spread across

different siloed systems and hard to obtain, that it is virtually impossible to correlate into a holistic picture. Even though there may be testimony that sharing of information can't be done, we know it can be with the appropriate memorandums of understanding or contracts in place. We know this because UNO already does this with similar data sets. If an individual juvenile comes into contact with the juvenile justice system, the child welfare system, and has trouble at school, currently, those data points all stay siloed away from one another. If there's an intervention step along-- along the way that has an impact, we don't have a way to analyze that. This integrated data system will be able to tell us what works, what doesn't, and where we need to come up with solutions. That means fewer kids falling into prison pipeline and more kids leading successful lives. Testifiers after me will be able to go into detail and answer technical questions. That's actually not entirely true because of the snowstorm. I'm just-- I'm just reading along. I'm like, whoa, wait, wait, wait. So I have also passed out-- the pages passed out the testimony from Anne Hobbs. She's in Omaha and I encouraged her not to make the journey today. I think that her testimony, while helpful, if there are additional questions from the committee for her, we can follow up with them outside of the committee hearing. I do want to say, on a personal note, I have introduced this bill several times. It was brought to me by my dear and beloved friend Brad Ashford, and I made a commitment to myself that I will continue bringing it until it is perfect and we can get it enacted because that's what Brad would do. So I appreciate your attention to this. It is very important to me and to the children of our state, and I hope that we can find a way to move forward. And I'll take any questions you have.

**DeBOER:** Are there any questions for Senator Cavanaugh? Senator DeKay.

**DeKAY:** Good afternoon. Good afternoon, Senator Cavanaugh. A quick note: You said you've been working on this bill for a while.

**M. CAVANAUGH:** Yes.

**DeKAY:** You feel you got the kinks worked out of it?

**M. CAVANAUGH:** It's-- it is still a-- a work in progress, I think. If you'd like, I can give you some of the contextual history of what some of the kinks have been. There's been concerns over the sharing of data, and we've talked-- we've had numerous meetings about creating memorandums of understanding. What was really a sticking point at one point was that the Crime Commission was trying to launch

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their own data system and, after meeting with them and hearing about how that has gone over the-- the years with COVID and ch-- sta-- changes in staffing, it really got shelved and it never came to fruition, and so-- and I didn't-- I didn't personally agree with it all living with the Crime Commission because I think that created more limitations in the data. I think having it have this governing body that's across entities is really important because it allows us to really analyze the data at an academic level and form policy that we all would create and also help us decide how we're funding programs and whether or not some programs are winning or not. That probably didn't an-- that's probably more than you wanted to know.

**DeKAY:** You-- there are a couple organizations that had a-- you had a conflict of interest on this bill. Have you been able to have conversations with them and be able to--

**M. CAVANAUGH:** So one of the concerns, in addition to the fact that they were creating their own data system, the Crime Commission also had a concern about what the governing board would look like. And I remain committed to ensure that we have a governing board that is agreeable to all parties. And so I honestly, because of the snowstorm and this amendment was just completed this morning, I'm not sure if we're in total agreement on that, but I will welcome bringing additional changes until we have a governing board that is agreeable.

**DeKAY:** Has that governing board already been composed or would that be go--

**M. CAVANAUGH:** That would be-- so it's in-- it is in the-- prescribed in the amendment and in the underlying bill. This doesn't exist, so we would be creating the governing board.

**DeKAY:** And that would still be a 20 person board or--

**M. CAVANAUGH:** No, I'm seeing--

**DeKAY:** No.

**M. CAVANAUGH:** --a head shake no. I'm not sure how many people it would be because, again, I apologize, but I received my amendment just very shortly ago, minutes ago, so I'm not entirely certain.

**DeKAY:** Not a problem. I'm just trying to--

**M. CAVANAUGH:** I-- bo, I appreciate that.

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**DeKAY:** --get the full scope. So tha-- thank--

**M. CAVANAUGH:** And I think-- I think because of-- of the weather and-- and just the-- the lateness of the amendment, that this is probably going to require several one-on-one, follow-up conversations with members of the committee, because I do apologize that we can't necessarily address all of the concerns that we might have today. But as I said, I'm extremely committed to this piece of legislation and-- and making sure that we get it right and that-- so that we're-- we're benefiting the children of the state.

**DeKAY:** I appreciate that. And the follow-up information, that would be helpful for this. Thank you.

**M. CAVANAUGH:** Absolutely.

**WAYNE:** Thank you. And my-- should have checked my email 15 minutes ago because my meeting got canceled. Any-- so any other questions from the committee? Senator Ibach.

**IBACH:** Thank you, Mr. Chairman. So I'm looking at the fiscal note--

**M. CAVANAUGH:** Yes.

**IBACH:** --and looking at the '23-24, which I don't think that's relevant because you probably aren't going to implement it this year, according to the dates, and '24-25, and it reflects \$212,361. But then on the front page, it talks about the Foster Care Review Office and their expenses. Are those expenses absorbed by their office, the \$1 million to develop and modify systems and the need for additional full time at \$102,000 annually? Because I don't-- those, to me, don't seem to be absorbed in that number if you look at the--

**M. CAVANAUGH:** So it's this-- yeah, I see on page-- on the first page of the fiscal note where it--it-- where you're referencing the \$1 million, that \$1 million, it says the Supreme Court indicates that, those costs. The Foster Care Review Office, their fiscal note is the \$205,000 and \$212,000.

**IBACH:** OK.

**M. CAVANAUGH:** So I-- I'm not sure.

**IBACH:** I just-- I don't see how those-- because the final number on the end of the fiscal note's \$212,000, too, but I-- and then the juvenile information system, they outline some expenses, the \$474,000

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and the \$470-- I would just be interested in knowing how all of this ties together as a-- as a total package.

**M. CAVANAUGH:** Right.

**IBACH:** Does that make sense?

**M. CAVANAUGH:** So I'm not-- I am not sure we're clear on what the Supreme Court's fiscal note is in regards to--

**IBACH:** OK.

**M. CAVANAUGH:** --because the-- the university would be the home of this data sys-- the data collection--

**IBACH:** OK.

**M. CAVANAUGH:** --and then that there'd be that governing board. So I-- I don't know. I don't believe, but I don't want to misspeak, I don't believe that the Supreme Court would need to create a data system. It should be data that they're currently collecting.

**IBACH:** OK.

**M. CAVANAUGH:** So it's--

**IBACH:** Yeah. If we can just--.

**M. CAVANAUGH:** --it's clear as mud.

**IBACH:** --follow up.

**M. CAVANAUGH:** Yeah. Yeah.

**IBACH:** Just-- I-- I would be interested in knowing how the-- the-- all these numbers tied together in the bottom line. It-- it appears that we don't-- we won't have to worry about more than just the \$205,000 or the \$212,000, which on the back page--

**M. CAVANAUGH:** Yeah.

**IBACH:** --\$205,000 or \$212,000, but I'm not sure why all these numbers on the front page are highlighted if-- if they aren't part of the package. Make sense?

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**M. CAVANAUGH:** Yes. And unfortunately, the way that our fiscal note arrive, not much time between the hearing to get a lot of clarification, but I will try to get clarification--

**IBACH:** OK.

**M. CAVANAUGH:** --on that. And also, I believe that our amendment would impact the fiscal note, as well, because--

**IBACH:** OK.

**M. CAVANAUGH:** --some of those [INAUDIBLE]

**IBACH:** Makes sense. OK. Thank you very much. Thank you, Mr. Chairman.

**WAYNE:** Any questions?

**DeKAY:** One more question.

**WAYNE:** Senator Ibach.

**DeKAY:** Sorry about that.

**IBACH:** That's all right.

**WAYNE:** I'm sorry. Senator DeKay.

**IBACH:** It's OK.

**WAYNE:** I was thinking Senator Ibach, looking at DeKay. Whoa.

**DeKAY:** Senator Cavanaugh, and I might-- she might have alluded to it. I can't hear very good across the room.

**M. CAVANAUGH:** It-- this room is the worst for acoustics.

**DeKAY:** This Juvenile Justice Institute, is that part of the University of Nebraska-Omaha?

**M. CAVANAUGH:** Yes.

**DeKAY:** OK. Thank you.

**WAYNE:** Any other questions from the committee? Seeing none, thank you for being here.

**M. CAVANAUGH:** All right. Thank you.

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**WAYNE:** First proponent, first proponent.

**SPIKE EICKHOLT:** Good afternoon, Chair-- Chair Wayne and members of the committee. My name is Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t. I'm appearing on behalf of Voices for Children in Nebraska in support of LB687. I don't need to talk about the details of Senator Cav-- Machaela Cavanaugh's bill, but we do want to thank you for bringing it. This is important because data collection, evaluation and analysis of different services that we have in our state is important and critical. Research demonstrates that youth who are involved in the child welfare system are more likely to find themselves involved in the juvenile justice system. And what I mean by child welfare system is that youth who are involved in the court system because of parental neglect or some other type of basis are just more likely to end up in the juvenile justice system. And sometimes they are involved in the system as what they call crossover youths, where they have a pending case in which they are sort of the focus of a case involving their neglect and then, later on, as the age through the system, actually a separate case in which they are actually charged in juvenile court for some law violation or a truancy or some similar thing. And as I think Senator Machaela Cavanaugh talked about the different siloing of-- of data that's collected, those two different approaches of-- of pre-- of servicing those youths, but having an integrated data system could identify areas where these children might be receiving redundant services or perhaps areas in which they could have better enhanced services to provide for benefit of the youth. This data system would be-- provide a forward-looking tool that could be used to sort of analyze and enhance outcomes that are existing in Nebraska's youth services programs. And we support this because it does provide-- provide for coordination of all these systems and it brings the right agencies to the table to be involved in it. So for the concept and the goal that she's trying to do in this bill, we do support that and we encourage that community to look favorably on it. And I would answer any questions if you have any.

**WAYNE:** Any questions? Senator Holdcroft.

**HOLDCROFT:** Thank you, Chairman Wayne. Can you tell me more about Voices for Children?

**SPIKE EICKHOLT:** Sure. We are a nonprofit advocacy group based in Omaha, primarily focused on policy and-- and laws and policy involving the child welfare system and also the juvenile justice system.



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**HOLDCROFT:** OK. Thank you.

**SPIKE EICKHOLT:** The-- Juliet Summers is the executive director. She was actually here yesterday testifying on a couple of bills as well. And I'm their registered lobbyist for anything here at the Capitol.

**HOLDCROFT:** OK.

**WAYNE:** Any other questions from the committee? Thank you for being here. Next proponent, proponent. Seeing none, any opponents, opponents? Seeing none, any neutral-- neutral testifiers? OK, as Senator-- Senator Cavanaugh comes up to close. She's waiving closing. There are three letters, one in support, two in opposition. With that, I'll close the hearing on LB687. We will open this hearing on LB306. Welcome to your committee-- is it Murdoch?

**HANNA MURDOCH:** Yes.

**WAYNE:** Ms. Murdoch. I didn't want to use your first name.

**HANNA MURDOCH:** What's that?

**WAYNE:** I don't want to use your first name. I want to [INAUDIBLE]

**HANNA MURDOCH:** Thank you. I appreciate that.

**WAYNE:** Go ahead.

**HANNA MURDOCH:** Good afternoon, Chairman Wayne and members of the Judiciary Committee. I am Hanna Murdoch, H-a-n-n-a M-u-r-d-o-c-h, and I am Senator Megan Hunt's legislative aide, here presenting on her behalf as she is unable to be here today. I am going to read her statement in her voice, so when I say "I" from here on out, I'm speaking on her behalf and not mine. LB306 would create a Bill of Rights for Nebraska foster youth to help them understand their rights as they navigate the foster care system. This is a bill that I've brought a couple of times before, in 2020 and 2021, in response to an interim study resolution I brought the year before, in 2019. In 2021, the most recent version, I had LB357, which got to General file, but it sat on the worksheet because it didn't have a priority and we just didn't get to it, which is a shame because this is a really good bill that I think is noncontroversial, which has been really fine-tuned and which stands to really help some of our most vulnerable kids. I brought this again this year at the urging of the Nebraska Children and Families Foundation, who tells me that they continue to hear from current and former foster youth about a real need and desire to see

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this passed. So I believe you'll hear from some of them after me. As background, in 2019, I introduced LR127, at the request of youth advocates and former foster youth, to explore opportunities to clarify rights for Nebraska youth under state custody. After three listening sessions with over 50 current and former foster youth in Fremont, Lincoln and Omaha, it became clear that youth involved in the welfare system did not know about the rights they had while under state custody. That study informed my LB941 in 2020, which was drafted with input from youth advocates. This year's bill is the product of further input and collaboration among stakeholders to improve upon the work we did for the previous bill and to remove opposition. Over 20 advocates with experience in Nebraska's foster care systems shared their input in the creation of this Youth in Care Bill of Rights. The new and improved version of the bill picks up where we left off and is the text of last year's bill that incorporates the committee amendment from last time. That was an amendment we worked really diligently on with DHHS, the Nebraska Court Improvement Project, the county attorneys, and foster youth advocates in order to bring all agency opposition to neutral. LB306 would create a detailed list of rights as it pertains to youth in child welfare placements. The language in the Bill of Rights was informed by input from former foster youth and includes things like their right to remain connected to family members, to live in an environment that accepts their culture and beliefs, to receive support for their basic needs, to file a grievance if they feel their rights are being violated, and to be informed about and participate in any court proceedings related to their case. The bill specifies that youth age 14 and up will be provided this information about their rights in a developmentally appropriate manner by their caseworker at initial placement and at regular intervals thereafter. Currently, DHHS is federally required to provide youth with notice of certain rights by the Strengthening Families Act, and this is codified in state statute. However, foster youth have indicated to me and their advocates that the notice given and the rights therein are inadequate. None of the youth in our listening sessions indicated that they remembered having received notice of their rights when they entered the system. Current state statute-- the current statute states that youth are informed of their rights by DHHS during their first 72 hours in care. Youth that we heard from indicated that if they are only informed of these rights during the initial removal period, the trauma of the moment prevents them from retaining and processing the information. Young people want these conversations to occur both initially and consistently afterward, so that they are periodically reminded of their rights as they move through the foster

system. I have that document that youth are provided with and it's pretty barebones when it comes to the details on what rights they have. Fifteen states have enacted similar bills of rights for youth in their welfare systems, which is a pretty good indicator that the federal requirement doesn't go far enough. As an overview, the bill does three key things: (1) it ensures that youth in care are given notice of their rights; (2) it requires that youth are informed when they first enter the foster system and at regular intervals after that by their caseworker; and (3) that they are aware of how to file a complaint through a grievance process if they believe their rights have been violated. An amendment is being distributed to you that my office drafted in response to feedback from the Douglas County Sheriff and also in response to the fiscal note. Sheriff Aaron Hanson submitted feedback describing concerns about the practicability of some of the requirements for youths in the YRTC system; for example, guaranteeing youth in these facilities the rights to access religious services, equal opportunity for recreation, and family interactions cannot reasonably be guaranteed or put into practice in the same way as for children in foster care placements. We felt that this was a reasonable concern and, as such, have drafted AM422, which you're receiving now, to remove the YRTC population from the bill. This means, with the amendment, the bill would only pertain to youth in child welfare placements. I appreciate the sheriff's input on this bill and I am happy to work to-- work to get the bill to a place where it can earn their support. The second important component of the amendment that I want to lift up is in response to an effort to reduce the fiscal note. I'm honestly baffled and disappointed in the fiscal note that was filed this year, considering that it is a drastic change from my previous bill with the same requirements which had no fiscal note. I know there has been some staffing and administrative leadership changes at the department, so perhaps that is a factor, but this new fiscal note estimates a total of 104 new hires in order to bring caseloads into compliance, as is mentioned in the green copy of the bill. It is puzzling that the requirements of the bill suddenly triggered such a massive F-- FTE estimation this year, after my office worked diligently for months with the department the last time I brought the bill to come to a compromise on the amendment that brought the department to neutral and which we agreed on in order to keep it cost neutral. But that misunderstanding aside, Section 68-1207 of statute currently requires that child welfare-- child welfare caseworkers have a maximum of 17 cases. With this fiscal note, the department is admitting that they are 104 positions short of being in compliance with existing caseload requirements. This means there are already many caseworkers carrying

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over 17 cases at a time, which causes a lot of problem for children. I know that the department has expressed in the narrative of the fiscal note that it's been difficult for them to hire and fill those vacancies, and I can appreciate that, but that is really an internal problem that DHHS needs to work to solve and it has nothing to do with my bill. It's not appropriate to tack the fiscal responsibility for making those hires onto this bill. So anyway, the second component of this amendment is that it removes that provis-- provision of LB306 saying that the department shall not assign a caseworker that is in excess of statutory caseload requirements. I know that DHHS is facing a lot of challenges and I am willing to remove this requirement in order to reduce the cost to implement this bill. I hope to continue working in good faith with the Department to come to a compromise on this bill moving forward. To wrap up, LB306 incorporates feedback from the Nebraska Children's Commission, Nebraska Applesed, DHHS, the Nebraska Court Improvement Project, the county attorneys, and current and former system-involved youth. The purpose of this bill is to make sure that youth are aware of what their rights are and how they can advocate for themselves while navigating an unfamiliar system in an often difficult time of their lives. For a vulnerable youth, there is an inherent distrust of a system that removes them from their home and puts them in an unfamiliar place. It is the state's responsibility to do everything we can to ease these types of transitions for children in our care. The least we can do is make sure that these young people know that they do have rights and encourage them that they can speak up and have recourse if something feels wrong. Thank you. And, Senators, if you have questions, please email our office and I will be sure-- I or Senator Hunt will get you a response. Thank you.

**WAYNE:** Thank you. Thank you. We'll move to proponents. Any proponents?

**LINCOLN ARNEAL:** Thank you. Greetings, Chairman Wayne. Members of the Judiciary Committee, my name is Lincoln Arneal, L-i-n-c-o-l-n A-r-n-e-a-l. I am the assistant vice president for the Nebraska Children and Families Foundation. I'm here to testify in support of LB306 to establish the Bill of Rights for Youth in Care. I serve as the adult support for the Nebraska Children Youth Advisory Board. This group serves as a citizen review panel that provides recommendations to the Department of Health and Human Services to improve its child welfare policy and practices. One of their priorities is to use their lived experience to advocate for changes in the foster care system to set up for a better path for others that follow them. Our Youth Advisory Board members identified this Bill of

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Rights for Youth in Foster Care as a priority several times over the last decade. They would like a more detailed expansion of these rights available to young people to improve their awareness of their rights when placed in foster care. As you heard, when Senator Hunt worked to write this bill with-- that she worked with our youth leadership chapters in Omaha, Lincoln and Fremont to hear their voices and concerns and how we could work to better to ensure their voices were heard and what rights were most important to them. It should be noted that this bill did not start from scratch. The journey today-- to today began in 2003 with the Governor's Youth Advisory Council, which was also under the Nebraska children umbrella. That group helped the adoption of LR76 in 2005, which is included in the-- in the last page of the packet you received, to lay out 11 rights that young people in foster care should have. However, only seven of those rights are guaranteed by law: the right to be protected from physical, sexual, verbal and emotional abuse; to services to help youth and their families; to live in a safe, healthy home with adequate food and clothing; to have a placement plan that is in their best interest, that will help them to get a permanent placement as soon as possible; to receive notice of hearings about their case; to receive medical and dental use-- treatment of services when necessary to attend school. So currently these are housed in DHHS policy. They include the light-- rights previously listed and maintain sibling connections, as well as others. Another essential part of this bill establishes the grievance prov-- process to report violations, allowing young people to-- to re-- report any violation is a central part of the enforcement. Our system review panel worked with the department to enhance this process and allow online submissions. Enshrining the rights of the youth in the care may-- may not be a novel idea. As was detailed earlier, it's been introduced in several other states. Both myself and members of the Nebraska Children and Youth Advisory Board hope you advance this bill to protect the most vulnerable state-- youth in the state. We also disagree with the fiscal note. The limits, that is not established by this bill, nor is it changed for the caseload for case manager, so we do not feel like this bill would have much of a fiscal impact. It may require a few more grievances be-- to be reviewed, but nothing to the extreme. Thank you for your time and consideration.

**WAYNE:** Any questions from the committee? Senator Holdcroft.

**HOLDCROFT:** Thank you, Chairman Wayne. Can you tell me something more about the Nebraska Children and Families Foundation?

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**LINCOLN ARNEAL:** Yes. We are a nonprofit organization that works with communities for both parents and young people in the foster care system, to see families and communities thrive, to better-- better succeed at life in both parenting and growing up and youth people, so we work a lot with the juvenile justice youth, foster care youth, but also with parents.

**HOLDCROFT:** Across the state or--

**LINCOLN ARNEAL:** Across the state, yep, all 93 counties.

**HOLDCROFT:** Good. Thank you.

**WAYNE:** Any other questions from the committee? Seeing none, thanks for being here.

**LINCOLN ARNEAL:** Thank you for your time.

**WAYNE:** Next proponent. Welcome.

**CHLOE McSHANNON:** Good afternoon. Thank you for having me. My name is Chloe McShannon, C-h-l-o-e M-c-S-h-a-n-n-o-n. Today I am here in support of LB306 and all of it-- and all it has to offer our youth. With that being said, I'm just going to dive right in. This bill provides youth in care with a clear outline of what they should expect from their team. In addition, LB306 outlines rights and resources for youth in care, such as the right to have their voice heard in their case along with the right to reasonable visitation with biological relatives. It is so important for us to provide our Nebraska youth with the knowledge and resources necessary to not only be successful but also happy. Just because these children are in care does not mean that we should not be trying our absolute hardest to help them achieve happiness. Oh, I lost my thing. LB306 has some clearly outlined expectations, such as youth must be 14 years of age before the department is required to share this information. In addition, the department has 72 hours after the initial placement to share this information with said youth. I want to go a little bit further into what LB306 has to offer our youth. The Nebraska Youth in Care Bill of Rights would require the department to support family connections, facilitate joint sibling placement or visitation, as well as informing adopted youth on resources available for them after their adoption, in addition to requiring and providing training to the department employees regarding LB06 [SIC] and the youth's rights. As I mentioned before, LB306 would require the Department to facil-- facilitate joint sibling placement unless contrary to the safety or

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well-being of any of the siblings. Nebraska Revised Statute 43-1311.02 that is referenced in LB306 states that parties to the case, including child-- the child's siblings, may file motions for joint sibling placement, visitation or ongoing contact between siblings. I am bringing this up because, had I had access to this information as a youth, I would have been able to file this motion and I am confident that I would have, at the very least, received regular visitation with my siblings. Unfortunately, this information was not provided to her-- to me, and no one was required to provide that information either, so that has resulted in several years of little to no contact with my siblings. So with all that being said, I do want to conclude by returning to my initial statement. I am here in support of LB306. It is so important to show our Nebraska youth that we are on their side, that they have a voice and that they have rights. I truly believe that LB306 will change so many youth for the better, and I hope I was able to give useful insight as to why it is so important to our Nebraska youth. Is there any questions?

**WAYNE:** Any questions from the committee? Senator DeKay.

**DeKAY:** Good afternoon. Ms. McShannon. Are you representing yourself or you representing an organization or--

**CHLOE McSHANNON:** I would say I'm here on behalf of myself, as well as NCCFF as well. I work closely with them, but I am not an employee.

**DeKAY:** Thank you.

**CHLOE McSHANNON:** Yes.

**WAYNE:** Other questions from the committee? Seeing none, thank you for being here.

**CHLOE McSHANNON:** Thank you.

**WAYNE:** Next proponent, proponent.

**KAROLINA YODER:** Hello. My name is Karolina, K-a-r-o-l-i-n-a, Yoder, Y-o-d-e-r, and I am 23 years old and I am a member of the Nebraska Family and Children Foundation Youth Advisory Board. I am currently enrolled in college, pursuing a degree in human services, and I am part-time employed as a family support worker. To begin, I'll give a little more information to explain why I support LB306. LB306 and create a Youth in Care Bill of Rights for foster youth. While DHS currently informs foster youth of their basic rights per federal law and regulate-- and agency regulation, current and former foster youth

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have expressed that the information they received from DHHS about their-- about their rights when entering state care is inadequate and poorly retained. By creating a Nebraska Youth in Care Bill of Rights, LB306 will help ensure that youth in foster care system are well versed in the rights that they-- the rights they have during their time in foster care and that they know how to advocate for themselves. The bill would require that youth are expressly informed of their rights at regular intervals in a age-appropriate manner by their caseworker. I was removed from my family at the age of 14 due to truancy. At the core, I was under the care of a single mother and dealing with unknown medical issues since the age of nine. I spent some time in Boys Town, JDC and the foster care system before eventually leaving-- eventually leaving probation unsuccessfully, not graduating high school with my peers, and becoming homeless at 17. I was unconnected with resources, homeless, completely helpless and on the verge of suicide. Years later, I've been able to successfully advocate for myself. I received my high school diploma from the help of the HUB and their wonderful staff who have continued to help me as I transitioned into adulthood and find resources in our community to help myself get a stable job and become a contributing member of the community. My experience left me hopeless and numb, suffering from long-term medical conditions, slowly moving through the years of my childhood. I support LB306 because every child should be made aware of their rights and their abilities to advocate for themselves. There is no excuse for the amount of young adults leaving the system traumatized and unconnected and unaware of their rights.

**WAYNE:** Thank you. Any questions from the committee? Senator Holdcroft.

**HOLDCROFT:** Thank you, Chairman Wayne. Thank you for your testimony. Can you tell me a little bit more about the Youth Advisory Board? How does that work?

**KAROLINA YODER:** So it's through Nebraska Children and Family Foundation, and we are, I guess, independent contractors, and they ask us to have monthly meetings about different causes in our community that we are passionate about and how we can, I guess, just better change the different systems that we've all been involved with.

**HOLDCROFT:** OK. Thank you.

**WAYNE:** Any other questions from the committee? Seeing none, thank you for being here. Any other-- thank you. Any other proponents?



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**PAYNE ACKERMAN:** Good afternoon.

**WAYNE:** Welcome.

**PAYNE ACKERMAN:** Oh, you ready?

**WAYNE:** Go ahead.

**PAYNE ACKERMAN:** Good afternoon, Senator Wayne and committee members. My name is Payne Ackerman, P-a-y-n-e A-c-k-e-r-m-a-n, and I am the co-chair of the Strengthening Families Act Committee for the Nebraska Children's Commission, or "Commission." On behalf of the Commission, I am testifying in support of LB306. The Commission was created in 2012 following an extensive legislative resolution and Health and Human Services Committee investigation of Nebraska's child welfare and juvenile justice systems. It was created to provide a permanent leadership forum for the collaboration of child welfare and juvenile justice. The Strengthening Families Act Committee, "SFA Committee," is one of five statutory committees which fall under the umbrella of the Commission. The Commission provides three-branch leadership and community resource expertise to support transparent policy change at the state level. The Commission also provides staff and support to the SFA Committee to help fulfill its statutory requirements. The SFA Committee identified three priorities to guide its work: (1) to continue to monitor the implementation of the Federal Strengthening Families Act; (2) to promote normalcy as a foundation to preventing trafficking, addressing disparate impacts on minorities, and supporting the successful transition to adulthood; (3) to coordinate implementation with other policy-making bodies. The collaboration of expert resources, young adults, state and community representatives serving on the SFA Committee and the Commission have led to many significant improvements in the system. Through su-- through subcommittee work, strengthening youth rights has been a priority of the Committee since 2016 with the implementation of the Nebraska Strengthening Families Act. The Nebraska Strengthening Families Act established basic rights for youth in foster care. These protections are essential to emphasizing the importance of youth voice and engagement. LB306 builds upon the progress made towards normalcy for youth in Nebraska by providing a multi-disciplinary system to ensure youth rights are protected and their voices are heard. Two key components to the success of a Youth Bill of Rights are youth engagement and collaboration among professionals. When we take the time to build relationships with youth and explain the system process, we increase engagement. When youths are engaged and informed, we strengthen their self-efficacy and cultivate trust. They

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have a seat at the table where decisions are made and are a member of the team instead of being the subject of team discussions. According to an Annie Casey report focused on partnering with young people, when young people are authentically engaged, they should feel heard, respected, valued, trusted, appreciated, safe and comfortable. In another report on youth engagement, the Annie Casey Foundation concluded: Youth-adult partnership were universally reported as successful across research sites. In addition to-- in addition, youth empowerment agency and voices were seen as successes benefiting both youth as they transition, and policy and practice. Youth voice and engagement, along with the collaboration of stakeholders, will be key in the long-term success of strengthening youth rights in Nebraska. Implementation must be thoroughly carried out with youth and system partners at the table. The SFA Committee and the Commission are committed to providing ongoing support for youth rights in Nebraska. In summary, the SFA Committee and Commission support the overarching concept of codifying a bill of rights for youth. Others testifying today in specific capacities may have a piece-- may have pieces of the bill that will impact them differently. We are open to hosting continued discussion regarding this work. Thank you, Senator Hunt and the Judiciary Committee, for your leadership and work on behalf of youth in Nebraska. On behalf of the Commission, I urge you to support LB306.

**DeBOER:** Thank you very much. Are there any questions for this testifier? I do not see any. Thank you so much for being here.

**PAYNE ACKERMAN:** Thank you, guys.

**DeBOER:** Let's have our next proponent testifier. Welcome to your Judiciary Committee.

**ALLISON DERR:** Good afternoon. My name is Allison Derr, A-l-l-i-s-o-n D-e-r-r-, and I'm an attorney with Nebraska Appleseed, which is a legal advocacy organization that fights for justice and opportunity for all Nebraskans. I want to note, before I start, my colleague, Schalisha Walker, was intending to testify today, but was unable to make it because of the weather, so I'm here just to read her testimony for the record. Nebraska Appleseed believes all youth deserve to be treated with dignity and respect and have their voice heard and have honest communication and information provided to them to help understand their rights within the system in which they're involved. In 2016, the Nebraska Legislature passed the Nebraska Strengthening Families Act, which required youth in foster family homes and childcare institutions to be notified of their rights

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pertaining to a number of services beginning at the age of 14. But through a number of surveys and focus groups with young people formerly in foster care, we learned that, in practice, youth in the system have not been notified of their rights, do not feel they understand them well enough to advocate for themselves or to seek assistance. Additionally, in 2020, in partnership with Senator McKinney, we hosted town halls for communities that have had experience with the foster care system, and the same frustration with lack of knowledge of families' rights resurfaced. Families and communities already have a deep mistrust of the child welfare system: based on interactions they have expressed, left them confused, overwhelmed and in many cases traumatized. This Youth in Care Bill of Rights was created with the input of over 50 advocates with lived experience in Nebraska's foster care and juvenile justice systems, and would help empower youth in care. Specifically, the Bill of Rights is a list of rights, most of which already exist in state and federal law that apply to youth in both out-of-home care and juvenile justice systems. These rights include: constitutional rights; rights related to accessing services and supports; rights related to equity for all youth to be free from discrimination; rights of pregnant and parenting youth and the ability to make informed decisions for their own children; rights specific to youth and their foster care cases, such as retaining and supporting sibling relationships; and finally, the right to have their financial assets protected and free from financial identity and theft. We want to thank Senator Hunt for introducing LB306 and believe the rights of system-involved young people should be upheld, and we strongly support the advancement of the Youth in Care Bill of Rights. Thank you for your time and consideration.

**DeBOER:** Thank you so much. Are there any questions for this testifier? I do not see any. Thank you so much for being here. Next proponent. Is there anyone else here who would like to testify in favor of this bill? Let's switch to opponents. Anyone here to testify in opposition to the bill?

**ALGER STUDSTILL:** Good afternoon, Senator DeBoer, Vice Chairwoman, and members of the Judiciary Committee. My name is Dr. Alger Studstill, A-l-g-e-r S-t-u-d-s-t-i-l-l. I am the deputy director responsible for child welfare operations for the Division of Children and Family Services within the Department of Health and Human Services. I am here to testify in opposition to LB306, which creates the Nebraska Youth in Care Bill of Rights. We appreciate that in the past Senator Hunt has met with DHHS and worked on amendments to her bill. We recognize that the green copy of the bill incorporates amendments

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from prior years. This language, while stronger-- stronger, does not fully address concerns we had in the past. DHHS is willing to continue to work with Senator Hunt or the committee on a possible amendment. In fact, we understand that she is working on one now. My testimony today is based on the green copy. The team at DHHS strongly supports youth rights. In 2016, DHHS established the Foster Care Bill of Rights with the passing of the Nebraska Strengthening Families Act. This has been distributed for your convenience. DHHS provides this Bill of Rights to all youth in care who are 14 and older within 72 hours of placement and before every review hearing. In addition to the department's responsibility to administer the Bill of Rights, public health regulations also make child-placing agencies responsible for establishing a bill of rights for all children in care. Keeping children safe is one of the department's top priorities. DHHS takes measures to protect youth from further adverse experiences; however, there are situations that happen outside of the department's control. Currently, youth can file a grievance with DHHS or their supporting agency at any time. DHHS has a team of advocates who respond to those grievances. As written, LB306 allows youth to file a grievance with DHHS when their issue is with a third party, perhaps the court, their guardian ad litem, or even their school. DHHS would be unable to address the de-- the grievance related to third parties. In addition, since caseload standards were implemented in 2012, the number of youth served has increased significantly. In 2012, DHHS served over 6,200 young people-- in 2020-- '12-- in 2022, this number increased to 15,346. While there has been a decrease in the amount of children in out-of-home care, alternative response cases have significantly increased. Given these considerations, DHHS respectfully requests that the committee not advance this bill. Thank you for the opportunity to testify today and I'd be happy to answer any questions.

**DeBOER:** Are there questions for this testifier? Senator Ibach. Oh.

**HOLDCROFT:** No, no. It's fine.

**DeBOER:** Senator Ibach.

**IBACH:** Thank you, Ms. Vice Chair. So do you feel like this is a duplication of what you already do?

**ALGER STUDSTILL:** Yes, ma'am. As written, we've looked at the crosswalk. There are several elements in our Bill of Rights that currently exist that are not included in the legislation and, as written, the legislation actually does not have the level of

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intensity, so it does not specify that these Bill of Rights are provided at every hearing. Our current operation is that they are to be provided to the youth and explained and signed before every hearing. Is there opportunity to further train our staff on this process and ensure that that's happening? Absolutely. With turnover and with new workforce coming in and out, and there's a lot of policies both by statute and internally, there's a lot to ensure a caseworker is complete. But we have set up a new family advocacy unit that is helping our staff and ensuring that we're engaging not only our young people, but also families in our care, to ensure that these Bill of Rights are being provided, but also being explained because you can provide a document, but there also has to be a level of explanation and advocacy that goes along with it.

**IBACH:** OK, great. Thank you very much. Thank you.

**WAYNE:** Senator Holdcroft.

**HOLDCROFT:** Thank you, Chairman Wayne. I'm just a little confused by the one paragraph here where you talk about, under LB306, it allows youth-- the youth to file a grievance with DHHS when there's an issue with a third party, but then the next sentence, you said DHHS would be unable to address a grievance related to third parties. Why? Why is that?

**ALGER STUDSTILL:** Absolutely. Thank you, Senator, for the question. So whenever a grievance is filed and it's on a department employee, there's a process internally for that to be addressed. And if something has been violated, there's the opportunity to have some type of disciplinary course of reaction or the ability for us to reassign a case if something's happened that's been inappropriate. The way LB306 is currently written, the young person would be able to file a grievance with their guardian ad litem if something doesn't happen the way it should. The department does not have any type of control or scope of authority over the guardian ad litem, and so our concern is that if the young person brought this to our attention, because we don't have the guardian ad litem under our scope of authority, we're not able to fully address their concern or bring resolution to that concern because it falls outside of the department's scope of authority.

**HOLDCROFT:** OK. Thank you.

**WAYNE:** Thank you. I'm trying to figure out the difference in the fiscal notes from last-- two years ago and this year. The fiscal note

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two years ago was zero and this year there's like \$3 million. I-- I don't understand. Can you explain the difference?

**ALGER STUDSTILL:** Absolutely. Thank you, Chairman Wayne. Two years ago, when LB357 was proposed, at that given time, while the language in this bill is the same, there were a few factors that were in effect, one being there were such a high number of vacancies that, had those vacancies been filled at their time, there was no need to request additional staffing. Also, at that time, ESS-- ESA case management was still privatized. When the privatization of case management in the Omaha area ended, that allowed for-- or that caused our caseload compliance to change drastically. So given that change and given the requirements in this bill, we currently have over 80 va-- 80 vacancies, and so the fiscal note is requesting an additional 20 so that we would be able to staff to full compliance in order to meet the caseload requirements in statute.

**WAYNE:** How many vacancies do you have now?

**ALGER STUDSTILL:** As of earlier this month, our current vacancies are exactly 85, but I want to make sure that--

**WAYNE:** So--

**ALGER STUDSTILL:** --that is correct.

**WAYNE:** --those 85, how many of those are the 20 that you would need?

**ALGER STUDSTILL:** So those 20 are in addition to the 85, so we are requesting new positions.

**WAYNE:** So you can't do it with the current positions?

**ALGER STUDSTILL:** No, sir, and not to remain in compliance. The bill that created caseload compliance in 2012 was based off of the fact that at that time accepted intakes was only around 6,200. As of 2022, we've received well over 16,000 intakes, so caseloads have continued to rise. However, statute, as it is now, does not allow for the increase of FTEs to match that capacity.

**WAYNE:** So what are your caseloads right now?

**ALGER STUDSTILL:** As of December '22, given the fact that we have moved ESA back under the department, we're sitting at about 69 to 70 percent compliance with the statute, which means there's 30 percent

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of our workforce that's out of compliance, and a large part of that is because of the vacancies that we have.

**WAYNE:** So what's your plan to close the vacancies?

**ALGER STUDSTILL:** The department has several things in place. We've done a great job in recruiting. However, with a 2 percent unemployment rate, being able to attract a workforce that understands this work, this is hard work in human services and in child welfare, and when an individual is able to go and make the same amount of money and not be on call, not work weekends, not work holidays, it is hard to recruit. And so in 2021, our CFS frontline workers, our supervisors received a 20 percent increase, thanks to the work of Governor Ricketts and his administration, and so we're continuing to advocate not only for increase in-- in wages, but we're looking at how are we able to recruit. So we are recruiting at colleges, we are recruiting in surrounding states, but once again, it is a very hard role to recruit for, given the level of stress that comes with it.

**WAYNE:** So these form and Bill of Rights you're handing out now, is that part of a reg or is-- where-- where is that at right now?

**ALGER STUDSTILL:** The Youth Bill of Rights, that was-- when the bill passed in 2016, we implemented our Bill of Rights. And so some things are provided by statute, such as sibling visitation, but this is a policy of the department, which means that we are able to work with constituents, young people, to amend this, because this is a department-driven document, which allows for us to amend these Bill of Rights without the need for statutory language.

**WAYNE:** So are you working right now? Is there anything on the horizon to amend the Bill of Rights? Are you working on anything right now?

**ALGER STUDSTILL:** Nothing in the works now. However, what I will say is, thanks to the legislative session that passed this past year, LB1173 required the department, as well as the other two branches of government, to bring in a consultant to relook or re-imagine our child welfare workforce. And so by December of this year, that consulting group is required to submit a practice model recommendation to this Legislature in regards to recommendations. And so it's our hope that in that work, because the consultant is engaging young people, parents, that the practice model will incorporate not only feedback but will advise what policies, both internal and statute, that need to be revised.

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**WAYNE:** OK, you said 30 right now are out of compliance. What-- give me a-- what does that 30 percent translate to? How many people? How many kids? What's the caseload?

**ALGER STUDSTILL:** I will have to follow up to give you specifics. We have about 300 staff of actual case managers, not counting vacancies. Around 100 of them are out of compliance. As to the number of children, we would have to do that math and provide that back to the committee as to the number of kids that that out of compliance represents.

**WAYNE:** OK, so you serve-- in 2020-- in 2012, you served 6,000 youth; in 2022, you served 15,346 youth. You have 300 staff?

**ALGER STUDSTILL:** Currently, yes, sir.

**WAYNE:** Out that 300, 100 are out of compliant [SIC]?

**ALGER STUDSTILL:** Yes.

**WAYNE:** What does that out-of-compliant number-- what is the out-of-compliant number? So is it 5 kids over, 100 kids over, 100 cases over, 2,000 cases over?

**ALGER STUDSTILL:** Because the way the caseload is calculated in the statute, there's a mix. Staff can be carrying out-of-home kids, in-home kids, as well as initial assessment, which is why I've indicated I would have to get the exact number to provide. I don't have that today.

**WAYNE:** I also want to know, out of the 30 percent, how far out of compliance are they?

**ALGER STUDSTILL:** OK. We'll be able to follow up with that information.

**WAYNE:** You don't-- you don't know that right now?

**ALGER STUDSTILL:** No, sir.

**WAYNE:** So 300-- that's 500 kids, 500 cases per-- is that right? What's 300 divided by [INAUDIBLE]

**ALGER STUDSTILL:** So the complicating is, based off of how the statute is written, some cases are counted by family and some cases are counted by children, based off of how the Legislature wrote the



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statute in 2012, which is why, to understand the exact number, we have to go back and dig in to understand which cases are out of compliance, because they're calculated differently based on the statute.

**WAYNE:** You didn't think that'd be a question we would ask?

**ALGER STUDSTILL:** I apologize. And like I said earlier, we'll be able to follow up with the information.

**WAYNE:** Thank you. Any other questions? Senator DeBoer.

**DeBOER:** So-- thank you, Senator Wayne, and thank you for being here, Doctor. I understand there are some regs being proposed right now that will drastically change this whole situation. Can you speak to those regulation proposals?

**ALGER STUDSTILL:** I am unable to speak to that, but I can find out and provide a response. Do you know which regs in particular?

**DeBOER:** I'm-- I'm told that you're getting-- that you have rates that would get rid of any direction to agency staff, so, yeah, do you know anything about that?

**ALGER STUDSTILL:** I'm unaware. However, large department, I would be glad to follow up and make sure we get a response.

**DeBOER:** OK. That would be good. And, you know, we heard from these young people here who said they didn't know their rights. So at the bottom of this is we want the young people to know their rights. You say that your folks are doing it, but we have several here who are saying it's not working.

**ALGER STUDSTILL:** Right.

**DeBOER:** So we need some other way. Here's another way. Do you have any objection with trying to do another way to get them to have actual knowledge of their-- I mean, I assume that the department does not have any problem with the youth knowing their rights.

**ALGER STUDSTILL:** Absolutely, and that was part of the testimony, is we already have a Bill of Rights, several of which are included in the bill. And so whether it's the Bill of Rights that's currently written or a statute, that also doesn't get to the root cause of the young person, ensuring that they're aware of it. So the piece that needs to be addressed is, how do the young people want to receive it,

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what does that look like, and I believe that's where the partnering happens with NCFE, as well as our family advocacy team, to figure out how do we educate our young people on their rights. Just because it's in statute doesn't ensure that they receive it. But we've got to make sure we're providing it in ways that are meaningful to them, whether that's the creation of a video, whether that's some type of social media campaign. We've got to be creative in our work, and we would love to partner with any community agency to help us figure out how we do that so that it's not just the worker providing the education, but there are multiple community agencies and advocate-- and advocacy groups that are also providing the same information.

**DeBOER:** Those sound like good ideas. Did you start trying any of those five years ago when Senator Hunt first brought this bill?

**ALGER STUDSTILL:** I can't speak to what was done five years ago. I wasn't here at that time, but I know in this work the last two years, we created the family advocacy unit because of feedback from our individuals with lived experience. We've hired individuals with lived experience, and our goal has been to transform how we do the work of child welfare in this state. And we've made great strides over the last 2 to 3 years.

**DeBOER:** OK. Thank you.

**WAYNE:** So if we pass this bill, are you going to implement it?

**ALGER STUDSTILL:** The department will follow whatever statute's implemented.

**WAYNE:** But I don't understand why you're negative.

**ALGER STUDSTILL:** The opposition was in regards to caseload mandate, as well as the requirement for grievances to be filed. That's beyond the scope of authority for the department to address.

**WAYNE:** But if we implement it, you're going to follow the law, so does a-- does the position matter from your agency?

**ALGER STUDSTILL:** The department is here speaking on the bill as is written. What the-- what action is taken beyond this point, the department can't speak to.

**WAYNE:** I would request the department to come in neutral moving forward. That'll be my feedback to you. Otherwise, we'll pass a statute, I think, to do that, just to be direct. So if you could pass

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that feedback up, that would be great for me. Thank you. Any other questions from the committee? Thank you for being here. Next opponent. Opponent. Welcome.

**MARION MINER:** Thank you. Good afternoon, Chairman Wayne and members of the Judiciary Committee. My name is Marion Minor, M-a-r-i-o-n M-i-n-e-r. I'm associate director of pro-life and family policy for the Nebraska Catholic Conference, which advocates for the public policy interests of the Catholic Church and advances the gospel of life through engaging, educating and empowering public officials, Catholic laity, and the general public. As written and understood by the Conference, we oppose LB306. So Section 1, sub (2) of the bill lays out the state of Nebraska shall aspire to do much that with respect to children in foster care homes and in other placements is certainly commendable. There's certainly much there that we agree wholeheartedly with. The problems from our perspective lie in the application of those aspirations into policy, especially where there are potential conflicts. LB306 purports to codify a number of rights that already exist under federal and state law, but it makes additions that, to our reading, are vague, in some cases confusing and potentially not in the best interest of a child in foster care or their biological or foster families. So I'll focus only on what elements of the bill causes the most concern. Section 1(4)(a) states that each child shall be permitted to attend religious services and activities of such child's choice, to be balanced with the countervailing rights of the child's biological parents. It's not clear to us what that means or how the state or the foster family is to resolve a situation in which these rights collide. References to the First and 14th Amendments, here as elsewhere in the bill, fair--fail to clarify. What it means for the state to ensure that each child is free from discrimination on the basis of gender identity or sexual orientation, as required by Section 1(4)(f), is also unclear to the extent that involves inquiring into a foster family's religious beliefs to ascertain their position on questions with regard to these potential protected classes and how that bears on their eligibility to participate in the foster program raises questions about conflicts with the First Amendment. And next, the requirement under Section 1(4)(o) that the state ensure each child has access to and information on the right to consent to various forms of medical intervention, again, to be balanced with the countervailing rights of the biological parents, may in many cases unnecessarily pit the child against the family and raises questions regarding medical intervention the family considers immoral or unnecessary. This would include, but certainly not be limited to,

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contraception, abortion, and so-called gender-affirming care with all that entails. So these are some of the concerns the Conference has with the bill. That's a short summary of its most pressing shortcomings from our perspective. And for that reason, as written and without those concerns being addressed, we will oppose LB306. Thank you, and I'm happy to take questions, if you have any.

**WAYNE:** Any questions from the committee? I'm slightly confused. Are you-- are you sure-- are you familiar with who-- what kids are in the foster care system?

**MARION MINER:** Could you expand on that a little bit?

**WAYNE:** Are you-- are you-- are you familiar with what care-- kids are-- children are in the foster care system?

**MARION MINER:** I'm not sure how to answer that question.

**WAYNE:** Well, many of them still have-- their parents still have plenty of parental rights.

**MARION MINER:** Um-hum.

**WAYNE:** So-- so your-- your objection is kind of-- like your first objection, Section 4 or-- Section 4, balanced with the counter-- countervailing rights of the child's biological parents.

**MARION MINER:** Um-hum.

**WAYNE:** They shouldn't try to balance those with the parents'?

**MARION MINER:** That makes sense. We're-- I'm just-- so what does that look like in application? So if-- if a child has certain rights, right, which then are to be balanced against the rights of-- so what-- what happens when those rights come into conflict? So those rights both exist. If a child is asserting some rights and the biological family is against-- is trying to assert its own rights that are in opposition to what the child is asserting, what happens in that circumstance?

**WAYNE:** Well, I think, as long as they have their parental rights, the-- that their parental rights control.

**MARION MINER:** That would make sense.

**WAYNE:** Well, that's case law.

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**MARION MINER:** That would make sense to me. I'm just-- I'm-- I'm trying to understand-- I don't understand how in the creation, then, of a new statute which asserts rights that the state has to respect with regard to the youth, does that-- does that still-- does that understanding still control?

**WAYNE:** Well, yes, it's federal case law, like if you had-- if you're-- if you're the parent, you-- and your rights haven't been terminated, your-- your rights prevail, unless a court order says not-- that it doesn't. I mean, that-- that's-- so I didn't understand that. I mean, the rest of them, I just-- again-- never mind. It just raises-- your testimony raises more confusion because I've seen you guys testify in years of-- of something that's way more vague than this than what you're in favor of. So I'm-- I'm just confused but that's OK. I'll let it go--

**MARION MINER:** I-- I may--

**WAYNE:** --for the purposes of me getting home in the snow.

**MARION MINER:** I'm sorry. If--

**WAYNE:** It's not that big of a deal.

**MARION MINER:** If I-- if I may--

**WAYNE:** Go ahead.

**MARION MINER:** --Senator. I may follow up with you or others, if it would be helpful to see, to clarify some of this stuff, because if-- if these-- if these concerns are-- if those gaps are filled in by case law, of which I'm not aware, then, you know, perhaps that resolves those concerns.

**WAYNE:** It's just interesting that your-- the organization wants parental rights to govern everything from education to everything else, but when kids are in the foster care, you-- you don't want their biological rights to-- to go-- parental rights to govern.

**MARION MINER:** No. In fact, it's the opposite. And what we're talking about is a potential conflict between rights asserted by the child and rights asserted by the biological family--

**WAYNE:** OK.

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**MARION MINER:** --whose-- whose rights control in that situation. And perhaps-- perhaps it's clear, based on case law of which I'm not aware, that the biological family's rights are going to control regardless. That's what I'm seeking clarity on.

**WAYNE:** Thank you. Any questions? Thank you for being here.

**MARION MINER:** Thank you.

**WAYNE:** Next opponent. Next opponent. Seeing none, anybody testifying in the neutral capacity, neutral capacity? Seeing none, that'll close the hearing on-- we have-- sorry, won't close. We have eight letters, six in support, two in opposition. That'll close the hearing on LB306 and open the hearing on LB34. Welcome to your Judiciary Committee, Senator Dungan.

**DUNGAN:** Good afternoon, Chair Wayne and members of the Judiciary Committee. I'm Senator George Dungan, G-e-o-r-g-e D-u-n-g-a-n. I represent the people of northeast Lincoln in Legislative District 26, and today I'm introducing LB34. LB34 would create a presumption for sentencing to provide that children who are prosecuted as adults should, nonetheless, be subject to the rehabilitative services of the juvenile courts. Current law provides district court judges with the option to impose a juvenile disposition order for children offenders who were less than 18 years of age when the alleged offense occurred, but who are prosecuted and convicted in adult court. Even though these children are charged and convicted as adults, the current law, specifically Section 29-2204, gives judges the option to impose a disposition pursuant to the juvenile code. LB34 would modify this current provision to establish a presumption that, for juveniles who are charged and convicted as adults, the court shall impose a dispositional order pursuant to the juvenile code. However, this presumption would not apply to any case in which the defendant is facing a sentence for which a crime is punishable by a term of life or is required by law; also, the defendant has been deemed a habitual criminal; or the court finds that there are substantial and compelling reasons why such disposition cannot effectively and safely be made for the defendant youth. Let me say that last part again. It does not apply in situations where the court finds that there are substantial and compelling reasons why such disposition cannot effectively and safely be made for the defendant. LB34 provides a number of factors that help guide judges' decisions and directed that judges are to state their reasoning on the record if they do not make a disposition under the juvenile code. We do have an amendment that I don't have a copy of yet that I will get to you moving forward. DHHS

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approached me relatively recently and they had-- they've expressing concerns, the main concern being that a youth who was over the age of 19, if this section were applied to them, they wanted to make sure that that youth who was over the age of 19 could not be placed in the Youth Rehabilitation and Treatment Center in Kearney. YRTC is not equipped to deal with people who are above the age minority. It's not necessarily good for the other kids who are there trying to benefit from those rehabilitative services. When DHHS came to me, I had no issue with that. I agree with them that the YRTC is not an appropriate place for somebody who's over the age of 19, so we're going to bring an amendment that mirrors other language in the juvenile code to make it clear that you can't be placed in the YRTC if this is used and you're over 19. Beyond that, I would just urge the committee to consider this bill, and I'm happy to answer any questions anybody might have.

**WAYNE:** Any questions from the committee? Seeing none, thank you for being here. We'll start with proponents, proponents, proponents.

**SPIKE EICKHOLT:** Good afternoon, Chair Wayne and members of the committee. My name is Spike Eickholt, S-p-i-k-e; last name is E-i-c-k-h-o-l-t. I'm appearing on behalf of the Nebraska Criminal Defense Attorneys Association and Voices for Children in Nebraska. We want to thank Senator Dungan for introducing the bill. As Senator Dungan explained, what this bill does is it makes a modification to a current law. There's a current statute, and if you want to look at the portion of the bill that amends the current law, it's on page 5, lines 23 through 28, and what it does is it provides for an opportunity and it requires, if you will, a district court judge, when they are sentencing a juvenile who is convicted as an adult, to at least first consider imposing a sentence as if that juvenile was in a juvenile court proceeding instead of the adult court proceeding. Right now, if a judge wants to, the judge can. I'll tell you, as a matter of practice, it doesn't happen that much, and what this would do is sort of frontload that consideration so that when the judge is considering sentencing of the youth, they at least consider an opportunity to sentence that youth in a juvenile court. You remember when we talked yesterday about juvenile transfer hearings. This would be something that would come into play here. These are for situations with a-- a youth who's under 18 is charged as an adult. They've lost their right-- or they lost the argument, if you will, to transfer the case to juvenile court. But then maybe a few months later, five, six months later, when the case has been resolved, either through a plea or at trial, this gives the judge an opportunity to reconsider that decision the judge made earlier. The judge does not have to. As

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Senator Dungan explained, there are some offenses where this is not going to be even applicable: if it's a serious offense involving life imprisonment, if the youth is an habitual offender, or if the court finds substantial and compelling reasons why such a disposition cannot effectively and safely be made for the defendant and the community. And it references the current factors that are in Section 43-276, which are the very same factors the court considered when contemplating whether to transfer it to juvenile court. So it's meant to basically be a second chance, if you will, for the courts to do it. They don't have to. If they don't do it, then the court can impose whatever kind of sentence it was. And I'll just tell you that what this does, sometimes there are things that come up in the-- in the prog-- in the progression of a case. The judge maybe has a more complete appreciation for the youth's role in the case than they had when they were first considering the motion to transfer because, remember, it's gotta be filed just a couple of weeks after the case is filed in the district court. There are some things that come up that the ju-- the judge didn't appreciate at the time or that the lawyers for the youth didn't understand, but this will give a chance to reargue that. We'd encourage the committee to consider the bill, and I'll answer any questions if you have any.

**WAYNE:** Questions from the committee? Senator Holdcroft, followed by Senator DeBoer.

**HOLDCROFT:** Thank you, Chairman Wayne. And again, I-- I'm not a lawyer, obviously, and so I'm not real familiar with the-- with the crime-- with the juvenile versus the adult sentences. Can you give me an idea of what the maximum sentence would be in the juvenile court?

**SPIKE EICKHOLT:** The juvenile court is a little different. They look at it differently. If you are adjudicated or found guilty of a juvenile--, of a law violation in juvenile court, the sentence really doesn't matter necessarily relating to the crime. It can-- what you are in the juvenile court system is you are under the jurisdiction of the juvenile court judge, you are sentenced to probation. That can include lots of different things. It can include worst-case scenario placement at the YRTC's in either Kearney or in Geneva-- or not in Geneva, Hastings. It can include places like that. It can include placement outside the home, and it can last indefinitely. It can be for a relatively minor charge. It can be for just an MIP, a minor misdemeanor charge, or even an infraction-level type of offense. It can end up getting a youth involved. Even for a serious charge, it can be something like that. It can be placement at the YRTC's, that kind of thing. If it's an adult, it could be jail, prison, probation,



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fine, anything else that would apply. The juvenile court system looks at rehabilitation to do things sort of in the best interest of the youth. The idea is not necessarily to punish. The adult court system does have rehabilitation, but it's also got the punishment there. It's got the hammer first and then reform. I don't know if that was responsive, but that's-- that's what would happen.

**HOLDCROFT:** Well, thank you very much.

**WAYNE:** Senator DeBoer.

**DeBOER:** Thank you. So essentially now a judge could do this?

**SPIKE EICKHOLT:** That's right.

**DeBOER:** They could say, OK, we've gone through the trial, oh, that was an enlightening experience, we now understand that the juvenile had a different sort of role than we thought when we had the transfer hearing, OK, well, we did it in adult court, oh, crap, we wish we didn't, I guess we'll sentence you to the juvenile detention center or to probation or to whatever--

**SPIKE EICKHOLT:** Right.

**DeBOER:** --would have been appropriate had it gone to juvenile court.

**SPIKE EICKHOLT:** That's right.

**DeBOER:** OK. And so what this bill does, then, if I'm understanding it correctly, is that it would just say to the judge, reminder, this is a thing that you could do, and how does that practically work?

**SPIKE EICKHOLT:** If the language is identical, the substantial and compelling reasons and the presumption that's-- if not identical, is very similar to what we have now for Class IV felony presumptive probation, where the court has to, if someone is found guilty of a Class IV felony, which is simple possession of drugs, generally, and minor theft offenses and maybe a few other things that are generally classified as nonviolent, that the judges are required to at least first consider probation. I'll tell you, as a practical matter, judges many times are very easy to-- to sort of overcome that presumption. But that's the way it should work. It is-- it does exist now, but if you argue it, there's no clear mechanism for when you raise it. In other words, you can argue it at the time of sentencing. When you're giving the allocution to the court, you maybe submit materials and that sort of thing. And generally speaking, it's just

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one of the many factors that's just sort of considered under the umbrella of judge-- judicial discretion when imposing a sentence. This would at least have a step, if you will, the court should consider.

**DeBOER:** So this makes it a regular part of the practice that happens in the adjudication and sort of makes everything the same to kind of case by case--

**SPIKE EICKHOLT:** That's right.

**DeBOER:** --judge by judge. You've got it all the same. Everybody knows this is a part of the process.

**SPIKE EICKHOLT:** That's right, and this is only for def-- youth defendants who are under 18 that we're talking about, people charged-- juveniles charged as adults. That's right.

**DeBOER:** Well, I like it when we make things uniform, so thank you for bringing this.

**SPIKE EICKHOLT:** Thank you.

**DeBOER:** All right. Thank you.

**WAYNE:** Any other questions from the committee? I have a question. I had one. It'll pop to me when the prosecutors are talking. What was it? Oh, if-- so if they're opposed to-- so we have the motion right now for the first ten days, and that's problematic in-- in and of itself. How do you feel about-- and I'm gonna ask Senator on his closing too. How would you feel if we gave judges the authority on their own after a trial, after whatever, that they could file-- they could make their own motion on the court saying that they want to set a new hearing for transfer?

**SPIKE EICKHOLT:** That the judge could reconsider the original transfer hearing that they had--

**WAYNE:** Correct.

**SPIKE EICKHOLT:** --after that? I mean, that's sort of the intent of the presumption.

**WAYNE:** Well, the difference is underneath this, would they--

**SPIKE EICKHOLT:** It's kind of the intent of the bill.

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**WAYNE:** --still have a criminal record?

**SPIKE EICKHOLT:** Right.

**WAYNE:** If they transfer the juvenile and they successfully complete probation--

**SPIKE EICKHOLT:** Oh, that's true.

**WAYNE:** --it's sealed.

**SPIKE EICKHOLT:** That's-- that's a good point. That's a very important distinction. That'd be very good, actually, because, as you said, sometimes when you file the motion to transfer, it is just days afterwards. You don't have the-- you don't have the facts, you don't have the police reports, you don't have the body cam videos, you don't have all those things many times going into the transfer hearing, and neither does the court. And if I'm understanding the question right, that would give the court app-- an opportunity after maybe sitting through a three-day jury trial, thinking, wow, this kid's just really-- he's got some disadvantages. And then when they get the PSI, the pre-sentence report-- many times that's an evaluation that the probation office does when someone is found guilty-- then the court will have even more insight because, again, we can't do the evaluation beforehand because-- we talked about that the other day.

**WAYNE:** Right.

**SPIKE EICKHOLT:** That'd be very good, actually.

**WAYNE:** Thank you. Any other questions? Thank you for being here. Any other proponents? Any other proponents? We'll turn to opponents. Come on up. Welcome.

**RYAN LINDBERG:** Hello.

**WAYNE:** It's gonna be payback for that trial you beat me on. No, I'm joking.

**RYAN LINDBERG:** That's fair. [LAUGHTER] Good afternoon. My name is Ryan Lindberg, R-y-a-n L-i-n-d-b-e-r-g. I am a deputy Douglas County Attorney. I am here on behalf of the Nebraska County Attorneys Association, as well as the Douglas County Attorney's Office, in opposition to LB34. I think a quick background on how a case would get to this stage in the proceedings, a crime would have had to have

occurred. There would have had to have been a booking or an arrest by law enforcement. Law enforcement would have had to make a choice to charge someone as an adult. The county attorney's office, wherever it may be, would have also had to make a choice to charge that person as an adult. A juvenile obviously would have the right to have a juvenile transfer hearing held in front of a district court judge where generally, I would say, substantial evidence is put on, police reports are offered, juveniles are examined, live testimony is presented to courts, arguments are made by counsel, often probation officers may testify, a whole array of evidence is presented, and then a judge will make a decision on whether or not to transfer that case to juvenile court or retain jurisdiction. If jurisdiction is retained on a juvenile charged as an adult, the matter would either proceed through to a plea or have a trial and then come back for sentencing. Under the current law, the court, as was noted, can still sentence under the juvenile court if it deems that appropriate. The opposition here, I think what the bill does, really, is it-- it's more than a presumption. It essentially is taking away the discretion of the judge away and saying you shall sentence this person as a juvenile even after you've already heard essentially all of these elements. I know you can find substantial and compelling reasons, but I think it's-- it-- it goes beyond, you know, saying this is something you can do because that's what the current law already is. The cases I think you're generally seeing, too, where it is a juvenile who's been retained jurisdiction as an adult would be your most serious charges. This would not be minor charges, misdemeanors, things like that. I think the cases you're seeing and the cases we see in Douglas County that stay in adult court as juveniles are murders, kidnappings, sexual assault, felony assault with guns, use and discharge of firearms, and often cases that do contain and have mandatory minimum sentences. So I think the current law-- if the current law was that the court could not sentence under the juvenile code, I would agree that that is an option that-- that should be there, because I think there is some-- it is accurate that you may know more about a case after sentencing than you did at the time for a motion to transfer. But with all of that, I-- I do think that the statute is really not necessary and that is our opposition to it. And I would take questions.

**WAYNE:** Thank you. Senator-- Senator DeBoer.

**DeBOER:** So can you walk me through then, because-- what does this look like, practically speaking? If we-- if we pass this bill, the judge simply has to state what the judge's reasons are for not sending it back to juvenile court?

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**RYAN LINDBERG:** I think it's more complicated than that. The-- the bill says, or the proposed law says the court shall impose penalty under the juvenile court, and then the exception would be unless it makes a finding that there's substantial and compelling reasons, so I think you'd essentially have to redo the transfer hearing. So I'd be re-offering all my police reports. I might be putting on evidence from Probation as to why we can't, unfortunately, you know, often send a-- someone charged with first-degree murder to juvenile court, you know, why that-- that's not practical. So that's the way I would look at it. It would be-- it would essentially be redoing the transfer hearing you had just done.

**DeBOER:** Is it-- is it because of the finding language? That's what makes you think that there would have to be another hearing?

**RYAN LINDBERG:** Yeah, absolutely. I mean, I think you-- if I'm a prosecutor, I wouldn't just assume, hey, Judge, you know it's a bad idea, we had that hearing previously, you know, don't do it. I-- I think you'd have to put on substantive evidence, and I certainly would, based on the way the bill's written.

**DeBOER:** So if we change this language such that, and I don't know what this is but we work with whoever and figure that out, so-- such that it just says there is a presumption that the court will send it to juvenile court unless it deems it shall. I mean, is your idea that no matter what we do, if there's a presumption, you think there's got to be another hearing?

**RYAN LINDBERG:** Yeah, I think there's gotta be evidence presented. I mean, I guess the fact that currently the court can do that, right, that a court can sentence a juvenile if they--

**DeBOER:** Yeah

**RYAN LINDBERG:** --if they said-- even if it's I had a plea and we do a PSI and you find out, man, this person had a really rough upbringing, I don't want them to be sentenced as an adult, have a felony conviction in that way, you know, yeah, that option's there. So, I mean, I just feel like there's not really a problem. Now, here, you're just creating another transfer hearing and saying the court shall transfer to juvenile court unless you have another transfer hearing and, you know, find it's not appropriate. So I guess there's--

**DeBOER:** What about--

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**RYAN LINDBERG:** I don't know what the problem is that we're maybe trying to fix.

**DeBOER:** I think what we're-- I think my understanding is, is that we're trying to fix the problem of that that mechanism doesn't get used very much and-- I don't know. We'll have to ask the senator that. But what about Senator Wayne's idea? How do you all feel about a mechanism where the court, sua sponte, can send it back?

**RYAN LINDBERG:** I don't know if I totally understand when in the proceeding that would happen. I-- I did hear your question. I mean, once someone's been sentenced, the case is complete and the court loses jurisdiction to resentence, you know, the lawyers would lose jurisdiction to file motions or have hearings on a--

\_\_\_\_\_ : Kind of.

**RYAN LINDBERG:** --case that's completed.

**DeBOER:** Well, I'm not going to answer for what I think his idea was, because that's too triangulation for me-- too much triangulation, but-- OK. I think-- think I understand your position. Thank you.

**RYAN LINDBERG:** OK.

**WAYNE:** Any other questions from the committee? So actually, I didn't even know this section of law existed until Judge Thompson, we were trying to figure out what to do with a kid after--

**RYAN LINDBERG:** Sure.

**WAYNE:** --the kid was denied. So that was interesting. After ten years of practice, I didn't realize. I guess I never paid attention. But what if we said if a sentence of-- a sentence under the juve-- well, first of all, his bill doesn't transfer it to juvenile court. It just-- you're punished under the juvenile code, which means probation. Let's-- let's be clear on what that means.

**RYAN LINDBERG:** Very limited. And then it would cease. I think-- I mean, the bill's a little unclear, even in the current form, but once someone turned 19, the-- the-- whatever sentence you've issued, I think, is over.

**WAYNE:** Well, that was the question that Honorable Thompson and I kept going back and forth is, do they still retain jurisdiction after 19

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based off of that? And I think that's something we can clean up with the statute too.

**RYAN LINDBERG:** Right.

**WAYNE:** But what if the sentence read, if a sentence underneath the juvenile code is not imposed, the court shall state their reasoning on the record, advise the defendant of his or her right to appeal the sentence, and impose a sentence as provided, any-- basically any other sentence. And the only reason why I'm taking-- that is the exact same language on-- on Class IV felonies.

**RYAN LINDBERG:** Right, that you're supposed to be advised on the record why you didn't get probation, you mean?

**WAYNE:** Correct. So all-- I think-- I think what he's looking for is-- is we want to-- if you're 18 and under, we want to start with the notion of probation, understanding that the purpose of juveniles-- you-- I mean, you know that. I ain't gonna--

**RYAN LINDBERG:** Yeah.

**WAYNE:** You've been around long enough in Douglas County. So if the idea is probation or the juvenile code, but the-- and we just took the language from the Class IV felonies, which is the si-- a similar presumption, there's no-- there-- we don't have special hearings on Class IV felonies. It's just the judge deems a person--

**RYAN LINDBERG:** Right, that's-- yeah, but I think that's different than, say, if a murder-- if a case that's-- you know, they're bringing a sentencing on, say, a murder--

**WAYNE:** Well--

**RYAN LINDBERG:** --we convicted a juvenile, right? I'm not going to--

**WAYNE:** Can't do murder underneath the statute because it's a life sentence.

**RYAN LINDBERG:** Well, I think juveniles can't be given life if they're young enough under the murder statute. So I wasn't sure if that cut out much; and if it's second-degree murder, it wouldn't be life.

**WAYNE:** Second-degree, true. So, no, I think there's some language in there. I guess he'll have to work with you all to figure it out. But I think if you do the presumption of probation of the Class IV

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felony, that that-- that eliminates the extra hearing and that might resolve some of your-- I'm just saying if-- I don't even know if judges are aware of this section of law.

**RYAN LINDBERG:** Right.

**WAYNE:** Right, like--

**RYAN LINDBERG:** Senator Wayne, I think you make a fair point that it's not widely used or maybe widely discussed. If the thought process was maybe to add something, you know, let's just say the-- we talk about the statute as written. You know, if you were to add that, you know, the-- essentially it reads now: the court may, instead of imposing the penalty provided for the crime, make such disposition of the defendant as the court deems proper under the Nebraska juvenile code.

**WAYNE:** Right.

**RYAN LINDBERG:** You know, if you could add, you know, if the court chooses not to, it shall advise, you know, the youth on the record why it's not appropriate to do the juvenile court, you know, something like that, I think, to bring attention for-- if it's for the judiciary--

**WAYNE:** Right.

**RYAN LINDBERG:** --or for counsel that that exists, that, to me, is sensible. But I think the current scheme is good in that the court does have the choice. And nobody likes to hear anecdotes, but I've even had a case where went through one, a transfer hearing, on a shooting case, did some depositions, went back through almost to trial, and then kind of came to realize the facts weren't what we thought they were and we ended up, you know, sort of re-opening the transfer hearing and sending the case to juvenile court with the understanding that was the best place for it to go. You know, whether or not that's entirely allowed under the law either, but I think there is some good wiggle room in the current law that you make it through a case and say it's-- it's not maybe exactly what we thought, that they can either be, in this scenario, at the time of sentencing still transferred-- or still sentenced under the juvenile code where it would be different.

**WAYNE:** Right. No, I understand.

**RYAN LINDBERG:** OK.



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**WAYNE:** OK. Any other questions from the-- sorry to bore you guys with lawyer talk.

**DeKAY:** I'm afraid to. [LAUGHTER]

**RYAN LINDBERG:** All right. Thank you for your time, everyone.

**WAYNE:** Thank you. Next opponent. DeKay was like, you guys are just talking a whole different world over there. [LAUGH] Any other opponents? Any other opponents? Anybody testifying in a neutral capacity? Welcome.

**BO BOTELHO:** Good afternoon, Chairman Wayne and members of the Judiciary Committee. My name is Bo Botelho, B-o B-o-t-e-l-h-o. I'm general counsel for the Department of Health and Human Services. I'm here to testify in neutral capacity for LB34. DHHS would first like to advise the committee that DHHS has brought its concerns to Senator Dungan and is working with the senator on an amendment to address the agency's concern. The senator alluded to that in his opening. I will now outline the agency's concerns with the bill as originally drafted. Currently, at the Youth Rehabilitation and Treatment Center, YRTCs, youth are discharged when they reach 19 years of age. This bill would change the definition of juvenile to include individuals who are sentenced in adult criminal court for a crime committed when the individual was under 18 years of age. This could include individuals-- individuals who have already reached or attained 19 years of age. Three primary factors need to be in place for a YRTC to be successful: physical structures, staffing and programming. The YRTCs do not currently have the structure, staffing, or programming necessary to accept individuals over the age of 19. The YRTCs can take youth as young as 14 years of age. It would be challenging to maintain the separation of younger individuals and those individuals above the age of 19, resulting in a very unsafe environment. DHHS's proposed amendment would prohibit criminal courts from committing individuals over the age of 19 to the YRTC, ensure individuals who are committed to a YRTC by a criminal court are discharged on or before the 19th birthday. It would not allow a criminal court to place an individual in the custody of DHHS Child Protective Services under these statutes. We, again, thank the senator for entertaining our concerns and his willingness to bring forward an amendment. DHHS respectfully requests that the Judiciary Committee take these concerns into consideration when deciding whether to advance LB34. Thank you, and I'm happy to answer any questions.

**WAYNE:** Any questions? Senator DeBoer.

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**DeBOER:** Mine isn't a question. I wanted to thank you for coming in in neutral because it makes my Chair less grouchy [LAUGHTER] and when my Chair is less grouchy, we all get home sooner. Thank you.

**WAYNE:** No, and I-- I'm-- I just want to say thank you. I know you guys have had this problem arise with the LRC situation where we had to move kids over to LRC for evaluation, so I understand your concern and hopefully Senator Dungan can address that.

**BO BOTELHO:** Thank you.

**WAYNE:** Any other questions? Thank you. For those on the committee who don't know, a judge ordered an evaluation out of Douglas County and nobody can get it done, so they-- they sent the kid to LRC, which is an adult facility, which caused a lot of problems, but he was trying to get an evaluation done. Senator Dungan, as you come up, one letter of support. Welcome back.

**DUNGAN:** Thank you, Chair Wayne and members of the committee. I don't have a prepared closing, but I want to talk a couple-- about a couple of things that were brought up during the testimony. First, I want to sort of echo the sentiments of what Mr. Eickholt said earlier, and that's-- I-- the intention behind this is to effectively create a second chance or a second opportunity for this to be considered. I, for those who don't know, practiced as a criminal defense attorney for almost nine years. I did not know this statute existed either. Chair Wayne is not being sarcastic when he says that this is not something that's talked about or known about. Judges don't know about this. And so one of my chief concerns was not just that juveniles who need rehabilitation weren't getting the help they needed but, in fact, they weren't being provided the opportunity to actually have this dispositional option afforded to them, and that was one of my concerns about this. I want to speak as well to a couple of the things that came up during-- during the testimony. So I've-- I've done transfer hearings. I have done juvenile transfer hearings, and I have represented juveniles in adult court and in juvenile court. Everybody that's talked about these transfer hearings having very little evidence is absolutely correct. In my experience-- and I know anecdotes, again, to echo what other people have said, are not hard evidence, but in my experience, we do our absolute best to gather this information and data prior to a transfer hearing to ensure that we're providing the best representation possible. But you can be as zealous as you want to be and get all the information that you try, and you're still not going to have ample time to, I think, gather the evidence and present it to a court in a way that fully encapsulates

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the juvenile's experience, their lived experience, and have a lot of the history of where they come from. The factors that are enumerated in the statute regarding to what can and can't be considered for a transfer cover a very large swath of information, and it is very difficult to get that information. And in my experience, when I have had transfer hearings that do take a long time-- I have one that I'll never forget that lasted for two days because the juvenile I represented spoke Romanian and we couldn't find a Romanian interpreter in the state of Nebraska to come in and do the interpretation, so we had to get on the phone and have somebody from another state on the phone translate what was being said in court. So this juvenile transfer hearing took a little bit of time and it took days to adduce the evidence and actually have that information given, which was, frankly, a lot more than you have in most transfer hearings. And that juvenile was still transferred despite it being acknowledged, even in the prosecution's case, that he was a, I believe, 16-year-old, 17-year-old, and that he was a pawn being used by a larger national crime sy-- crime syndicate to commit some alleged theft. And so even in that circumstance where we had all of that information and we were able to present it, it was transferred. And not every case is like that, but ultimately, when that case ends up in adult court and that juvenile is convicted and sentenced, there's a lot of additional information that the judge by that point in time is going to have. For those who don't practice, when you go to sentencing in district court, generally, you're going to have something called the presentence investigation. You might have already heard about it during some other testimony. We say "PSIs." When you get a PSI, it can be anywhere between, in my experience, 500 pages to 1,200 pages. That includes evaluations, history, juvenile information, familial information, interviews done with collateral sources, all this information that the judge at the time of sentencing then in district court, because we're only talking about felonies, the judge can see that, consider all 1,200-ish pages of information, and then make the informed decision as to whether or not disposition under the juvenile code is appropriate or should they go forward and actually sentence under-- under the adult code. Respectfully, I would disagree with the county attorney's assessment that an additional hearing would have to be had. The talk that he was mentioning was about an evidentiary hearing. We have an evidentiary hearing. It's called sentencing. And at sentencing, you're allowed to present evidence, you're allowed to call witnesses, you're allowed to then argue at the end of sentencing as to what you think the outcome should be, and my reading of this statute doesn't require, as Senator DeBoer asked about, any additional findings. It just says, on page 3,

line 3, the court shall, instead of imposing the penalty provided for the crime, make such disposition under the juvenile code. And then down there on line 10, it says unless "There are substantial and compelling reasons why such disposition cannot effectively and safely be made for the defendant," so what this says is the court must do this unless they believe, in their judgment, which we entrust judges with making that decision on a regular basis, that there are those substantial and compelling reasons. The only requirement there is that they then have to inform in their sentencing why they're not doing that. And so I think people have brought up this presumption for probation in a Class IV felony, and that's a really good example. I have been to countless sentencings on Class IV felonies where probation was not implemented, and what the judge does is they just say, yeah, we presumed it, OK, we're moving on. And for right or wrong, it's not a-- it's not a burden, it's not a hoop to jump through, but it is a time for the judge to stop, consider the evidence, and determine whether or not probation is the right choice on that Class IV felony, and then inevitably, if they decide that's not the right choice, move on to whatever else the sentence could be. This is the exact same thing for youth, because it-- it's important to talk-- remember, we're talking about kids. And so this is just an opportunity for that second chance, upon the judge receiving additional information, usually in that presentence investigation but also possibly in the form of evidence, to say, hey, you know, I thought more about it, I'm actually going to sentence you to probation under the juvenile code till the term of your minority, whatever the sentence would be, because they made the determination that rehabilitative services that can and are offered by juvenile probation are the right and necessary choice. They don't have to. There is an easy valve here that they can come to the determination that that's not appropriate, and I think we should be in the business of trusting our judges to make those decisions rather than saying they're not capable of that or this is too hard for them to understand. I have no concerns about an additional hearing being had. Again, sentencing is an evidentiary hearing, and so any and all evidence that can and would be considered in this determination has that chance at that hearing, so I don't believe that creates a overly burdensome hurdle for the judiciary. With that, I would answer any additional questions, if the committee has any.

**WAYNE:** Any questions? Seeing none, that will close the hearing on LB34 and open the hearing on [INAUDIBLE]

**DeBOER:** --and open-- open the hearing on LB240. Senator Wayne, you are welcome to open whenever you would like here in your Judiciary

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Committee, that you're going to open in committee of, on LB240, which we are now doing. Welcome, Senator Wayne.

**WAYNE:** Thank you. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13, which is north Omaha and northeast Douglas County. I am here today presenting LB240. LB240 amends the Nebraska juvenile code to provide a modification of deposi-- disposition orders or conditions of probation or supervision upon a motion by the juvenile and to repeal the original section. The court may continue a dispositional portion of the hearing from time to time, such terms and conditions as the court may prescribe, including an order of restitution of any stolen or damaged property or an order requiring the juvenile to participate in restorative justice programs or community service programs if such order is in the interest of the juvenile. There'll be some people behind me who will kind of flesh out any more questions you have, but this is not a big bill. It's not complicated. It's just clarifying some language. So if you have any?

**DeBOER:** Are there any questions? I have one--

**WAYNE:** OK.

**DeBOER:** --about jurisdiction. After the-- the sentencing, does the court retain jurisdiction in a juvenile case in order to--

**WAYNE:** There is no sentencing-- well, in juvenile cases, the sentence is probation--

**DeBOER:** Right--

**WAYNE:** --so they maintain--

**DeBOER:** --after the disposition--

**WAYNE:** Yes.

**DeBOER:** --so that then they would main--

**WAYNE:** Yes.

**DeBOER:** --maintain jurisdiction. Thank you.

**WAYNE:** And actually, even last-- in adult court, we-- never mind. It doesn't matter. OK.

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**DeBOER:** All right. Thank you. Are there other questions? All right, let's have our first proponent. Welcome to your Judiciary Committee.

**JENNIFER HOULDEN:** Thank you so much. Good afternoon. I'm Jennifer Houlden, J-e-n-n-i-f-e-r H-o-u-l-d-e-n, chief deputy of the juvenile division of the Lancaster County Public Defender's Office, here on behalf of the Nebraska Criminal Defense Attorneys Association, and here to offer some insight as a practitioner as to why this bill is necessary and how it occurs. So, Senator DeBoer, one of your questions is, does the juvenile court retain jurisdiction? In a technical sense, yes, but recent case law has interpreted a section of the dispositional code, which was read by Senator Wayne, and explained that, unless there is a motion to revoke probation by the county attorney alleging violations, that the juvenile court has no authority to change anything in the juvenile probation order, and as a rehabilitative court-- this comes up all the time. I do-- we've done this for years. We do it all the time, and this case basically hemmed in the court's authority to modify the terms of probation after the court has ordered. And so what we see and what happens in practice is that we have a kid placed on probation for six months. What they're supposed to do is comply with the directives of-- or the recommendation of the evaluation for whatever therapy is involved. They're supposed to complete a probation group, they're supposed to pay restitution, they're supposed to go to school without truancy or suspension, and that actually takes a while to get set up. And often what happens is that there is not enough time for probation to actually set up the service and for the child to complete the service in the term of probation. All of the social science says the shortest terms of probation possible are most effective, that extending probation, oversupervising, actually has a negative effect on kids and has-- increases recidivism. So the judges are doing a great job with short terms of probation, but the reality is, is that sometimes, for reasons either because of the child or not related to the child, we need to extend the term of probation by a short amount of time to let them finish, the point being, it's a rehabilitative court. Importantly, this body has created a complex and effective sealing scheme for juvenile cases. The sealing of the juvenile record is how we complete the rehabilitative process and we remove it as sort of a stain on their record. If they've been rehabilitated, it gets sealed. You have to satisfactorily complete probation to get your record sealed automatically by the judge, so if things beyond your control prevent that, the purpose of this is to allow juvenile counsel, with the agreement of the county attorney, to seek modification of the original order so that the juvenile can successfully complete

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probation. This should not be controversial. I'm available for questions.

**DeBOER:** All right. Are there questions for this testifier? I think you are ans-- oh, Senator Ibach has one.

**IBACH:** Do you think this is a good bill?

**JENNIFER HOULDEN:** Yes.

**IBACH:** OK.

**JENNIFER HOULDEN:** Did I forget to say I supported it? [LAUGHTER] I'm sorry.

**IBACH:** No, I knew you were a proponent, but you explained it very, very well. I just--

**JENNIFER HOULDEN:** Thank you.

**IBACH:** --wanted to confirm.

**JENNIFER HOULDEN:** It's-- it's-- it's not only a good bill, it's a necessary bill, if we believe in the rest of the juvenile code and the goals of what we're doing, because right now what we have is, well, we paid \$100 of our restitution and we have \$20 more to go, and the probation officer has to decide, do I revoke this kid who's been working really hard to complete probation, do I unsatisfactorily discharge them because they haven't technically completed, which leaves the record open and not sealed by law, or do I-- what they do all the time is call their lawyer and say, I want you to talk to your client about asking the court to be on probation longer so they have a little more time to be successfully discharged. So it's all towards rehabilitation and it has been done prior to the ca-- prior to the case that said the judges were not allowed to do it, it was a regular practice of jurisdiction-- in my-- in my jurisdiction. And I think it really does sort of keep kids motivated because when they do really, really well and they just need a little extra help or they need a different service or their therapist quit or whatever-- there's all sorts of stuff going on in their lives that disrupts progress. The message is, if you're willing to work a little bit harder, we're still going to work with you so you can be successful.

**IBACH:** OK, great. Thank you.

**JENNIFER HOULDEN:** Thank you.

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**DeBOER:** Thank you. Other questions? I think this answered my question from before about the jurisdiction, but the-- the ability for the court to kind of add a little more, change its mind, whatever, this typically is adding time onto the probationary period, is that correct?

**JENNIFER HOULDEN:** Yes. They already have the authority to do early discharges on their-- on the court's motion.

**DeBOER:** So this is giving them kind of like a no-penalty additional time on their--

**JENNIFER HOULDEN:** Correct. And the way that the amend-- or the way that the bill is structured changes the statute so that this is not going to come up in controversial situations. County attorney can always file a motion to revoke if they have a basis. This only happens if the juvenile, through counsel, after consultation is asking for it and the state is in favor, and that only happens when probation starts that conversation, so it's really when everyone agrees what should happen. It just facilitates the court ordering that.

**DeBOER:** This just makes the law work the way that everybody wants it to work.

**JENNIFER HOULDEN:** Correct. And it's built to prevent situations where kids are being sort of pushed into a thing that they don't understand. So I think the requirement of counsel or waiver of counsel with regard to the specific modification is necessary and important--

**DeBOER:** Got it.

**JENNIFER HOULDEN:** --and is included already.

**DeBOER:** Perfect. Thank you. Other questions? Thank you for being here.

**JENNIFER HOULDEN:** Thank you.

**DeBOER:** Next proponent.

**DEB MINARDI:** Good afternoon again, members of the Judiciary Committee. My name is Deb Minardi, D-e-b M-i-n-a-r-d-i, and I'm the probation administrator for the Administrative Office of the Courts and Probation. And I'm here today to provide testimony in support of



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LB240, and I would like to thank Senator Wayne for introducing this bill. You have a copy of my testimony. I just want to echo what was just said to this group and say that this aligns and streamlines and addresses the-- these two statutes, the intent of the code, along with providing an opportunity for youth to actually successfully complete their probation. So we're definitely in support of this, and we would ask that this committee consider advancing this bill.

**DeBOER:** Thank you. Are there any questions? I do not see any. Thank you for being here. Next proponent testifier. Any other proponents? Anyone here in opposition to this bill? Anyone here in the neutral capacity? For the record, we have received one letter of support. Senator Wayne, you're welcome to close.

**WAYNE:** And I'll be short. So we are a-- what we consider a hearing and motion body, so typically you have to file a motion or to get in front of the court. But in this case-- and that's why the court ruled that way. But in this case, the juvenile judges are saying there's so many times that we just want to continue something, keep it going for a little longer. Everybody agrees we should do it, and that's all this case-- that's all this statute does.

**DeBOER:** Are there any questions for Senator Wayne? I do not see any. That will close our hearing on LB240 and close the hearings for the day.