

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 24, 2024  
Rough Draft

**WAYNE:** Welcome, welcome, welcome. All righty. Have a seat. Let's get this thing going. No, I don't gavel. I was told that if a chairman has to use the gavel, they're, they're not able to run an effective meeting in here. Hey, I was told that by multiple chairpersons, it wasn't just a chairman, it was chairwomen, too, who told me that. I don't need no gavel. No gavels. Let's get ready to go. All right. Good afternoon and welcome, everyone. Welcome to the Judiciary Committee. My name is Justin, Senator Justin Wane. I represent Legislative District 13, which is north Omaha and northeast Douglas County. I serve as the Chair of Judiciary. We will start off by having members of the committee and committee staffs do self-introductions, starting with my right with Senator Bosn.

**BOSN:** Carolyn Bosn, from District 25, southeast Lincoln, Lancaster County.

**IBACH:** Teresa Ibach, District 44, which is 8 counties in southwest Nebraska.

**McKINNEY:** Tyrrell, McKinney, north Omaha.

**JOSH HENNINGSSEN:** Josh Henningsen, committee legal counsel.

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

**DeBOER:** Hi everyone. My name is Wendy DeBoer. I represent District 10 in northwest Omaha.

**BLOOD:** Good afternoon. Senator Carol Blood, representing District 3, which is part of Bellevue and Papillion, Nebraska.

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

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

**WAYNE:** All right. Also assisting us is our committee pages, Isabel Kolb. Good to see you again. It's been a year-- from Omaha, who's a political science and pre-Law major at UNL, and Ethan Dunn, from west Omaha, who is a political science at UN-- at UNL. This afternoon, we will have 5 bills. They will be taken up in the order that is listed outside the room. On the table to the side of the room, you'll find a blue testifier sheet. If you are planning to testify today, please fill out and hand one to the pages when you come up. This will help us

keep accurate records in the hearing. If you do not wish to testify but would like to have your-- record your presence at the hearing, please fill out a gold sheet over by the same table. Also, I'd like to note the Legislature policy that all letters for the record must be received by the committee by 8 a.m. on the morning of the, the hearing. Any handouts submitted by testifiers will also be included as part of the rec-- record as exhibits. We ask that if you have any handouts, take-- would you please make sure you have 10 copies. If you don't have 10 copies, give it to the pages ahead of time so we can make additional copies for you. Testimony for each bill will begin with the introducer's opening statement, followed by the [INAUDIBLE]. We'll do proponents and then we'll do opponents, and then those speaking in a neutral capacity. The introducer of the bill will be given the opportunity to make a closing statement if they wish to do so. We will ask that you begin your testimony by stating and spelling your first and last name for the record. We will be using the 3-minute light system. When you begin your testimony, it'll be green. It'll turn yellow with 1 minute left. And red, red will pop on, we ask you to wrap up. I'd like to think everyone, including senators, to turn off your cell phones or put them on vibrate. And with that, we will begin LB832 with Senator Blood. Senator Blood, welcome to your Judiciary.

**BLOOD:** Thank you, Chair Wayne. And good afternoon to Chair Wayne and members of the Judiciary Committee. My name is Senator Carol Blood, and that is spelled C-a-r-o-l B as in boy, -l-o-o-d as in dog, and I represent Nebraska Legislative District 3, which is comprised of western Bellevue and eastern Papillion, Nebraska. Today, I bring forth LPB832, to adopt concurrent juvenile jurisdiction policies to ensure access to state resources and juvenile courts for appropriate adj-- adjudication options to better respond to juvenile needs. Colleagues, in the state of Nebraska, we have a good number of military families presiding on Offutt Air Force Base. The rest of the state includes many smaller, mostly training installations and armories. The Department of Defense has recognized the need to change how the judicial, judicial system is handled on these installments and bases, for juveniles. On military installations subject to exclusive federal jurisdiction, investigation and adjud-- adjudication of juvenile defenses is limited because cases may only be adjudicated in the federal system. States can adopt concurrent jurisdiction policies to ensure access to state resources and juvenile courts for appropriate adjudication options to better respond to juvenile needs. Now, in Sarpy County, as Senator Holdcroft is aware, there's already an

agreement made between Offutt Air Force Base and Sarpy County's juvenile justice court system. But this isn't in state statute, and it doesn't apply to the other installations across the state. It exclusive federal jurisdiction on military installations can send juveniles through an adult judicial system. Access to state juvenile and family courts may allow for more suitable outcomes. We, as a legislative body, can create a mechanism for the federal government to transfer its jurisdiction to the state on a subject matter, case by case or installation by installation basis. Without concurrent jurisdiction, juvenile misconduct, including problematic sexual behavior in children and youth, is adjudicated in the federal court system, which lacks appropriate, juvenile-focused resources. Adding this language to State Statute 84-168 would give flexibility to military families, the federal and state court systems, but most importantly, lead to better outcomes for these juveniles. Now, I'd really like to just briefly discuss the fiscal note and the costs described in the fiscal note. I want to remind everybody that LB832 is permissive in nature. It specifically says it's permissive in nature in the bill itself and does not automatically give jurisdiction to the state. What LB832 does is facilitate the conversation between the installation and state regarding jurisdiction. Installation can offer jurisdiction over a case to the state, and they can choose whether to accept or decline the offer. If the state were to accept such an offer, both parties would come to an agreement laid out in the MOU or MOA after the retrocession process is complete. So, to look at the one and only organization that sent in the fiscal note, without any concrete numbers as to how many military juveniles have been in their system, it seems excessive and not appropriate. And I hate to question any of our local governments as to the numbers they propose, but how can you propose numbers on something that, again, is permissive in nature? It doesn't seem appropriate, and we've not found-- found it to be a heavy burden in Sarpy County. This is-- I would also like to, as you saw in your handouts, this is one of the bills that the Pentagon, the Department of Defense "Military Families Office" has asked us to carry. This is very important to them. And although it will only help a handful of kids, it's going to help a handful of kids that might otherwise go into a system where they don't belong. And we've worked really hard in this committee to make sure that that doesn't happen with the rest of our Nebraska children, so perhaps we can do, do the same thing for these military families.

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

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**BLOOD:** Unfortunately, I cannot stay for my closing.

**WAYNE:** Yeah. First, we'll have proponents, proponents. Any proponents of this bill? Seeing none, we'll have opponents. Any opponents of this bill? Seeing none, we'll have neutral testifiers. Anybody in the neutral capacity? Seeing none, Senator Blood waives her closing. There were 3 letters of support for LB832 and that will close the hearing on LB832. And now, we will open the hearing on LB945. I thought we were going to make Senator Hughes go last. I'm joking. Go ahead.

**HOLDCROFT:** I'm for that.

**WAYNE:** Oh, you're for that, too?

**HUGHES:** Really?

**WAYNE:** Welcome, Senator Hughes, to your Jud--

**HUGHES:** It's not starting out well.

**WAYNE:** --to your Judiciary Committee.

**HUGHES:** All right. This is really big font, but just in case. OK. It's Judiciary. It's like your judgy, so it makes me nervous. Isn't that silly? OK. Chairman Wayne and Vice Chair DeBoer, members of the Judiciary Committee, my name is Jana Hughes, J-a-n-a H-u-g-h-e-s, and I represent District 24, Polk, Seward, York Counties, along with the western part of Butler County. I introduced LB945 after visiting with various people who provide support to young people who are aging out of the foster care system. They provided me with a new understanding of how access to information about themselves is vital to them succeeding as young adults in Nebraska. Nebraska passed a bill in 2016, LB746, to comply with a federal law, Preventing Sex Trafficking and Strengthening Families Act, that required HHS to provide youth aging out of foster care with a certified copy of their birth certificate, a Social Security card, health insurance information, medical records, and a driver's license or a state ID. LB746 has been very helpful to the youth aging out of foster care. LB945 is meant to address the gaps identified over the past 7 years, based upon feedback gathered from these young adults. Some of the additional items required to be shared with youth exiting foster care include foster care review reports, case numbers and court records involving the child, any available pho-- photographs, and a written explanation of reasons of leaving the foster care system. I mentioned photographs. Providing these to young people as they leave foster care might not

seem like a big deal or important for purposes of finding housing, going to college, or getting a job, but for people who have been in the foster care system, having a link to their past is important, especially as many don't remember where all they've lived, what schools they've attended, or why they were placed in foster care in the first place. LB945 also establishes a process, on a case-by-case basis, with judicial oversight for any additional information that is not required by law, but may be needed by the young person for purposes of education, medical treatment, or employment. Colleagues, think about how much effort it takes for those of us who have access to all the information about ourselves to fill out certain forms: applying for a passport, providing information for a background check, for a license, or as part of a security clearance for a job, or as we're doing-- I'm doing now, if you have college age kids, a FAFSA. And we are now requiring, after last year, starting with all students graduating from high school in 2025, to fill one out in order to graduate. Think about the extra effort needed to do any of those things when you are missing information. We have a workforce issue here in Nebraska that is not going to fix itself, and we, we need to remove barriers so that people can get employed. I introduced LB945, and I'm here before you today to bring these issues to light so that we can improve on how our foster care system serves these young people as they leave its care. I'm happy to answer any questions, and would also let the members of this committee know that there are a lot of more people intimately involved in the foster care system behind me, ready to testify in support and answer some of your more specific questions about LB945. Thank you for this opportunity.

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

**BOSN:** Thank you, Senator Hughes. Just out of curiosity, so some of the things that you've listed here, starting on page 12, talks about psychological evaluations being provided to these individuals when they age out of the system. One of my concerns is, I don't know that that's a practice that kids outside of the foster care system, that their parents are providing them copies of that, and the benefits of that potentially being outweighed by the negative consequences of an individual having that evaluation. What do you say to that?

**HUGHES:** Could you maybe expand on the negative consequences that you see from getting that information?

**BOSN:** Sure. I guess--

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**HOLDCROFT:** Speak up a little.

**HUGHES:** Me or her? OK.

**HOLDCROFT:** I can hear--

**HUGHES:** You can hear her? OK.

**BOSN:** So my concern is, in other words, you're-- you have a psychological evaluation done when you're 12 years old and you're in a moment of crisis. Things are said in there by caretakers, foster parents, that are potentially designed at the time to put you in a position to get the best care that you need, but that are hurtful, right? And now you're 18, you're graduating out of the system, and we're just taking the Band-Aid off of that and pouring salt on the wound and saying, remember that foster parent? They told that thing that I did, and, and now I'm, I'm mad about it again. I, I guess I don't have kids at that age, so I don't know. But I can't imagine providing a psychological evaluation being beneficial towards fixing a workforce issue or any of those. And so that's my question, is how is that solving those?

**HUGHES:** Right. And I, I have not had children in a foster care system, nor I've had my children have something like that happen. So I feel like I do not have answer to that. I will ask that you repeat that for people behind that deal with this.

**BOSN:** OK.

**HUGHES:** And just to say, you know, this is something that we can work on, too. Just-- you know, as we know, all bills do not come out of a hearing exactly as they came in. So. OK. Thank you.

**BOSN:** Yes.

**WAYNE:** Any other questions? Senator DeKay.

**DeKAY:** Thank you, Chairman Wayne. Senator Hughes, I apologize if I missed the big-- how many kids are involved in foster care in the state now? Do you--

**HUGHES:** That is a very good question, Senator DeKay. And I do not-- I am not-- do not quote me on the record, but I've heard around 4,000. But again, can you ask that question for people behind me, that are thoroughly knowledge-- knowledgeable about the foster care system.

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**DeKAY:** And maybe that had come up in your opening test--

**HUGHES:** OK. Yep.

**DeKAY:** --and then the second thing, any fiscal responsibility will be absorbed by the DHHS?

**HUGHES:** There is no fiscal note for this. That is correct.

**DeKAY:** Thank you.

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

**HUGHES:** All right. Thank you. I will stay for closing, so.

**WAYNE:** First proponent. First proponent.

**SARAH HELVEY:** Good afternoon, Senator Wayne and members of the Judiciary Committee. My name is Sarah Helvey. It's S-a-r-a-h, last name H-e-l-v-e-y, and I'm a staff attorney and director of the child welfare program at Nebraska Appleseed. Start with a free grounding for young people who haven't been in the foster care system, their parents typically possess their vital documents and are able to provide them to children-- their children as needed. But for young people in foster care, these documents have scattered ownership. In some cases, the documents may be in the possession of the state, in the possession of the courts, various schools and various foster homes. Some of the documents may even be sealed, so they aren't easily accessible to young people when needed. As Senator Hughes mentioned, the Federal and state Strengthening Families Act already requires HHS to provide foster youth with certain documents as they exit care. And the goal of that was to improve outcomes by ensuring young people have the information they need to obtain housing, education and employment. However, in the years since the law-- these laws passed, we have consistently heard from young people that they're not always receiving the information that they're required to receive by law. And in addition to the practical information, youth with foster care experience consistently express a deep yearning for additional information about their childhood and their lives, including-- such as photographs and the reasons why they were in foster care in the first place. We support LB945, because it clarifies the list of information young people are entitled to receive when they exit care. And importantly, it creates a mechanism through the juvenile court, for young people or their guardian ad litem to request additional

materials that they may need in their individual case. We understand, as Senator Bosn raised, that there may be some situations where there are concerns about young people obtaining records that include traumatic information or information that may impact the privacy rights of third parties, such as former foster parents. However, medical records are already required to be provided by people under current federal and state law, so LB945 doesn't create new access. It simply clarifies that medical records include psychological reports. It also permits the juvenile court to consider whether access to information is in the child's best interest, and whether partial redactions or other measures could be implemented to address privacy or other concerns. So we think that the bill strikes an appropriate balance. And for all these reasons, we ask the committee to vote to advance LB945 out of committee. And I'm happy to answer any questions that the committee may have. I also want to note that I provided with my written testimony, I've included the testimony of a couple of young people with foster care experience who were unable to be here today. The first is Michayla Stawniak. And that's Mi-c-h-a-y-l-a S-t-a-w-n-i-a-k, who's a child welfare fellow at Nebraska Appleseed. Her testimony shares her personal experience of not having documents to verify her identity for employment.

**WAYNE:** Thank you for your-- thank you for your testimony.

**SARAH HELVEY:** Sure.

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

**SARAH HELVEY:** Thank you. Senator.

**WAYNE:** So I'm kind of strict on the time, just so people know, because it's been a year. Because when we do have big hearings, I don't change how I operate my hearings, so I just try to be consistent all the way through. Next proponent.

**KAROLINA YODER:** Hello. My name is Karolina Yoder, Y-o-d-e-r. I'm a representative of Nebraska "Family and Children" Foundation youth advisory board. I am in support of this bill. Just due to my personal experience exiting the foster care system, all of my important information such as my birth certificate and social security card were given to my biological mother, who would not give me these important documentations. I have also had to request assistance from the Hub Youth Central Access Point, here in Lincoln, to be able to receive a

new certified copy of both of these. Having my medical information, such as my medical and psychological information would have helped me to continue my medical treatment for my chronic illness and my ongoing talk therapy, as well as a list of community resources and an application for public assistance. And even the bill-- the ability to request them would have been incredibly helpful for me to be able to financially, physically, and emotionally be stable in the first few years after leaving the foster care system. And that is all I have to say.

**WAYNE:** Can you spell your name for the record?

**KAROLINA YODER:** My first name, Karolina, K-a-r-o-l-i-n-a, and Yoder, Y-o-d-e-r.

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

**KAROLINA YODER:** Thank you.

**WAYNE:** Next proponent.

**PAYNE ACKERMAN:** Good afternoon, Senator Wayne and committee members. My name is Payne Ackerman, spelled P-a-y-n-e A-c-k-e-r-m-a-n, and I am the co-chair for the Strengthening Families Act committee within the Nebraska Children's Commission, or Commission. On behalf of the Commission, I am testifying in support of LB945. The Commission was created in 2012 following an extensive LR and HHS 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 systems, and to make recommendations to agencies and the Legislature. The Strengthening Families Act committee, or SFA committee, is one of 5 statutory committees which fall under the umbrella of the Commission. The Commission provides 3-branch leadership and community resource expertise to support transparent policy change at the state level. The Commission also provides staffing support to the SFA committee to help fulfill its statutory requirements. The, the SFA committee have identified 3 priorities to guide its work: 1, to continue to monitor the implementation of the federal Strengthening Families Act; 2, to promote the normalcy as the foundation to preventing trafficking, addressing disparities that impact minorities, and support the successful transition to adulthood; coordinate implementation with other policymaking 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 sub-- 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 to promote normalcy for children and youth in foster care, as well as encourage youth to make more active-- to take a more-- to take a more active role in their case. LB945 builds upon the progress made towards normalcy for youth in Nebraska by providing an opportunity for individuals to have access to documents and information about their own lives. When youth are engaged and informed about their own history, we strengthen their self-efficacy and provide a sense of understanding into a childhood they may not clearly remember or understand. Individuals who do not encounter their child welfare system are able to access records and materials without barriers, and youth who experienced foster care should have similar ease of access. The Commission recognized there is a process to request records from DHHS, and supports the additional information that would be available through this bill. In summary, the SFA committee and the Commission support LB945 and the effort to make records more accessible to former foster youth. Thank you, Senator Hughes, and the Judiciary Committee for your leadership and work for youth in Nebraska. On behalf of the Commission, I urge you to support LB945. I do want to make one statement about the psychological records. These are very, very important for youth as they are aging out, because this helps them get the treatment that they need from adverse childhood experiences they had when they were in foster care and juvenile justice. And so we do support that aspect of the bill. Thank you.

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

**PAYNE ACKERMAN:** Thank you.

**WAYNE:** Next proponent. Go ahead.

**MARALEE BRADLEY:** My name is Maralee Bradley and LB945 is something I've seen the need for during my years as a house parent in a group home, foster parent, adoptive parent, provider of adoption training and support, a foster care review board member, and a member of the Supreme Court Commission on Children in the Courts. I don't represent any of those organizations today. I'm just someone with 20 years of

experience watching what it does to a young person when they don't have access to their full story. Ideally, if a child enters care, it's brief and they live with people they know. Those people keep records and all those documents, photos and important information follow the child when they return home. In that case, it makes sense that the state is only required to provide the most basic documents. But many youth are in care for years with multiple placements. They change homes, schools, dentists, friends, sports teams and churches. There's an assumption youth will remember the names of people who are important to them or places they created connections, but trauma can make it nearly impossible for them to retain information when they're focused on survival. Foster parents would love to help, but we can only document what we've experienced with a child. This does little to answer questions about their history in care or prior to care. There's no way for us to compensate for the child's lack of information when we don't have it either, but we know who does have it. DHHS creates court reports and collects documents throughout the case. I was able to review the records from one of my adopted children, and it was 2 full legal boxes of documentation. It should not be acceptable for the state to collect such detailed information about these children and then deny them access to their own records or set up complicated barriers to receiving them. As I review cases with the Foster Care Review Board, I see children who are asking important questions, questions that are fundamental to accurately understanding their lives. Without access to the truth, they are creating their own inaccurate and harmful answers. It breaks my heart to think they won't know the truth, even when the truth is clear in the documentation I have access to, documentation about their own lives they will never see. Young adults report not being able to apply for jobs that require background checks because they don't know previous addresses. They want to go back to a doctor they liked but they don't have the name. They don't know what grades they got in school. They had psychological evaluations done but they don't know the results. Giving them the answers to these questions is a small step towards helping them heal. There is a reluctance to provide these documents because of the emotional impact on a youth, but they are already living the consequences of the truth. The state should not be in the business of keeping secrets from them about their own lives. They should have the right, in our statute, to the documents the state collected about them. This is the best chance they have at healing when they have all of their information.

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**WAYNE:** Any other questions? [INAUDIBLE]. Can you spell your name for the record?

**MARALEE BRADLEY:** M-a-r-a-l-e-e B-r-a-d-l-e-y.

**WAYNE:** Thank you. Any questions? Senator DeKay.

**DeKAY:** Thank you. Within these documents, too, would that contain health records that would make them aware of potential problems with health issues, like diabetes or something going forward later in life?

**MARALEE BRADLEY:** That's that's the hope. If the state has that information and it's not considered a HIPAA violation, if it's not their parent's information, but it's their information, then that should be able to be released to them.

**DeKAY:** Thank you.

**WAYNE:** Any other questions? Senator Ibach.

**IBACH:** Thank you for coming in today. I just have one question that maybe you can clarify a little bit. You said in your testimony that there's documentation about their own lives that they will never see. Do you keep that documentation and then it's confidential?

**MARALEE BRADLEY:** As the Foster Care Review Board, we have the ability to view that documentation. It belongs to the state so we can see it to help make recommendations for the case, but we can see discrepancies between what kids think happened in their lives and what we can see actually happened.

**IBACH:** But then that's held confidentially so they cannot carry that with them?

**MARALEE BRADLEY:** Yep. That belongs to DHHS, that children would not be able to access that.

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

**WAYNE:** Any other questions?

**BOSN:** I have some followup.

**WAYNE:** Senator Bosn.

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**BOSN:** It's good to see you. You probably don't recognize me, but our paths have crossed previously, when I was at the County Attorney's Office.

**MARALEE BRADLEY:** Oh, yeah.

**BOSN:** It's good to see you. So you probably are more familiar with how court reports work and foster care review reports work than maybe some of the individuals here. One of the concerns I have is those reports sometimes contain personal information, including the foster parents' homes. And when those reports are then handed over to a youth years later, is it your position that those would have to be redacted to take out the previous foster-- of, of failed foster placement to maintain that privacy, or--

**MARALEE BRADLEY:** Yes. The default would be redacted. That would be what would normally happen. I think-- and Sarah Helvey would be the one to ask about this, but I think that kind of court mechanism, could they request that and there be permission given? That's my feeling, as a foster parent, is the majority of the time I would want them to have that information. And I have pictures of them, and I have memories of them. And I [INAUDIBLE] I want them to have that and if they can't find me, that's a problem. But there should be the ability for the foster parent to give that consent to have their information released.

**BOSN:** So the concern, to piggyback on that, is the cost associated with doing that, because that's going to be a time consuming thing for a caseworker 10 years down the road, when a child ages out of the system to go back through 75-page court reports to redact where sibling sister was placed for 3 months, but you weren't placed there, so now I have to figure out whether or not that sibling's placement consented even though it wasn't yours.

**MARALEE BRADLEY:** Right.

**BOSN:** Do you agree that that's a concern or that could be a type of concern?

**MARALEE BRADLEY:** Yes. And I have had those conversations with people who have those concerns. And I think the ideal is that we get it right at the beginning. We collect the correct information, we get releases from the correct people so that we can give that information to the kids when they exit care, which is the goal here, rather than 10 years

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down the line, having to go back and track through all that information.

**BOSN:** And so, in practicality, how does this work? Because you also agreed there was 2 boxes. And I've done cases--

**MARALEE BRADLEY:** Yeah.

**BOSN:** --where there was multiple boxes--

**MARALEE BRADLEY:** Oh, yeah.

**BOSN:** --especially when there's multiple sibling sets. Is-- are we printing copies of this and handing it to a juvenile who's maybe not in a stable living environment at the time, or what is the thought process there?

**MARALEE BRADLEY:** Right. This may be more detailed than I can give, because I think the first step is they have the right to the information. And we got to decide that we-- they have the right, and then we've got to figure out how. So I don't have all of the resources on the how. I think there are some conversations happening about could there be access to a digital library because the state is storing [INAUDIBLE] digitally. Then how can we give them access to that to be able to have it? Because you're right, they can't just carry a box around with them. So I think there are questions to answer about the how, but I think the first step is this is their information and they should have access to it.

**BOSN:** Thank you.

**MARALEE BRADLEY:** Yeah. Thank you.

**WAYNE:** Any other questions? Seeing none, thank you for being here. Next proponent. Next proponent. Come on up.

**BETHANY BRADLEY:** My name is Bethany Bradley and I'm testifying in support of LB945. This bill is important because it will help people who spent time in foster care know their history. I spent almost 2 years in foster care before I was adopted. I'm glad my adoptive parents kept all my records. When I have questions I can ask my mom and we can pull out some of the records that we have and look through, through them together, to help me under-- to help me better understand-- answer the questions I have. This helps me to understand my history and better understand how to connect with my biological

family. Even though my story is hard, it's important to me to understand it so I can learn how it shaped my life when I was little. I care deeply that other people with a history like mine don't have to work really hard to get information that should just be given to them. When someone is in foster care, they have to-- they have to give up a lot, like jumping from house to house with no constant family. There can be lots of attachments which are painful to lose. We should be able to have our documents to be able to reconnect with the people who are important to us. A foster kid might have a teacher, school friend, therapist, or doctor who helped us work through hard times. We should be able to go back to them. I hope I have all my records my caseworker created, but I have no way of knowing. I did visits with my relatives, but I'm not allowed to read what happened during those visits, and I was too, too young to remember. If I had that information, it would help me know more of my own story. It could impact how I interact with those people today. Not having all the information about those years, it makes me wonder what would happen-- what happened during those times. Giving us access to all our information can help us to prepare for our future because we understand our past.

**WAYNE:** Thank you. Can you spell your name for the record?

**BETHANY BRADLEY:** B-e-t-h-a-n-y B-r-a-d-l-e-y.

**WAYNE:** And thank you for coming to testify today. Any questions from the committee? I really appreciate you being here. Next proponent.

**JERRY MILNER:** Good afternoon. My name is Jerry Milner, J-e-r-r-y M-i-l-n-e-r, and I'm the former associate commissioner of the United States Children's Bureau in the U.S. Department of Health and Human Services. Every year in the United States, 20,000 young people nationally, including 110 children in Nebraska in 2021, leave foster care at age 18 or 21 without the security and stability of a family. I personally know young people who, upon leaving foster care, forced to sleep in cars or on friends' sofas. Imagine yourself at that age without the safety, the support, the security that every one of us needs for our own well-being. As long as we are going to allow young people to exit foster care to be on their own, we need to do every single thing we can to prepare them and equip them for life after foster care. The federal government requires that all young adults leaving foster care receive documents and information that are intended to fill gaps in their history and provide them with the documentation that other young people can simply ask their parents for. LB945 not only meets but improves the federal requirement and

will be more helpful, and I commend you for your thoughtfulness there. When a young person does not have vital identity documents and personal information it can stand in the way of getting a job, securing housing, securing appropriate and much needed health care, pursuing educational goals, and being self-sufficient. However, there are a few areas of the bill that I believe could strengthen it, and I'd like to offer those recommendations. The legislation should include provisions for accountability, to ensure that the young person actually receives the documentation and thoroughly understands it. Your existing state statute does not require that the young person attend the transition hearing where post-emancipation planning occurs. They should be required to attend that hearing so that the judge can hear directly from them about their understanding. The legislation should require that a professional actually explain all the information to the young person, not simply provide them with a binder of documents. The legislation should require the names and relationships of supportive adults, and, and that should be provided in the transition hearing. Finally, in that context, we need to remember that independence and the ability to survive in the world on our own is more than access to services and technical information. It's about relationships, belonging and connection, and that should be the topic of all the review hearings leading up to and including the transitional hearing before a child is allowed to leave the foster care system. Thank you very much for your time. Happy to answer any questions.

**WAYNE:** Senator Ibach.

**IBACH:** Thank you Senator. I just have one question. If-- maybe you can answer the question as to how many we-- how many foster children we have in Nebraska. Do you know that number?

**JERRY MILNER:** Currently, you have between 3,000 and 4,000? I believe it's right around the 3,500 mark right now. I don't have the precise number.

**IBACH:** And then how do other states, especially those just surrounding our state, handle this same issue? Are there other states that actually have that-- a passport program that goes with the foster child?

**JERRY MILNER:** There is a-- yes. Yes, Ma'am. There's a federal requirement that all states must provide this information, whether or not other states have specific matching state statutes. I wouldn't be

able to tell you that, but all states are required to provide certain [INAUDIBLE] documentation when a child leaves foster care at age 18 or 21.

**IBACH:** All right. Thank you. Thank you, Mr. Chairman.

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

**JERRY MILNER:** Thank you.

**WAYNE:** Next proponent. Welcome.

**KRISTIN AGETON:** Thank you. Hello, my name is Kristin Ageton, K-r-i-s-t-i-n A-g-e-t-o-n. I reside in Lincoln and am a former foster care parent, now adoptive parent, of my 15-year-old son, Noah. Noah has given me permission to share his story with you today. Noah entered foster care at age 6 and came to our family at age 10. In the year between his placement in, in our home and his adoption, I sought to learn more about Noah's life story. I did this to better understand how my husband and I could best support his development and to help Noah know and understand his own life story. I started with the hunt for school history. I wanted to know where he had gone to school plus view report cards and class photos. I called 5 separate schools, but none had saved class photos. Why was this not organized for Noah while within the custody of the state? It was much more difficult to retrieve Noah's medical history. I have no medical information about him before he entered foster care, little family, medical history and most of the info I do have is very disjointed. I'd like to know what medical professionals have overseen his care and when, and about the time he was in their care. On adoption day, DHHS provided me with a nearly 3-inch stack of paper documentation profiling Noah's time as a ward of the state. It's mostly full of monthly progress reports submitted by our foster care agency. Preparing today's testimony actually caused me to realize I'm missing court documents from the first several months my son was in foster care. I think what's most frustrating about this experience is simply I don't know what I don't know. What other documentation could help us fill in the gaps in his story? I'm deeply disappointed that I don't have any formal documentation explaining why he entered foster care, dates and reasons he moved placements, and previous, previous addresses where Noah has lived. I also don't have guidance about how to access additional information via the state in the future. I've had to contact individual medical and school offices, complete forms required to

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access private information, and submit our adoption decree to receive it. And I often have to make these requests multiple times. I've learned how to navigate our bureaucratic world and I'm a mom on a mission, but what about a teen exiting care? I worry about their stamina and know-how to navigate this maze. People who have been adopted are known to struggle with 7 core issues, 1 of which is identity or understanding who they really are. Choosing to better track medical and educational records, court records, photographs, and reasoning for decisions made in their best interest is one simple thing we can and should do to help ease that transition. Thank you for your time and willingness to hear about my son and our family's story today.

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

**KRISTIN AGETON:** Thank you.

**WAYNE:** --thank you for being here. Next proponent. Next proponent. Any opponents, opponents? Opponents. Anybody testified in the neutral capacity? Seeing none, Senator Hughes.

**HUGHES:** Thank you, Mr. Chairman, for this opportunity to discuss-- the oppor-- sorry-- for this opportunity to provide additional information to our youth exiting foster care. As you heard from the testimony today, this is an issue of great importance to those who have been in the system. I am willing and able to work with you to address this and, and am open to ideas to improve LB945 in order to advance it out of the Judiciary Committee. I appreciate your consideration and welcome the opportunity to answer any questions.

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

**HUGHES:** Thank you for having me.

**WAYNE:** This-- LB945 had 17 letters of support. That will close the hearing on LB945, and we will turn to LB959. Welcome, Senator Dungan, to your Judiciary Committee.

**DUNGAN:** Thank you, Chair Wayne and members of the Judiciary Committee. Do you want me to wait just a moment while people are leaving, or should I go ahead?

**WAYNE:** You can wait a second.

**DUNGAN:** OK. Just sad they didn't want to stay. 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 District 26 in northeast Lincoln and today, I'll be introducing LB959. The purpose of LB959 is to direct county and district courts to transfer cases to juvenile court if they fail to rule on a motion to transfer to juvenile court within 30 days after the hearing, and to make a few cleanup changes to Section 29-1816. Under current law, when a motion is made to transfer a case from county or district court to juvenile court, the county or district court must schedule a hearing on the motion within 15 days. Once the hearing is held, the court has 30 days to decide whether to transfer the case and to set forth the reasons for their decision. But there needs to be a mechanism in place to ensure that that deadline is met. LB959 would create an accountability mechanism to ensure the 30-day deadline is, in fact, met. If the county or district court does not decide within 30 days after the hearing, the case would be automatically transferred to juvenile court. Additionally, LB959 would require that the court's decision on the transfer motion be issued in writing. Currently, the statutes just say that a decision must be made, but do not require that ruling to be in writing. The bill also removes a little bit of obsolete language regarding the arraignments of 17-year-olds in county or district courts, and makes various grammatical corrections. Those are just cleanup changes. As the fiscal note shows, there's really not any fiscal impact, although the Supreme Court does say there would be minimal fiscal impact to provide judicial education, but nothing quantifiable. Our constitutional obligation is to ensure that individuals enjoy the right to a speedy trial. LB959 ensures that we're meeting that obligation to the same extent in reaching a decision on these motions to transfer to juvenile court. Testifiers after me are going to talk a little bit more about their experiences with the issue and its impact on young-- on young Nebraskans. That concludes my opening testimony, and I'm happy to answer any questions the committee may have.

**WAYNE:** Senator DeBoer.

**DeBOER:** Thank you, Chair Wayne. So right now, what happens if you get to 30 days and there's been no ruling?

**DUNGAN:** Nothing.

**DeBOER:** Nothing, nothing?

**DUNGAN:** It just-- yeah. So you have a motion to transfer, juvenile court, right, and then that can happen. And although there's language in the statute saying that ruling has to happen within 30 days, there are multiple circumstances, even in the last year, which I think you'll hear about some of those here where that ruling doesn't come down. So you simply just wait. And so given the fact that there's a requirement for the 30 days, but there's not currently a mechanism to have any kind of teeth to that requirement, there's really no limit actually imposed. We know circumstances where these motions to transfer to juvenile court are sitting for a month, 2 months, 5 months, 6 months from time to time. And one of the things that makes this really important is that a transfer from adult court to juvenile court is based on a number of laid out factors in statute, right, and one of those factors is the ability that the juvenile can have to benefit from the services of juvenile court. The longer that you sit on these motions and not rule on them, the more problematic it can become, given the fact that's all time that the juvenile is not going to be benefitting from those potential services in juvenile court. So this lack of ruling can actually change the outcome of the case. And what we're trying to do here is make sure that judges have an opportunity to dutifully consider all of the evidence presented, which I think 30 days is ample enough time, and it's the current obligation they have. But at the end of that 30 days, this just puts in place some kind of mechanism to, I guess, effectively have teeth to the requirement that the 30 days happen.

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

**WAYNE:** Any other questions? Senator Bosn.

**BOSN:** Thank you. Thank you, Senator Dungan. I am aware because we've had conversations about some of the concerns that you have, but you've said multiple instances, including last year. Are you aware of what the number of times is, and we'll just take Lancaster County but if you know statewide, I'd love to hear that too, how many times it has been 30-plus days before the ruling came down?

**DUNGAN:** I don't have that exact number, but I do think that one is too many, given the fact that there's a statutory obligation that it happen within those 30 days. And not having any kind of consequence on the back end, I think is problematic.

**BOSN:** OK. So when you say multiple instances, you're telling me you don't know how many?

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**DUNGAN:** I don't have the exact number, but the testifiers after me, I think, can cite to at least a few of those instances and probably give you a little bit more detail about that.

**BOSN:** OK.

**DUNGAN:** In the event that you want to know the total amount, I can talk with some people and see if we can aggregate that number.

**BOSN:** OK.

**DUNGAN:** But I do know it's happened more than once, and I think some of those have been more than just a couple days past the 30-day deadline, which is problematic.

**BOSN:** I am aware and I don't disagree with that. The consequence that I would say-- I mean, if you had a case and you, you-- it was 35 days and you were-- your client was unsatisfied that they hadn't been transferred or told, it would not behoove you to run down to the judge and scream at them. Would you agree?

**DUNGAN:** If--

**BOSN:** They're just going to file the motion and deny the transfer. You'll be unsuccessful.

**DUNGAN:** After the 35 days?

**BOSN:** If you go down there and scream at them and say, you're 5 days over your 30 days. Give me the ruling. What's your ruling going to be?

**DUNGAN:** Right. I'm probably not going to go yell at the judge. That's correct.

**BOSN:** OK. So the--

**DUNGAN:** I've done that before and it doesn't turn out well.

**BOSN:** --if we have this, is there a, a potential that you will now just see judges who say, I don't have time to review the transcript, so I'm going to deny it. And I'm going to deny them all, because I don't have time to make the decision that would be in the best interest of this particular person because I'm limited to 30 days.

**DUNGAN:** I understand that concern. I think that if that were happening, that would be problematic for an entirely different reason.

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I think-- I understand these transfer hearings, oftentimes, from county court or district court, entail quite a bit of evidence. Like you said, the transcripts can be pretty, voluminous. I know that from time to time, especially in more serious cases, there are experts that come in and testify. But I do think that 30 days provides an ample enough time for them to reach a ruling on that if they're able to dedicate time and effort to that. And given the fact that that currently is the prac-- right now, they're supposed to do it within 30 days anyways. And so I don't think we're creating some new artificial deadline on them that's going to create a bigger squeeze or, or create an issue with their time. This is just saying if you fail to meet the current deadline, then it automatically is transferred. And so, my, my, my hope is that the judges would still review these with the same dedication and I guess, fervor, to make sure they're reaching the right decision. And if they were just, I guess, denying them based on a concern that they were going to run out of time, that would present a different issue that we probably would have to address separately.

**BOSN:** But you don't disagree that if you're putting the time constraint on-- that there is a difference in your bill versus what it is right now, because you said it doesn't change anything. It was 30 days. It'll still be 30 days. Well, the consequence is now that the case is transferred automatically.

**DUNGAN:** Correct. It creates accountability to reach the 30-day deadline.

**BOSN:** OK. So what is your solution for a case where it's a 4-day transfer hearing on a 15-year-old who commits a homicide or is alleged to have committed a homicide, and you have multiple experts who come in. I think we all know our notes aren't always as great as a transcript.

**DUNGAN:** True.

**BOSN:** And so that's why we have a transcript. And the judge wants to review that transcript. Your position is 30 days is enough for them to get it transcribed or else.

**DUNGAN:** Yes, I believe 30 days is an ample enough time.

**BOSN:** So you don't agree that there should be some wiggle room for some cases perhaps, if there are exceptions to a Class II felony versus a Class IV felony, you know your standard-- not standard,

juveniles who are alleged to have committed of theft over \$1,500 are-- should and can be treated differently than someone who's alleged to have committed a homicide.

**DUNGAN:** I mean, I guess I'd have to see what proposal language we'd have with regards to that wiggle room. But generally speaking, I would say that 30 days on any of those hearings would be ample enough time to reach a decision should the judge set their mind to it. I think they could review that transcript and reach a decision quickly. I know that they reach decisions quicker than 30 days on a number of serious matters. For example, if you have a bench trial on a really serious felony, they may sit on that for a longer than 30 days, but they can also come back with a decision within those 30 days, too. Prior to a jury trial happening, oftentimes there's hearings on motions in limine that are very complicated, that involve, again, voluminous amounts of evidence and different evidentiary rules. And the judge is, by virtue of logistics, required to reach a decision pretty quickly before that jury trial. So I think that judges are capable of doing that. It just depends on whether or not they prioritize it, I think, in their list of things they are focusing on. But I have faith they would be able to do it in 30 days.

**BOSN:** Thank you.

**WAYNE:** So along those lines, what about a 45-day requirement? Would you-- I was just going back through some of my cases that I did juvenile transfers, and mine were on average, about 30-35. I had one that was 45. I do have one, 3 years ago, that was a little longer, but most of mine are about 30-35. And usually, mine are one-- all day, maybe a day and a half motions. In all fairness, I don't know judges who really review transcripts, just to be-- but even then, I don't know. I mean, 30 might be a little tight, especially if you're in Douglas County. Only reason why I'm saying this is because you got a weak murder trial or something like that. So would you be open-- are you amendable, I guess?

**DUNGAN:** Yeah. And I think to your point and to Senator Bosn's point, you know, the 30 days I think is, is a general guideline, if, if we were to talk about 40 days, 45 days, I'd be open to having that conversation if we look at like averages and things like that. The real concern that we're talking about here are these hearings that happen and then, as you know, sometimes the orders can take months before they come out. And when you're talking about a transfer of a juvenile case, again, so much of what you're talking about is time

dependent, that the longer these orders get held, whether it's intentional or not, the less time the juvenile has to benefit from services. So it creates a problem. So yeah, I'd be open to talking about different timelines if that's what the committee thinks is important. I would just want to make sure it's based in, again, trying to confine the amount of time, rather than permitting these sort of, overly long waits that we see in some of these cases that I think you'll hear about later.

**WAYNE:** And, and I think, to your point, it's consistent with the policy that we started at state, that even a Supreme Court or a appellate review is expedited and have to be heard within so many days. And those records are a lot longer than just a motion to transfer. So-- and the motion to transfer actually has to be-- is expedited to appeal, so that makes sense. Any other questions from the committee? Seeing none, thank you for being here.

**DUNGAN:** Thank you.

**WAYNE:** First proponent. Proponent.

**JULIET SUMMERS:** Good afternoon, Chairman Wayne, members of the committee. My name is Juliet Summers, J-u-l-i-e-t S-u-m-m-e-r-s. I'm the executive director of Voices for Children in Nebraska, and I'm here in support of the bill. Children need our care and protection to grow, thrive and become productive members of our society. And when a young person breaks the law, we must respond in a thoughtful way that gives children best possible chance at success while ensuring the safety of our communities. Our code should be structured to maximize the opportunity for rehabilitation and change that marks the adolescent years, years which can fly too quickly. Voices for Children supports LB959 because it will ensure that precious months and years are not lost to administrative process. Under our Criminal Code, as Senator Dungan laid out, when a child under age 18 is charged in adult criminal proceedings, they may request a transfer. The statute is 29-1816, and Section (3)(a) requires that the hearing be held on the motion within 15 days. It is not uncommon for the defense and prosecution to mutually agree to extensions of the hearing date in order to have evaluations completed or expert witnesses present. However, once that evidence is presented at the motion hearing, all the parties and the child can do is wait for the order. Nebraska Revised Statute 29-1816(3)(b) is clear that the order is supposed to be returned within 30 days, moving the case swiftly forward toward either transfer to juvenile court or to a speedy trial, as is the

child's constitutional right. As you've heard, unfortunately, we do continue to hear reports of youth waiting longer than 30 days for an order to be returned, sometimes as long as weeks or even months beyond the statutory timeline. When I practiced in juvenile court, which was admittedly before the statutory timelines were put in place, I did have one client who waited on this order for over 8 months. When it finally came, it was an order allowing the case to transfer to juvenile court. But in the meantime, nearly a year of her life had been spent sitting in detention, a year which could have been spent reconnecting with her education, engaging in rehabilitative programming, etcetera. I would note to the question regarding number of cases, we do know that it happens. We have reports. I think Spike behind me may have some exact and more exact numbers, but it is not a huge number of cases. So in 2021, which is the latest year we have annual data for, there were only 93 motions to transfer from criminal court to juvenile court filed statewide. And in that same year, 72 cases were transferred to juvenile court. So we're talking about less than 100 cases on average per year where these motions are even being filed. And of that, it's going to be a significantly smaller number that are lingering over the 30-day deadline. But for those kids, in those cases, every day counts. We know-- we just know that those, those days that go by, the clock for a speedy trial may be tolled, but the-- you know, children continue to age, and we lose that opportunity for rehabilitation in the juvenile court or for the case to continue to progress. I'm out of time. So thank you for your time. I'd be happy to answer any questions that you have.

**WAYNE:** Any questions from the committee? Seeing none-- oh go ahead. Senator Bosn.

**BOSN:** So I just want to follow up. So I want to make sure I got your numbers correct. 2021, 93 total motions to transfer statewide. And of those, 72 ultimately were transferred, which, if my math is correct, which is why I went to law school, because I'm not good at math, it's 21 cases that stayed in adult court. And you would say of that 21, some were timely and others were not.

**JULIET SUMMERS:** I also went to law school instead because I'm not a math person either. But I know enough about the statistics to note the footnote, which is because it is annual data, some of those motions that were filed may have been filed in 2020. But then--

**BOSN:** But they would then go for 2022 cases.

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**JULIET SUMMERS:** Right. Exactly, exactly. So this is the best that we have. I just want to be precise.

**BOSN:** Yep.

**JULIET SUMMERS:** This is the best we have. Yes.

**BOSN:** And I appreciate that. OK. I just wanted to make sure I had that correct.

**JULIET SUMMERS:** Yep. Yep. Thank you.

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

**JULIET SUMMERS:** Thank you so much.

**WAYNE:** Next proponent. Welcome, my friend.

**BETHANY STENSRUD:** Justin. Thank you.

**WAYNE:** Welcome.

**BETHANY STENSRUD:** Members of the committee, thank you for having me here today. My name is Bethany Stensrud, Stensrud, that's B-e-t-h-a-n-y S-t-e-n-s-r-u-d, and I be here-- I, I appear on behalf of the Nebraska Criminal Defense Attorneys Association. The NCDAA has membership of over 370 attorneys who practice criminal defense in this state, with approximately 1/3 of members employed exclusively by their respective county. I'm here to testify in support of LB959, and we thank Senator, Senator Dungan for introducing the bill. I have been an assistant public defender in Douglas County for 12 years. Since that time, I've experienced the criminal law system come to a deeper understanding of how a child's brain develops or how it isn't fully developed, which explains why children make rash, impulsive, sometimes dangerous and illegal decisions. We now know those decisions are made without the physical or mental capabilities of understanding the possible consequences. Current law provides that juveniles who are charged as adults can request to have their case transferred to juvenile court. Section 29-1816(3) was passed by this Legislature and directs that judges are to decide whether a case should transfer to juvenile court or not within 30 days. Since this law has taken effect, most judges do comply with the 30-day requirement, but not always. The Legislature has provided those judges with the standard that a judge shall transfer a case to juvenile court unless a sound basis exists for the adult court to retain jurisdiction. LB959 is consistent with

that standard and the Legislature-- Legislature's intentions. What LB959 does is provide reinforcement of the legislative intention that a decision may be made promptly and early on in the case. Judges are busy. Some have congested dockets, but 30 days is enough time. We've been talking about statistics and 30 days is, for the most part, enough time. Recently, though, I have had a case in which a judge did not rule on the child's request to transfer for 52 days. My client's case is not an anomaly, anomaly. Should LB959 become law, it would provide reinforced-- enforcement of Section 29-1816 for which it already requires. This would prevent unnecessary delays in cases like my client's. These cases impact not only the children charged, but their families and, of course, victims and their family members as well, all who are involved and deserve a prompt resolution. While some may attempt to argue that LB959 could affect community safety-- safety, respectfully, I would say that is besides the issue.

**WAYNE:** All right. Any questions from the committee? Senator DeBoer.

**DeBOER:** Thank you. Thank you for coming to testify today. I think I heard this before when you were discuss-- when some of the other testifiers were talking, but can you clear up for me, when does the 30 days begin? When would the-- does that begin at the beginning of the hearing, the end of the hearing, when the hearing is scheduled? When does the 30 day start to, to run?

**BETHANY STENSRUD:** I'm glad that you asked, asked that question, because I did kind of want to touch base on is 30 days enough. And generally, in my experience, judges have proved because this is not a-- it's not-- because judges typically comply with the 30-day rule, 30 days is enough. And in my experience, that 30 days in-- includes, a lot of times-- I've had-- it's hard to find the time, 4 or 4 consecutive hours of a judge's docket, docket time. So a lot of times, what we will do is have half of the hearing where the state presents their evidence, and then weeks later when they have 3 more hours, then it's my turn to go. And then, I also, very often, request time to brief the, the issue. And sometimes I will ask for more time. During that entire time, the, the judge is allowed to review that evidence. So while the judge is reviewing all that evidence, and then I'm writing my brief based on the evidence and deciding how I'm going to compete against Mr. Lindberg, who's going to testify, then, then the judge has 30 days to issue an opinion. And in some cases, they do go outside that, that 30 days. And I don't think a judge is ever going to be flippant about the issue and just outright deny it. There's case law already in place putting me and my client in a very good position

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for appeal should that be the case. And I just have much too-- respect for judges then to expect that that would actually occur, and I'm, I'm assuming you obviously do, as well. But I don't think we're going to run into that issue. What I think that the LB959 simply does is going to make sure that those judges who do want to keep retention of these children in adult court, it just adds that deadline. And I don't think that we're going to be seeing these cases that are going past the 30-day mark.

**DeBOER:** So, so let me-- thank you for that. But let me ask you again, precisely. So in the, in the story, you said where you say, OK, you have-- 1 week, you have your-- the prosecution side, and then you come back on the next week, and then maybe there's some briefing. When does the 30 days begin? Would it begin--

**BETHANY STENSRUD:** My-- sorry. I wish I would have been more clear. My understanding is that the 30-day doesn't require-- doesn't start until all evidence is in-- is submitted and briefs are submitted.

**DeBOER:** OK. So then 30 days would begin after all of that whole process.

**BETHANY STENSRUD:** Correct.

**DeBOER:** OK.

**BETHANY STENSRUD:** And there's nothing preventing a judge from reviewing the evidence and going through transcripts and testimony during that time period.

**DeBOER:** Sure. As it's going on.

**BETHANY STENSRUD:** It-- it's not a jury.

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

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

**DeKAY:** Real quick. I'm not a lawyer. I will say that right now, but if it's in juvenile court, you have 30 days to-- for the-- make the decision to move it to adult court?

**BETHANY STENSRUD:** Other way around.

**DeKAY:** Other way around?

**BETHANY STENSRUD:** Correct.

**DeKAY:** OK. If it does that, does the clock start over where they start with the hearing? They have 30 days to prepare for another hearing for-- if I have it-- if I understand that right or not?

**BETHANY STENSRUD:** I guess I'm not really understanding your question.

**DeKAY:** Well, it'd be-- if it's moving from adult juvenile.

**BETHANY STENSRUD:** Right.

**DeKAY:** OK. They make that hear-- and they make that determination it goes to juvenile. Is there another 30 days to prepare for the juvenile hearing for that case, going forward, with the evidence?

**BETHANY STENSRUD:** I think what you're asking me is, should my client be successful and get their case transferred back to juvenile court, does the state have any recourse to appeal? And the answer would be absolutely, they get to appeal.

**DeKAY:** OK. Thank you.

**WAYNE:** Any questions? Seeing none, thank you for being here. I got a hearing. Do you want to cover for me tomorrow?

**SPIKE EICKHOLT:** Good afternoon, all. My name is Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t. Chair Wayne and members of the committee, I'm here on behalf of the Nebraska Criminal Defense Attorneys Association. I wasn't going to testify because we had somebody already testify, but I wanted to respond to Senator Bosn's question. We want to thank Senator Dungan for introducing the bill. When he introduced the bill last week, I sent an email out on our listserv asking, because over the years or the last couple of years, some of my members have asked about this issue. I asked if anyone had any examples they could send me. I only brought the 4 examples that happened within the last year. So to answer Senator Bosn's question, I have 2 from Lancaster County. One was 48 days. It was submitted to the court on January 25, 2023 and decided on March 14, 2023. And then I have another one, for 45 days, that was submitted on January 23, 2023 and decided on March 9, 2023. I have 2 from Douglas County. One is Bethany's case that she talked about, 52, 52 days and I have another one of 96 days. I just want to also add, in 2021, the Legislature passed a bill that provided for the 30-day deadline. The Legislature did-- actually did 2 things: it required the judges to decide, after

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evidence was submitted, whether a case goes to juvenile court or not, within 30 days. It also provided for interlocutory appeal if either party, either the prosecutor or the defense could appeal within 10 days of that ruling. And there was some discussion earlier about 30 days. I would just respectfully submit that that is a policy decision that the Legislature has already made. Time is important in these kind of cases. Kids are getting older. Matters need to be resolved. There's not a lot you can do when you're in that holding pattern for whether this is going to be an adult court case or a juvenile court case, so finding that resolution quickly, as soon as possible, is in everyone's best interest. And that's why I suspect and I would submit the Legislature made that deadline. What LB959 does is provide a backstop, a consequence for those probably few times that the judges don't live up to the expectations of them by statute and decide within 30 days. I'll answer any questions if anyone has any.

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

**BOSN:** Thank you. Is it your understanding that this would be read as the Legislature mandating the courts to make a ruling?

**SPIKE EICKHOLT:** I, I think the Legislature has already mandated to the courts to make a ruling within 30 days. I think they already have done that, that you have already done that.

**BOSN:** How have they done that?

**SPIKE EICKHOLT:** Because the Statute 29, is it 1816, says that the courts are to decide within 30 days on a motion to transfer. That's currently in the statute now.

**BOSN:** What's the mandate ruling then?

**SPIKE EICKHOLT:** Well, the legislative-- the clear legislative expression of intent is that these matters were to be decided by the judges within 30 days.

**BOSN:** OK.

**SPIKE EICKHOLT:** It says within 30 days, a court shall issue a ruling transferring or denying the transfer.

**BOSN:** But you would acknowledge that the difference now is that the Legislature is not telling them, you have to make a ruling. The Legislature is telling the court, this case goes to juvenile court.

**SPIKE EICKHOLT:** That's right. What the Legislature would do, I would submit, is that if the court doesn't decide within 30 days, as we earlier stated 3 years ago, then the case automatically goes to juvenile court.

**BOSN:** And you would agree that's a distinction between telling them you have to issue-- I mean, the courts right now have their own internal guidelines on progression orders, right?

**SPIKE EICKHOLT:** They do.

**BOSN:** OK. So those progression orders are designed to keep judges in check. They're like a self-check, correct?

**SPIKE EICKHOLT:** Right.

**BOSN:** And they say, what is it, 90 days, that the cases should be--

**SPIKE EICKHOLT:** I think so. And they-- sorry to interrupt.

**BOSN:** It-- is that right? It's about that. But you get my point. So they are doing that as their own self check to hold themselves accountable. But it doesn't tell them if you don't issue the ruling within 90 days, the defendant is found not guilty.

**SPIKE EICKHOLT:** No. But there are speedy trial statutes that have consequence for those things that courts have to follow. If I could pose this a different way, the Legislature has told the courts, you need to make the decision in 30 days. The Legislature has also told the parties that if you don't like the judge's decision, you have 10 days to decide. If I represent a kid who is not transferred to juvenile court and I miss the 10 days, I don't get to appeal. It's done. It's lost. I've lost that. Judges don't have that consequence, even though that's a legislative expression of intent that was in the very same piece of legislation. Judges, you got 30 days. Parties, you got 10 days. It's not a suggestion. It's not a proposal. It's not a what do you think? It's not a how about? It's a directive to the courts to follow this. And it's-- maybe it's not happening that much. I know people are busy, but these are kids. Time is critically important. The older kids get-- anyway. So that's what the bill does. It provides some sort of a consequence [INAUDIBLE] the courts don't do that.

**BOSN:** And I don't disagree that the, the problem here is that essentially, the 30 days may make or break the ability to actually

comply with a treatment program in juvenile court. And it may make or break that, so I don't disagree with that. My concern is, is that we're-- I mean, you and I are aware that there are a couple of times where this has happened in Lancaster County. I think you've also had the same conversation with Senator Dungan. It happened, and it's unfortunate. But do you agree with her, that there aren't going to be cases where judges say, I don't have time to review this? I don't know what the answer is. Denied.

**SPIKE EICKHOLT:** I mean, I hope the judges don't make that decision just because they're unable to do their job and live up to it. I mean, for right or for wrong, the Legislature determines the policy when it comes to these things. And the, and the Legislature has decided 30 days, just as I gave the example the Legislature decided 10 days is enough time for someone to perfect an appeal. And it's not just the impact it has on the juvenile. I mean, you've worked with victims' families and so on. When you tell them and explain the process, we're going to have a juvenile transfer hearing. They requested it. The judge has 30 days, and it goes on for 45 days. What explanation can you give to the victims? I mean, this has consequence just beyond the actual trial. It's the whole progression of the case. And it's just not happening as the Legislature has articulated it should.

**BOSN:** Fair enough.

**WAYNE:** So it's-- any other questions? So in statute, if a person is not served within 6 months, the case shall be dismissed.

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

**WAYNE:** So we already tell judges if they don't do something or parties don't do something, it's dismissed.

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

**WAYNE:** We have statute of limitations that if a case is not filed in a certain time, cases-- or it doesn't progress--

**SPIKE EICKHOLT:** You're done.

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

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

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**WAYNE:** There's a lot-- misdemeanors, and can't track somebody down. So giving courts-- we do that all the time, I guess, is my [INAUDIBLE].

**SPIKE EICKHOLT:** They do it in Tort Claims Act. You can have a meritorious claim, you can have \$1 million claim that the government did something wrong. But if you don't file your claim within 1 or 2 years, depending on-- you're done.

**WAYNE:** And we set up special legis-- or not special-- special guidelines around juveniles, in particular. The only reason why I know this is because I, I filed a motion to reconsider in a juvenile transfer matter. Remember, it doesn't extend the deadline. And the court said, specifically, in juvenile cases, there's clear direction that you have to appeal within 10 days. Anything outside of that, can't even hear. So again, we, we direct courts and things are happening at certain times. Even the courts can lose jurisdiction.

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

**WAYNE:** Any other questions? Thank you. Any other proponents? OK. Moving on to opponents. Welcome. Are you going to be down here a lot this year?

**RYAN LINDBERG:** I think so.

**WAYNE:** Oh, OK. You, you, you been tapped to [INAUDIBLE] you.

**RYAN LINDBERG:** Good afternoon. My name is Ryan Lindberg, R-y-a-n L-i-n-d-b-e-r-g. I'm here on behalf of the Nebraska County Attorneys Association to speak in opposition to LB959. I think it's failed to come up until very recently, but I think the biggest problem here is this is a violation of the separation of powers here. You have two co-equal branches of the government, the judiciary and the legislative. The difference here is the legislative branch is issuing or ordering the judiciary to make a decision that would be in-- within the judge's discretion, when they consider a hearing and consider in evidence. And if you don't meet a deadline, that ruling is automatically in favor of one particular party. Here, the bill chooses, chooses the juvenile. The bill could very well choose and say, it shall be summar-- summarily denied. So I think there's a separation of powers problem. But I think, also, it isn't a huge issue. We've had a few examples. I can think of one case that I've done that took longer. And that was a-- almost a day-long hearing with thousands of pages of exhibits, expert testimony, and the court may

have taken more than 30 days, but I don't think it is reasonable to then say, if you don't meet this deadline, it's automatically granted in favor of the juvenile. So I think ultimately, what you would do is just motivate the courts to all right, if I'm not sure if I'm comfortable making this decision, you're motivating them to, I would say deny it and say, I'm going to deny this and it's up for appeal. But the way this is written, you've already provided or there already is a presumption of transferring it for juveniles. There's already a mechanism that it shall be done within 30 days. And so I think this goes too far, in saying if a ruling is not issued within 30 days, the automatic transfer happens. So that would be the basis for the opposition here, I think. The next step would be then, OK, if there's a motion to suppress and there's not a ruling in 30 days, we're going to automatically grant the motion to suppress., or we're going to say if there's a motion in limine and the court hasn't ruled, we're going to automatically grant that in favor of the defendant. So I think it's a slippery slope, as well, that a court's function is to exercise its judicial discretion. That's what judges are there for, and this takes that away. In a different way. I know some people brought up deadlines, like a statute of limitations, or a speedy trial affects a prosecutor or a plaintiff's attorney. And if I don't meet my speedy trial deadline, I lose. And I know that. But this is different, in that it's telling a judge, if you haven't issued a ruling on something that is within your discretion to consider, we're picking a party and that's the automatic ruling. And then, it would make any ability for a prosecutor to appeal that essentially pointless. Now, I can appeal if there's a decision that's granted. I can appeal based on the evidence. But in this scenario, if a judge missed a deadline, let's say they had a heart attack on a murder case, it's automatically transferred. I, I don't even think I can appeal it because it was done by operation of law. So I do think that-- the law already sets out what the judges need to do. There's progression, deadlines. Judges are accountable to the citizens of our state, so I don't think there's a basis to do this and automatically transfer a case.

**WAYNE:** Thank you. Any questions? Senator McKinney.

**McKINNEY:** Thank you, Chair Wayne. In your testimony, you said it's not a big issue. What if you had a juvenile that had to wait 96 days to be heard or have this happen? Would that not be a big issue?

**RYAN LINDBERG:** My point of view, I guess it's not as though we've got hundreds of cases and our backlog is, you know, the judges can't do their job because they got so many transfer hearings. It sounds like,

and I've been a part of one that was in that maybe 45 day range before, but it was one that there was such voluminous evidence, I think it made sense why the judge spent more time with it. To that particular juvenile. Yeah, I think that's time they would much rather have. But if the choice is, do we want a judge to make a well-reasoned decision and consider all the evidence? I think that extra 60 days is important. And I think that's more important than automatically, you know, granting a transfer. What about, let's say it's a murder. What about that victim and their family when we say, hey, that judge had a heart attack, they missed the deadline. There's this statute out there. We're sorry, but this guy's going to juvenile court. His, you know, his record is going to be sealed, and there's no review of your case.

**McKINNEY:** Yeah, but that juvenile wouldn't be proven guilty or not guilty. They just would be having their case referred to another court. So yes, I understand victims' issues, as well, but you're also innocent until proven guilty in a court of law. So are you saying it's a big issue or not a big issue?

**RYAN LINDBERG:** I mean, I think this bill is a violation of the separation of powers, just the concept of ordering the judiciary to make a particular finding for missing a deadline. Right. That's my biggest problem with it. And, I think, the second piece was just-- it's not a huge problem that we're trying-- the bill is trying to address what it sounds like is a handful of cases. And so to make this drastic of a solution, if the answer is, hey, put in the statute that a party can file a motion to bring it before the judge, or the attorney can already do that, I just think the, the solution here is very drastic compared to saying there's a few cases where we're maybe going over by a couple weeks or a month.

**McKINNEY:** So one-- so if you go over by a couple weeks, that's not a big issue?

**RYAN LINDBERG:** To me? No. Not compared to having the law mandate that a case is automatically transferred. No. I don't think that in any way justifies this bill.

**McKINNEY:** But to that juvenile and to that family, that would probably be a big issue.

**RYAN LINDBERG:** Sure. For that particular person, they'd like to know their ruling as quick as they could.

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**McKINNEY:** And, and that's what I'm trying to get to. I think, in your testimony, I think you should clarify your words. Saying-- minimizing the situation isn't great for your argument, is all I'm saying. Thank you.

**RYAN LINDBERG:** OK.

**WAYNE:** Senator DeBoer.

**DeBOER:** So, thank you for being here.

**RYAN LINDBERG:** Yeah.

**DeBOER:** One of the things I heard you saying was this, you know, if something happens and they have a heart attack or something.

**RYAN LINDBERG:** Sure.

**DeBOER:** If we put in something like a good cause exception, which would allow you to appeal in those circumstances? Right. So it says, unless for good cause shown or something. And then you could say, look, the-- he had a heart attack or she had a heart attack or whatever, would that help you feel better about this, or would there still be a problem for you?

**RYAN LINDBERG:** No. I think any bill that has a deadline right, and then it just merits that a judge shall make a particular-- it's not even a judge, that the case is just apparently automatically transferred by law. I don't know who's going to sign that order. But that the case is automatically transferred because a deadline is missed, I would have a problem with any bill that had that sort of a provision. Whether that was against a motion to suppress, a motion in limine, a pretrial motion of the state. You know, the flip side would be, let's say, hey, the state wants to, you know, have these cases consolidated, and we want it to be fast. And if there's no ruling in 30 days, you know, they're automatically consolidated. You know, I think that would be ridiculous, right, because it wouldn't be based on the evidence. It would be saying the judge didn't meet a deadline.

**DeBOER:** So I, I think I understand what you're saying, but let me-- sorry. I'm a little rusty on some of this. Jurisdiction is conferred not by the court, but by the Legislature. The Legislature determines what jurisdiction a court has.

**RYAN LINDBERG:** Sure.

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**DeBOER:** OK. And so the jurisdiction given to the juvenile court comes from the Legislature, and the jurisdiction coming from adult court ostensibly comes from the Legislature, as well. Is that-- am I right?

**RYAN LINDBERG:** Yes. I mean, the, the statute sets out who we can-- who the state can charge as juveniles, right? So we can charge juveniles 14 and older with IIA felony and up. And then that juvenile has the right to have a transfer hearing in district court.

**DeBOER:** So it seems to me that this, rather than being a separation of powers issue, this is an issue where the Legislature is seeking to set out when jurisdiction is appropriate for the juvenile court. So isn't it a situation-- and-- isn't it a situation where this bill would say that jurisdiction is only appropriate in the juvenile court for-- if, if no hearing had-- or if there's been no decision. So it's not that you would need somebody to sign the order. It's just that the jurisdiction is automatically transferred because the Legislature has said in this situation, jurisdiction is conferred into the juvenile court.

**RYAN LINDBERG:** I mean, I don't think that's what it says. The bill essentially says the case shall be automatically transferred after this hearing. And the Legislature has set out, here's all these provisions and evidence that should be considered in the hearing. So the Legislature, Legislature has set up, here's an evidentiary hearing that should happen, and we've given the judges a series of factors to consider.

**DeBOER:** And I guess--

**RYAN LINDBERG:** And what this bill does then, is says, forget all of that. You didn't make your deadline. It's automatically going to juvenile court. So if you wanted to change who-- which court is vested in jurisdiction, you know, this committee or the Legislature has any ability to do that. But I don't know that you have the ability to order a judge that misses a deadline on a pretrial hearing or a motion to transfer--

**DeBOER:** Can we--

**RYAN LINDBERG:** --to then automatically have a decision.

**DeBOER:** --I mean, I think in something like-- and this may not be a thing, but it seems like it's saying there's such a thing as, OK, we're, we're saying this jurisdiction is contingent on the judge

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making the decision between now and 30 days or whatever, rather than-- I mean, I think it's-- I think it's not an order, but a, a, a conferring of jurisdiction onto the juvenile court. So anyway, that's-- sorry. [INAUDIBLE].

**RYAN LINDBERG:** That's all right. No, I mean, I, I think the way I read it is it's-- the next step would be or saying, hey, if a jury hasn't returned a verdict, [INAUDIBLE] in 90 minutes, the person is guilty or not guilty. I think you're looking at-- there's--

**DeBOER:** I, I don't see those as the same thing because that would not be a jurisdictional issue, right, whether or not a person is guilty or not guilty is not a question of jurisdiction.

**RYAN LINDBERG:** I don't mean to--

**DeBOER:** This is a question of jurisdiction.

**RYAN LINDBERG:** But it's a, it's a question of judicial function. The judiciary's function is to make a reasoned decision here. And this asks them to do that, but then all of a sudden puts in an arbitrary deadline that if you haven't completed using your judicial discretion, this is what happens with your case. So I just think that is an issue as to the separation of powers. And I think all it would do then is if you're a judge and you're saying, I'm on the fence, I would like to take more time with this. I know I'm at 25 days. I'm going to deny it and they can appeal it. Because I know no judge is going to want to say I didn't get my order out and now the, you know, the clerk's office has sent the case to juvenile court. And I think you've closed off the state from having judicial review of what's actually not a decision, but a mandatory transfer.

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

**WAYNE:** I was-- any other questions? I was kind of going down the same path. I wrote down, Legislature decides jurisdiction. This seems like a jurisdictional thing. And, and your separation of powers comment, I'm just, just-- let's think of it. Do, do you think the Legislature can tell the, the, the judges how to interpret things?

**RYAN LINDBERG:** I think you can say, yeah, here's the factors to consider under the juvenile transfer statute. Yes.

**WAYNE:** How they should-- how they should interpret, like what weight they should give things. Can we, can we do that?

**RYAN LINDBERG:** Well we-- and I think the Legislature has done that, right. There's already a presumption that it should be transferred to juvenile court in this statute. So I think that's, you know, the statute provides we've got to find a-- what is it-- a sound basis for retaining jurisdiction. Right. So yeah, you can absolutely say that. But I think to then take it further and say it's automatically transferred if you don't meet a deadline, it goes well beyond saying here's the factors to consider. That's essentially telling, we're making a judicial decision as the Legislature, which, that would be my-- I think that would be one of the primary issues with the bill. Because then the next would be if you haven't ruled on a motion to suppress, you could-- I'm sure you could get people that would say, there's judges that sit on suppression motions, within blank number of days, regardless of the constitutional interpretation, the evidence is suppressed. So I, I think you're--

**WAYNE:** No, no. I'm just thinking in my head like-- I-- it's just odd to me because multiple senators voted to tell judges how to interpret agency deference the other day. And this wasn't raised on the floor at all, as far as telling judges what they can and can't do. And so I was just-- I'm, I'm trying to figure out if it's a separation of powers issue, why, why did so many of my conservative colleagues vote for LB43 the other day? But nevertheless. OK. I don't think it's a separation of powers issue, but I get what you're saying. Any other--

**BOSN:** Can I have a follow up?

**WAYNE:** Yeah.

**BOSN:** Are you aware of any other laws that mandate an outcome if a judge doesn't make a timely decision?

**RYAN LINDBERG:** No. And I mean, I think that's the big distinction between there's laws that have consequences for a plaintiff's attorney, for a state's attorney that you don't meet a deadline-- or a litigant, you don't meet a deadline, there's a consequence. But yeah. I'm not aware of any other scenario that says if a judge hasn't ruled on a pending motion, this decision is, you know, the Legislature has provided this is what the decision shall be.

**WAYNE:** So longer-- along Senator Bosn's question, let's just say a judge, a judge doesn't set it for trial, right.

**RYAN LINDBERG:** Yeah.

**WAYNE:** Let's just say they totally dropped the ball and don't set it for trial. Then you file a motion to, you know, dismiss the case. So, so because they didn't send something, it, it is going to be dismissed.

**RYAN LINDBERG:** But that's the prosecutor's obligation, right. If I filed that case, it's my obligation to track that case, get it set for trial, and have it heard within 6 months.

**WAYNE:** That's not your obligation. That's the judge's obligation.

**RYAN LINDBERG:** No, it's absolutely, I think-- it's the state's obligation to prosecute its cases and follow up on the speedy trial clock. Right. That's my job to know how many days are left, is this set for a pretrial hearing, and is it set for trial on time?

**WAYNE:** There's actually, there's actually a Supreme Court case on that, where we changed judges and the case got lost in the shuffle and didn't beat speedy.

**RYAN LINDBERG:** Well, I mean, there may be some good cause in the statute, but I'm saying as a prosecutor, my job is to bring that case to trial within 6 months. It's not the judge's job. And if, and if I screw that up, the consequence is on the state of Nebraska because I didn't meet the deadline. And that happens, right?

**WAYNE:** Or if the judge screws it up.

**RYAN LINDBERG:** I mean, the judge could screw it up, in that if the prosecutor is relying on the judge to set his pretrial hearings and make sure it happens within 180 days. Yeah. Then, then--

**WAYNE:** OK, let's just walk that down.

**RYAN LINDBERG:** Yeah.

**WAYNE:** The prosecutor doesn't control the judge's schedule. You can't go in there and say, I need a trial tomorrow, or I'm-- or I'm out.

**RYAN LINDBERG:** I think you absolutely have some obligation as the prosecutor or a plaintiff's attorney, let's say, right. I need to have it set for a pretrial hearing in some reasonable time. And you have to tell the court, hey, my speedy trial clock runs-- let's say we're setting something today. I know my speedy trial clock runs in 4

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months. You have to make the court aware, you know, we need a trial in 4 months. And then they--

**WAYNE:** Why can't-- why couldn't you have the same amount of responsibility underneath this? Say hey, we've got to get a ruling here or this is going to get dismissed.

**RYAN LINDBERG:** And I think it's different, right. The speedy trial says we have to bring a case to trial within 180 days. Right. And that's an obligation on the state of Nebraska or on the prosecution. This is saying, you're doing your job, you're having a hearing, you're considering the hearing. We're going to mandate an outcome if you haven't issued a ruling in 30 days. So I think it's, it's completely different is, is my take.

**WAYNE:** So if we frame the court as-- if we frame the question or the-- this-- the bill as if you don't rule within 30 days, the court loses jurisdiction and it transfers to juvenile, then it solves the-- your problem, right? Because we dictate jurisdiction.

**RYAN LINDBERG:** I think you could change who takes jurisdiction of who gets these cases and the ages, right. But I, I think mandating from judicial discretion to a timeline, I think that's what's problematic to me. If the Legislature wants to change who gets charged in adult court or juvenile court, you have the ability to do that. But ultimately, I guess-- I, I think, when you look at even the examples they have, we're talking about 2 or 3 cases, that I don't think that this type of a rash reaction is, is merited. I think you have a good system. Judges are primarily complying with that 30 days because they know that, right? It's in the law. I've got to do this within 30 days. We've got a few examples of, you know--

**WAYNE:** No, I understand.

**RYAN LINDBERG:** --a couple of months. So I guess I also don't think--

**WAYNE:** We pass a lot of bills when the Supreme Court makes a decision that we don't-- and that's just one case. And we pass a bill to fix it. So we, we, we do it a lot of times, with just one case. Any other questions from the committee? Seeing none, thank you for being here.

**RYAN LINDBERG:** Thank you.

**WAYNE:** Next opponent. All right, people testifying in a neutral capacity. All right. Senator Dungan still here?. Oh, there he is. Come

on up for a closing. Most people don't stay in for closing in this [INAUDIBLE].

**DUNGAN:** I miss being in Judiciary. This is fun. Chair Wayne and colleagues, I just wanted to comment on a couple of things. And I think we're actually having a really important and interesting conversation about this bill and the separation of powers. But there's a number of things that came up that I just wanted to highlight. First of all, I guess I don't understand what the pushback is from the county attorneys on this. The judges aren't here testifying, and I don't see the bar association here testifying, and I don't see anybody else coming in and testifying about their concern of separation of powers. And I, I, I don't understand exactly what the major concern is. It-- if we're just, brass tacks, is the concern that more cases are going to be transferred to juvenile court than stay in adult court? I genuinely don't know if that's the concern, but that's what it sounds like. I find that concerning, but I do appreciate some of the conversation that happened around that. Senator DeBoer, I think you hit the nail on the head that telling a judge what to do when they're making a ruling with regard to like, a motion to suppress or something like that, to me is different than conferring jurisdiction. I think those are two very different conversations to have. But even if we're assuming *arguendo*, that they are the same thing, I think that Chair Wayne and other senators have highlighted circumstances where we do tell judges what to do. Senator Bosn, I think you asked about a time is there any other statute where we tell a judge to reach a certain conclusion? Spitballing here, and I don't wanna go too far down a path that's separate and apart, but protection order hearings. Right. If an *ex parte* protection order is issued. And then there's certain criteria laid out in the statutes that say a judge shall order that be the final protection order and enforced if A, B, and C. And so if, let's say, the *ex parte* protection order is issued, and time passes and a hearing is set, or a hearing is not set, and the judge decides, you know what, I really wish I could have changed that, but they don't set it for a hearing. I mean, at that point, the judge shall order that to be the final protection order. So, I do think there is precedence in our statutes that order certain outcomes if certain predicates are hit before that. In addition to that, I think that there is ample time in those 30 days for them to reach this decision. We've, we've talked a little bit about whether or not this happens frequently. I think that the fact that this happens infrequently is an argument in favor of this statute or this change. I don't think we're going to see some massive overburdening of the

courts if this happens, given the fact that the vast majority, it sounds like, of these transfer hearings are ruled on in 30 days. But in those circumstances like Senator McKinney highlighted, where we're talking 95, 96 days waiting in a holding pattern. I think there needs to be some accountability. And it is problematic that we have, in this statute, "shall" language without any accountability whatsoever. And I would also tend to agree with Mr. Eickholt that 30 days has already been agreed upon. Right. That's already in the statute. And so if we've already agreed that 30 days is the appropriate amount of time for one of these things to take, we as a Legislature have already voted for that, and we've agreed on that, then it would make sense to have some backstop or, or support in place to ensure that those 30 days are being met. I don't believe that the lack of this happening frequently is a good enough reason to say that it's OK for these cases to then go over the 30 days. So I guess those are some of the, the comments I had, that I was thinking of during the hearing. I'm happy to answer any additional questions and continue talking about this with colleagues, as well, after the hearing, if this continues to be something that we have questions about.

**WAYNE:** Any questions from the committee? Seeing none, thank you for being here. There are 5 letters, 4 in support and 1 in opposition. That will close the hearing on LB5-- LB959. We will open up the hearing on Senator Blood's LB976. Welcome to your Judiciary.

**GABRIEL HINRICHS:** Thank you, Senator Wayne.

**WAYNE:** Let's, let's wait a second for them to clear out. Go ahead.

**GABRIEL HINRICHS:** Chairperson Wayne, members of the Judiciary Committee, my name is Gabriel Hinrichs, spelled G-a--b-r-i-e-l H-i-n-r-i-c-h-s. I am the administrative assistant for Senator Carol Blood's office, office, representing Legislative District 3, which comprises western Bellevue and eastern Papillion, Nebraska. Today, we are introducing LB976, a bill that adds further requirements for continuing education for county judges in Nebraska. In 2022, the United States Congress passed Kayden's Law. The law includes educational requirements for judges when passed by any state. The federal government will then give federal grants to states that have passed the educational requirements. The state of Nebraska should not miss out on this opportunity to obtain these federal grants. The expectations within this educational program are including the latest best practices from evidence-based, peer reviewed research by recognized experts, including family violence experts. The state court

administrator shall, shall design the program to educate and train relevant court personnel on all relevant factors relating to custody determinations and improve the ability of courts to make appropriate custody decisions that are in the best interest of the child, including education and training regarding the impact of child abuse, domestic abuse and trauma on a victim, specifically, a child in situations when one party attempts to turn a child against another party. The committee should know that the office held a meeting with Corey Steel and Eric Asbo from the Judiciary Branch about this bill. They notified us that this bill may conflict with the separation of powers, and that the bill won't include much of an enforcement mechanism. They also claim that the educational requirements would be burdensome for judges in the state of Nebraska. While we do not deny their concerns and reasoning to be valid, we do believe that this legislation is still necessary. Multiple people have reached out to Senator Blood directly and the office about this issue, so we felt compelled to bring the bill forward. If this bill is not the answer for this issue, then we need to find some way to do so in the future that works for impacted people and the courts. The courts cannot always proclaim "no" to everything due to time and money. We, as a state, always have to look at our possible shortcomings. Those shortcomings will be addressed by some of the testifiers present today when it comes to the rural areas of Nebraska. Lancaster, Sarpy and Douglas Counties have phenomenal programs in place when it comes to education for judges on the issues mentioned within the bill. We wish to see an expansion of these programs to other counties and if that means looking at legislation like this, then we should consider this legislation. Thank you all for your time. I'm not going to answer any questions.

**WAYNE:** Thank you for being here.

**GABRIEL HINRICHS:** Yeah.

**WAYNE:** First proponent. Welcome.

**ERIN FEICHTINGER:** Good to be back in front of Judiciary.

**WAYNE:** So nice.

**ERIN FEICHTINGER:** Chair Wayne, members of the Judiciary Committee, my name is Erin Feichtinger, E-r-i-n F-e-i-c-h-t-i-n-g-e-r, and I'm the policy director for the Women's Fund of Omaha. We are committed to ending gender-based violence and supporting survivors on their paths

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toward healing and justice. And we offer our support for the intention of LB976, and thank Senator Blood for listening to the survivors who have asked her to address this issue. Numerous, numerous individuals have reached out to us since the introduction of Kayden's Law at the federal level, on which this bill is based, stating the impact it would have on their own lives and have asked us about the feasibility of implementing it in Nebraska. Because we listen to and believe survivors, we know that the lack of understanding around the complexity of abuse as it relates to custody cases is a serious issue. The courts would almost certainly benefit from additional training in these matters, to ensure that custody cases are resolved in a manner that recognizes the complexity of survivor's trauma, of custody cases generally, and increases the safety for all involved. A federal one-size-fits-all approach must necessarily be flexible and finessed to fit the uniqueness of each state's court system, including our own, and that approaching this issue will take survivors and the courts working together to find a solution. And we hope that the state will continue to pursue a solution that is victim-centered and trauma-informed. And I'm happy to answer any questions to the best of my ability.

**WAYNE:** Any que-- Senator Bosn.

**BOSN:** Thank you. Thanks for being here. I also had some individuals reach out to me, so I agree this is an issue. Can you tell me right now, what-- I mean, judges are required to take annual training courses, correct? Or do you know?

**ERIN FEICHTINGER:** I do not know the answer to that question, and there is someone much smarter behind me who's a real-life lawyer--

**BOSN:** OK.

**ERIN FEICHTINGER:** --who could probably answer those questions for you.

**BOSN:** I-- I'd-- I'm not suggesting that you're not smart enough to know. I just didn't know if you were aware of what those requirements are, specifically, as it relates to training for custody determinations when domestic violence is an issue in the divorce filing. Right?

**ERIN FEICHTINGER:** Right.

**BOSN:** So is it fair to say that that's what this is primarily targeted towards--

**ERIN FEICHTINGER:** Yes.

**BOSN:** --the child who's being pinned between 2 parents and told, if you go home and tell mom that this happened, this is what will-- the consequence will be.

**ERIN FEICHTINGER:** Yeah. I can't speak to exactly what would, you know, what parents are telling each other in those cases. I do know that training exists, particularly around domestic violence. And a lot of work has been done, in that sense, of trying to-- so yes. This is kind of, in my understanding, extending that kind of training into this other space, which is custody cases.

**BOSN:** And right now, does VAWA, Violence Against Women Act or any of that have a voice in those custody proceedings when that's one of the concerns?

**ERIN FEICHTINGER:** I think that VAWA has money attached to it for these kinds of-- like Kayden's Law, that's what it was attempting to do, is attach funding and training for these particular cases. But there are folks behind me who will be able to answer that question more specifically.

**BOSN:** Thanks, Erin.

**WAYNE:** I have a-- just a general question. How would you feel about, let's say, extreme organizations providing funding to judges, CLEs or JVsAs?

**ERIN FEICHTINGER:** What do you mean by extreme organizations?

**WAYNE:** Well, right now, the Supreme Court--

**ERIN FEICHTINGER:** Like, am I?

**WAYNE:** No. [INAUDIBLE] right now, the Supreme Court or judges, at their annuals, can get donations and grants from any organization/foundation. Do you think we should limit what they can and can't get?

**ERIN FEICHTINGER:** Thanks for the feelings question. Appreciate it. I think that there is always a benefit to accountability, in any case when we're dealing with the government and particularly, on issues related to access to justice for all in our community.

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**WAYNE:** Thank you.

**ERIN FEICHTINGER:** Gotta warn me about those kinds of questions. I'm just kidding.

**WAYNE:** I just thought about it.

**ERIN FEICHTINGER:** I'm just kidding.

**WAYNE:** But that would require me to read bills before I got here. Seeing none, thank you for being here. Next proponent. Welcome.

**SHEILA KORTH:** Thank you, Chairman. Thank you, members of the committee. Thank you for being here and thank you for your public service. My name is Sheila Korth, S-h-e-i-l-a, Korth, K-o-r-t-h. I live in Omaha. I'm originally from Randolph, northeast Nebraska. I submitted written comments ahead of time, so, I'll try to make it brief in what I mention today, but I strongly support this bill. I strongly thank Senator Blood for-- and her staff for bringing it in to the Nebraska Legislature. I have personal experience in this. And while I can't go into a lot of detail, I can tell you that I am not the only person experiencing the issues that are in this bill, and that also could be contained in other legislation to try to help children who are in situations where they are being abused, and in many situations where they have been abused for many, many, many years and for one reason or another, because of the way that different things happen, have not been able to be protected over time. I know that I'm in touch with people around the country who have horrendous stories of children who have been killed in situations like this, where the children were not-- unfortunately, they were not able to be protected when a child custody case was ongoing. In cases from California, Pennsylvania, Florida and all across the country, I don't want that to happen here in Nebraska. I believe that this bill is a step in the right direction. I believe that we need to do more, as well. There are children who have bruises. There are children who have been hit, pushed, put in chokeholds, and those children are still with those people who are doing these things to them. I'll leave it at that. The, the one final point would just be on the taxpayer expenditure. The point here is that I believe that this bill and other legislation to help children in these situations where they are being abused would also greatly impact our state budget, our county budgets, our local, state, small town and even larger state budgets and would save a lot of money. Thank you.

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

**MELANIE KIRK:** Good afternoon, Chairperson Wayne. My name is Melanie Kirk, M-e-l-a-n-i-e K-i-r-k, and I'm the legal director for the Nebraska Coalition to End Sexual and Domestic Violence. I'm here today in support of LB976 on behalf of the coalition and its network of sexual and domestic violence programs across the state. The coalition's network of 20 programs collectively serve all 93 counties in Nebraska, and are the primary source of providers for domestic and sexual abuse survivors. I'm here today to express my optimism and gratitude to Senator Blood for bringing this bill in response to concerns that were brought to her by domestic abuse survivors. This bill highlights the importance of listening to survivor voices, but also, importantly, has provided an opening for dialogue between the Judicial Education Branch regarding the imperative need for domestic violence training for judges. Senator Blood's bill draws attention to the need for crucial conversations within our state about the complexities of domestic violence cases and the judges that hear those cases. By bringing attention to this issue, the bill highlights the necessity that judges receive specialized education in understanding the intricacies of domestic violence and its impact on children. This newfound awareness and dialogue presented an excellent opportunity for us to work with the judicial branch to establish and create opportunities for judges to learn more about domestic violence and how it impacts families and how it impacts children. And with that, I would open to any questions that you have.

**DeBOER:** Thank you for your testimony. Let's see if there are any questions.

**BOSN:** I just have a couple of questions. Do you know [INAUDIBLE]?

**DeBOER:** Senator Bosn, I, I have to call on you, Senator Bosn.

**BOSN:** Thank you. Do you know right now what the requirements are for continuing education for judges?

**MELANIE KIRK:** I do. So in the Nebraska Judicial Branch, for education, requires 5 hours of education every year, not any specific area. And it's not broken down to juvenile court judges do this, county court judges do this. It's just 5. The federal Kayden's Law requires 20 hours of judicial education in the first year for all judges and all court staff in order to qualify for the funding.

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**BOSN:** Twenty hours for all judges in the--

**MELANIE KIRK:** That deal with custody, but not juvenile court. So anybody who would deal with divorce or custody would have-- including court staff.

**BOSN:** OK. So just for background, Kayden's Law is the-- is the result of a tragic situation. Is that fair to say?

**MELANIE KIRK:** Very tragic situation.

**BOSN:** Where a child was murdered during a visitation with an abusive parent, and the protective parent had been bringing that to the court's attention for a while.

**MELANIE KIRK:** That's right.

**BOSN:** And so, what this is designed to do is to allow courts the ability to have that education, training and experience to know what information they need to elicit from witnesses in order to avoid the death of Kaydens.

**MELANIE KIRK:** That's correct.

**BOSN:** OK. Is it your understanding that right now, there's VAWA grants that would potentially cover some of that training?

**MELANIE KIRK:** So what happened in Pennsylvania, presented a law, in 2021, called Kayden's Law. It passed the Senate. It didn't pass the House. And then they created a new law-- bill that was introduced last year. It passed in December, in the Senate. It hasn't passed the House. That was brought to the federal government and to the-- to Congress' attention. They weren't able to come to a consensus on Kayden's Law as a broad sense, but when they reauthorized VAWA, they included some additional provisions, part of stop grant funding that would allow states to get additional money for judicial education. And Nebraska is using their formula. Just a second. It's basically an average, over 3 years, of stop grant funding, and then you get 10% of that. Nebraska's 3-year average of stop grants is about \$626,232. They funded this up to about \$4 million, and it only goes to 2027, and there's no guarantee of those funds. In order to get those funds, you would be required to fulfill the requirements of Title XV, of the reinstatement of VAWA, which would include that every judge, magistrate and other court personnel involved in custody proceedings receive the initial 20 hours of mandatory training and then after

that, 15 every 5 years ongoing. And then also ensure that courts comply with expert testimony requirements, which would require limits on the parental alienation experts that can come in, and then they have to ensure that court-appointed neutrals comply with uniform required standards. I will tell you that none of this funding has been released yet federally. No state has gotten it. Only 2 states have passed a version of Kayden's Law, and both of those are in constitutional challenges at this point. And so while this is difficult, I do think that it is encouraging that Nebraska senators are listening to survivors when they come forward and ask for help.

**BOSN:** Agreed. Right now, the courts in custody cases appoint a guardian ad litem to--

**MELANIE KIRK:** Not always.

**BOSN:** --routinely, when there's a concern. Or maybe I'm wrong.

**MELANIE KIRK:** I would say it depends on each judge, and it depends on the county and the availability of attorneys. Some judges are very adamant that they don't believe that guardians ad litem have a position in a custody case. Some judges are happy to have the assistance of a guardian ad litem. And some courts don't have the staff or the ability. Some parents don't have the financial ability to pay for a guardian ad litem. So it's, it's complicated, but it's not in every situation where guardian ad litem is appointed in a situation where domestic violence exists or there's high conflict.

**BOSN:** Thank you.

**DeBOER:** Thank you, Senator Bosn. Any other questions from the committee? I don't see any. Thank you so much for being here.

**MELANIE KIRK:** Thank you.

**DeBOER:** We'll have our next proponent testifier. Is there anyone else who would like to testify in favor of this bill? OK. We'll go to opponents. Anyone in opposition to this bill? And now any neutral testifiers.

**COREY STEEL:** I have to change my opening. Chairwoman DeBoer and members of the Judiciary Committee, my name is Corey Steel, C-o-r-e-y S-t-e-e-l. I'm the Nebraska state court administrator with the Administrative Office of the Courts and Probation. I'm here testifying today in a neutral capacity on LB976. I have written testimony, but I

do want to go a little off script for some-- to clarify a few things. In the opening, it talked about-- Gabriel talked about that it would mandate judicial education. Section 1 of the bill states the state court administrator may, may develop and implement an ongoing education and training program, child abuse for judges relevant-- and relevant court personnel. So it gives discretion to the state court administrator. That's why we're here in a neutral capacity. Because if this bill were passed, it doesn't mandate us in the judicial branch to provide any education. That does not mean we do not take this serious. We do not take the issues involved in Kayden's Law-- we, we understand the totality of what's taken place, and that's why this is very difficult sometimes to talk about. We do not, in the judicial branch, have a, have a negative stance that this type of education is not needed. It is needed. It is needed all across the board. So I want to be very clear with that, that we're not here to highlight some concerns with Kayden's Law. I just want to talk about the implementation if this was a "shall", put in place of the "may" for that. First, I want to touch on a few things that we do currently provide in the judicial branch as far as education. Our Judicial Branch Education center currently provides ongoing educational opportunities on child abuse, neglect, domestic violence, and so forth, for judges, court staff and probation. In the past 3 years, we've had 12 different educational sessions that have been offered. Currently, Douglas County's separate juvenile court judges, staff-- judges, court staff and attorneys have incorporated Safe and Together domestic violence training model in their juvenile court practices on a day-to-day basis. Lancaster County's separate juvenile court has a Safe and Healthy Families problem-solving Court pilot that focuses on abuse, neglect that involves domestic violence in those cases. These courts are producing positive outcomes. Now to jump down and get to the issue of implementation. The judicial branch does not believe in the edu-- does believe in education in these, in these vital areas. It comes down to the implementation of the federal requirements. As we understand it, and we've been able to do some research, and we've talked with Melanie, who just testified, and Senators Blood's staff, every judge, court staff, and it says court participants, which could mean attorneys, we're not sure. We need to get definition on what that in totality--

**DeBOER:** Thank you, Mr. Steel. Let's see, I imagine there'll be a question. Anybody have any questions? Well, Senator Bosn.

**BOSN:** Can you tell me what your court staff training involves, where you were-- pick up where you left off? Because I am interested in-- I have questions once you get it on the record.

**COREY STEEL:** OK. Thank you, Senator Bosn. So we understand that it is all court participants, which could mean attorneys, guardian ad litem, all those that are participating in this case-- these types of cases would require 20 hours of specific education in this area. And then, as discussed, 15 hours. And, and at first we thought it was every 3 years. I believe in the printed testimony I have 3 years, but it may be 5 years, 3-5 years. Melanie, when we talked, we thought, at that point, it was 3 years, those federal requirements. There is a federal drawdown, as Melanie talked about, approximately \$600,000. But there's no guarantee that would come back to the judicial branch for putting all this additional judicial education on. It goes to the state, to the Crime Commission, our SAA, to be able to delve out. There is no guarantee that we would be re-- be given the funds if this education was mandated. We know that this is important. We know that the-- this education needs to continue and we plan to do that. It's in, in on an annual basis. A couple other educational things that are going to be taking place. Our court improvement project has been working with the Safe and Together initiative to provide statewide training for stakeholders on that initiative, which I emphasized Douglas County has implemented. And their court practice is doing a statewide, again on a voluntary basis, those that would want to attend, through our, through our CIP program. We also, in the judicial branch, have VAWA stop grant funds, where we have a victim specialist, not only in the Administrative Office for Domestic Violence, but also in probation offices across the state, that they work with the victims of domestic violence. And they're specialized in that, not as a-- not as some-- they, they don't supervise a case load, but they're there as a victim specialist, similar to what you have with law enforcement with a victim specialist, as well. If I could, Senator, answer your question about judicial branch requirements for CLEs for judges. The Supreme Court has set those standards based on its inherent authority for those educational standards for judges, court, and probation staff. Judges in the state of Nebraska are required to have 10 judicial branch credits, or CLEs, per year. And it is 10, not 5. I think that was testified to earlier. And of those CLEs, it's any type of case type. As you can imagine, you require 20 hours in 1 year on 1 specific area of the law, that means every other area of law we potentially could not cover in that, in that year because of the-- of the requirement. It also-- if we had-- and, and it's also every level

of trial court in the state of Nebraska can do divorces. Our separate juvenile court judges have statutory authority to do divorces. Our county court has statutory authority to do divorces, and so does our district court obviously, as that's 40-plus percent of their caseload. So that would mean every judge in the state of Nebraska would have to take 20 hours the first year. And that implementation to put that much education on and focus on one area would be very difficult for the judicial branch, to push that forth, as well as all court staff. So that means all court staff, both in the district court, which are elected officials outside of the control of the judicial branch, right, they work for the county. They would have to take required education. County court staff for our county courts would have to, and all those in the, in the juvenile courts as well, would have to take education, along with whatever else that definition is of court participants.

**WAYNE:** Any other questions from the committee? Are you here-- you're here in neutral capacity, right?

**COREY STEEL:** What's that, Senator?

**WAYNE:** Nevermind. I'm-- I appreciate it. Thank you.

**HOLDCROFT:** He is neutral.

**WAYNE:** That's why I said I appreciate it. Thank you.

**COREY STEEL:** I'm in a neutral on this one. Yes. I-- you weren't here, and I would have smiled and winked at you that I'm here in a neutral capacity.

**WAYNE:** Any other questions from the committee? Hearing none, thank you for being here. Any other neutral testifiers? Welcome to your Judiciary Committee.

**BENJAMIN BURAS:** Thank you. Benjamin B-e-n-j-a-m-i-n, Buras, B-u-r-a-s. Maybe I'm missing something here, but I know state judges, they're able to be-- I mean, we vote on their, their being able to retain their, their whatever it's called, chairship. I don't know. But, I, I know, from personal experience that peace officers are notorious for, for eliciting false confessions, especially from minors. And I don't-- I don't know what this has to do with divorce, as the previous testifier was talking about. So, so say a child is in custody of a guardian, and maybe there's like 25 people there and there's no camera and, you know, like how-- who's to know who actually abused the child?

And the police can just interrogate them until they admit that, oh, yeah, it was-- it was daddy or mommy who abused me. So I, I don't know. It's-- that's a-- that's why I'm testifying the neutral. Because. I mean, I think requiring judges to take-- I mean, state judges, we can vote them out. So requiring them to take extra courses or whatever, it seems like it's just going to slow down the judicial process more than it already is. So I, I don't know that that's a-- really a solution. So.

**WAYNE:** OK. Any questions from the committee? Seeing none, thank you for being here today. Appreciate it. Next person in the neutral capacity. Seeing none of that, we'll-- we had 11 letters, 10 in support and 1 in opposition. And that'll close the hearing on LB976. Next, we'll open the, the hearing-- nope. That'll be all our hearings for today. No, I'm joking. Next, we'll open the hear-- we'll open the-- he gave me the look of death. LB1085, Senator Holdcroft.

**HOLDCROFT:** Thank you, Chairman Wayne. Good afternoon, Chairman Wayne and members of the Judiciary Committee. For the record, my name is Senator Rick Holdcroft, R-i-c-k H-o-l-d-c-r-o-f-t, and I represent Legislative District 36, which includes western and southern Sarpy County. I'm here today to discuss LB1085. This bill is offered at the recommendation of the state's Judicial Resources Commission, in an effort to ensure that the state's allocation of judicial resources to juvenile courts reflects the needs of the districts served by the judges who serve in those districts. Under Nebraska law, the Judicial Resources Commission is obligated to meet and make recommendations on an annual basis with regard to change-- to changes or allocations of the, of the state's judicial resources to best serve the Nebraska justice system. A copy of a letter was handed out to you, that was authorized by the Judicial Resources Commission in late 2023, and submitted to Speaker Arch, Governor Pillen, and Chief Justice Heavican as part of its annual statutory charge. As outlined in the letter, the commission has recommend-- has, has recommended for the past 2 years, in its 2022 and 2023 letters, respectively, that the state address the increasing populations in Sarpy and Lancaster Counties, and the fact that the statute allocating juvenile judges is tied to a county's population. The letter cites the existing statutory structure for determining the number of judges in each judicial district and explains, because the population in Sarpy County and Lancaster County are approaching statutory thresholds, that would appear to require adding 2 more separate juvenile court judges in each county. The commission determined it is appropriate to inform the Legislature that neither the 2023 Weighted Caseload Reports nor the historical caseload

data suggest a need for additional judges in any of Nebraska's existing separate juvenile courts. LB1085 remedies this predicament by structuring the statute identifying juvenile court judicial districts to reflect this-- the way our statutes structure the county and district court districts. There, there are testifiers that will follow who will be able to answer any questions you have about how the Judicial Resources Commission operates, how it determines the number of judges it recommends in each judicial district, whether in the judicial [SIC] courts or in the county or district courts, and about how LB1085 is structured. They will also be able to discuss with you the history surrounding the juvenile courts, the juvenile court judicial districts, and the constitutional authority afforded to the Legislature to determine how best to address their structure. Senator Wayne and members of the Judiciary Committee, thank you for giving your attention to LB1085. Again, there are testifiers that will follow who will be able to answer any questions you might. Thank you.

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

**TIM HRUZA:** Good afternoon, Senator Wayne, members of the Judiciary Committee. My name is Tim Hruza, last name spelled H-r-u-z-a appearing today on behalf of the Nebraska State Bar Association in support of LB1085. Let me first thank Senator Holdcroft for bringing the legislation. His introduction explained sort of the impetus for the conversation surrounding this bill. What you have before you is a, a bill that seeks to address the concern as outlined by the Judicial Resources Commission, which is that, as Sarpy County approaches 200,000 inhabitants, the way that we structure our juvenile court judicial districts would say that the juvenile court judicial district in a district having more than 200,000 population, has 4 judges. Right now, Sarpy County has 2 juvenile court judges, as they are under that 200,000 threshold mark. What is unique about Nebraska's juvenile court judicial districts is that the Legislature, in the early 1960s, when the juv-- separate juvenile courts were created, determined to use population thresholds to decide when we were creating or when we would be able to create a separate juvenile court. I've passed around for you a copy of the constitutional pro-- provision that created the separate, separate juvenile courts and the structure that was passed by the voters in, I think, 1957, when this first happened. The Legislature then came back and passed the statute that you see in LB1085, and then I think the second one, in Section 4, that is repealed in 1958. A separate juvenile court in Douglas County was then created in '59. And the first litigation about whether or not this was

constitutional and OK and done correctly, I think the court's opinion came out in 1961. So since 1961, we have authorized the separate juvenile courts. We have said that as long as we go through this process, they're OK, they're established, they're constitutional. A couple of unique things about the separate juvenile courts as compared to our county and our district courts. As you'll see in the constitutional provision, you need a vote of the people to create one, which is a very unique thing, I think, that the Legislature and the voters did in the 50s, in, in creating these. What LB1085 attempts to do is take the, the situation in which we've got a population number and only a population number that would dictate that number of judges we have in Sarpy County or in Lancaster, if they ever hit the higher threshold, too, and divorce it or separate it from how we currently allocate judicial resources, which is based on caseloads and an analysis of the work judges are doing and the number of cases that are filed and the types of cases that are filed in each separate juvenile court. I will tell you that this came very quickly and was drafted the way it was drafted, in December, in the response to the, the Judicial Resources Commission's letter. There was a couple of different-- there's a couple of different approaches to handle this issue, and one is just simply raising the population thresholds so that Sarpy County doesn't cross that. The second idea-- I see that amount of time and I'm sorry, I apologize, but I'd love to continue.

**WAYNE:** All right. Any questions from the committee? Senator DeBoer.

**DeBOER:** What's the second?

**TIM HRUZA:** Yeah. So the second idea is what you have before you, which would be to approach the juvenile-- separate juvenile courts in the same way that we do county and district courts. The constitutional provision clearly authorizes the Legislature to establish, establish juvenile, juvenile court districts as it sees fit. The Legislature then took the dec-- made the decision to use population back in the '50s. We now have a more sophisticated way of analyzing. It's not just the number of people that determine the best way to have number of judges, but the types of cases. What we took, in LB1085, was an effort to mirror what's done with the district courts and the county courts by specifically identifying the counties in which those are created. What I will tell you is that in the time intervening between introduction of the bill and the time intervening between crafting this, there have been a, a number of concerns raised and I've had several meetings with different attorneys, county attorneys, defense attorneys, judges, the courts, everybody in terms of do we really want

to structure it so that it's set up like this? And what does that mean for kind of the constitutional provision of the vote of the people? And how-- if, if another county ever wants a separate juvenile court, what that, what that will ultimately entail. Regardless of whether we just raise the population threshold or whether we do this mirroring of judicial-- district and county courts kind of approach where we are identifying them, the Legislature is going to have to act when and if another judicial-- separate juvenile court needs to be created. You all sort of contemplated that last session or at least this con-- the conversation surrounding that when we added a county court judge in Hall County, largely due to juvenile caseload. But at that time, everybo-- there was-- the recommendation was not made or there was not necessarily a determination that a separate juvenile court was warranted yet in Hall County. Hall County is at a population of a little over 60,000, 63,000, I think, is about the number that I've been using or hearing. So before they even got to the 75,000, under the statute, you have to have-- add another 12 or so thousand people. I would also just add that the vote of the people, unless the constitution has changed, is going to have to happen regardless. This bill repeals the statutory provision that tells how that happens. In, in talking with bill drafters, we decided to draft it that way. That doesn't necessarily need to be done. We can keep the provision about the vote of the people and change it to correspond with in the event that an additional juvenile court is created or a district is identified, we can do it. Just suffice it to say that I'm working with the courts, I'm working with the, the attorneys and the, the judges involved. There's no opposition to this. It's just making sure that everybody is, I guess, convinced and understands that we're doing it constitutionally and it's not going to have any unintended consequences, which I feel confident about. As I've talked to people, we're getting people more comfortable with the idea, but we will continue to work on it. So I'm happy to answer any questions you might have.

**WAYNE:** Any questions from the committee? Seeing none, thank you for being here. Next proponent. Can you testify in the neutral capacity? I'm actually going to have every [INAUDIBLE].

**COREY STEEL:** Senator Wayne, I have a right-- I have a right at this point in time to testify--

**WAYNE:** Hold on. Can you testify in the neutral capacity? I'm actually going to require everybody at government outside of-- to testify

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**COREY STEEL:** You're going to require?

**WAYNE:** Yes, I am, this year. You can still testify why you support it, but in your official role, I, I-- I'm asking all agencies moving forward to testify, this year, in neutral capacity.

**COREY STEEL:** You're asking--

**WAYNE:** Yes.

**COREY STEEL:** --but there's no mandate that we do that, correct?

**WAYNE:** No. I'm going to mandate this year. Yes, I am. I'm going to press my limits on this. I mean, you support the bill, I don't care what you-- I mean, [INAUDIBLE], but I'm saying your official capacity, I'm not-- I'm not-- I'm treating you the same I'm going to treat the Governor this year. Anybody comes in here, they should be in the neutral capacity. Because ultimately, you guys are going to determine whether this is constitutional or not. It could. And I don't want the court to be in a position. And I'm asking the Governor-- and his agencies, ultimately, they're going to be an enforcer of any bill we pass and they should not be testifying. They could point out things that are wrong, but they shouldn't be testifying one way or another. I'm just-- I'm not trying to be a jerk here. But.

**COREY STEEL:** I know. I know. But you're, you're asking that though, right?

**WAYNE:** If you-- let's-- OK. Do what you want to do.

**COREY STEEL:** OK. Senator Wayne, members of the Judiciary Committee, I am Corey Steel, C-o-r-e-y S-t-e-e-l, and I am the state court administrator for the state of Nebraska, here to testify in support of the concept of LB1085. Tim laid out very good examples of a couple areas that I think we still need to work on. This has come, as was stated, 2 years in a row by the Judicial Resources Commission, that some work needs to be done in this area for the separate juvenile courts. Otherwise, we're going to find ourselves in a conundrum, so to speak, where we have judicial districts that are at a population threshold but may not have the caseload and the workload for 2 additional judges. And we want to be-- make sure that, based on the workload that we have, that we are resourcing and allocating our judicial branch and our judges in a more appropriate and adequate way. So, we support this. We know there's going to be some work done, where we're going to be working with Senator Holdcroft and the others

working on this, throughout, and, and potentially have amendments to address the issues that were outlined before. I'll leave it at that and be happy to answer any questions that anybody may have.

**WAYNE:** Any questions from the committee? Seeing none, thank you for being here. Next proponent. Opponents? Any opponents? You're not testifying? You're neutral?

**SPIKE EICKHOLT:** I don't know if I missed the opportunity.

**WAYNE:** No, you didn't. I know. His testimony sounded more neutral, but anyway. Neutral testimony.

**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. I'm appearing on behalf of Voices for Children as a registered lobbyist in a neutral capacity. I apologize. I didn't tell Senator Holdcroft I was going to testify on his bill, even though he did tell me before session started about this bill, and, and I think it does make sense. Ms. Summer is the director, and she wanted to testify but she had to leave. We just want to be on the record just-- we understand the impetus for this change, and it does make some sense. Just a couple things I just want to say on the record. There is a separate juvenile court of Sarpy County, and apparently, at least for some time, even this last year, the Sarpy County separate juvenile court was actually hearing some cases from Cass and Otoe County. And I don't know if that's just an internal arrangement the court provided, but if that could still be maintained or facilitated, that would be great. Because, ultimately, we just want to make sure that the mission and purpose of the juvenile court-- the separate juvenile court is maintained in whatever version of this bill. The county court judges around the state can sit as juvenile court judges and they do a good job. And I think that you could appreciate that if a judge dedicates all of their time toward a certain docket and focusing on a certain area and litigant, that may be preferable for a state policy. I'll answer any questions if anyone has any.

**WAYNE:** Any questions from this committee?

**BOSN:** Can I just get some clarification? You're in the neutral capacity, but everything you said was proponent.

**SPIKE EICKHOLT:** Right.

**BOSN:** OK.

**SPIKE EICKHOLT:** Right.

**BOSN:** So your concern is if this doesn't pass and Sarpy County now gets 2 more judges--

**SPIKE EICKHOLT:** Right.

**BOSN:** --that the consequence of that will be that the state will start saying, well, you're not able to hear these other cases, because clearly now we're giving you more judges and we don't want to do that and clog your caseload loads up--

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

**BOSN:** --so your consequence is that Otoe County no longer has the ability to refer cases.

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

**WAYNE:** [INAUDIBLE].

**SPIKE EICKHOLT:** Just to make sure that--

**WAYNE:** That was Senator Bosn talking for the Transcribers.

**BOSN:** Sorry.

**WAYNE:** I just-- no. I, I get yelled at by my staff when Transcribers yell at them. So.

**BOSN:** Sorry.

**WAYNE:** OK. Go ahead, Spike.

**SPIKE EICKHOLT:** And that's right. I think that what Mr. Steel and what Mr. Hruza said earlier is that the decision to add a judge ought to be-- depend on caseload, judicial need, rather than just the apparently arbitrary population threshold [INAUDIBLE]. So that is-- it makes sense. And that's a good idea. And I want to commend Senator Holdcroft for bringing the bill. I, again, want to apologize for not telling him I was going to be up here speaking on his bill before I did so, but we don't mean to, to, to not be helpful in what he's-- he and the bar and the court are trying to accomplish.

**WAYNE:** Any other questions? Just for the record, Senator Holdcroft, he never tells me when he's going to testify on my bills. So he never

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tell-- tells me when he's going to testify on my bills, so don't worry. Any other questions for the committee? Seeing none, thank you for being here, Spike. Any other neutral, neutral testifiers? Seeing none-- oh, we got one. Come on up.

**BENJAMIN BURAS:** I just decided to.

**WAYNE:** No, we welcome you back.

**BENJAMIN BURAS:** Thank you. Benjamin, B-e-n-j-a-m-i-n B-u-r-a-s. Yeah. I know, I know, someone spoke to this, about when we created the juvenile justice system in the first place. I just wanted to bring up that I know that juveniles can be tried as adults, and it's usually only for, like, heinous crimes like murder. But it seem-- I mean-- I don't know if that's at the discretion of the judge or the jurisdiction or the state or I don't know. I don't know why we have separate juvenile justice systems then, when juveniles can be tried as adults. So that's why I'm testifying in the neutral.

**WAYNE:** Any questions? Seeing none, thank you for being here again. Appreciate it. Now that will-- Senator Holdcroft, would you like to close?

**HOLDCROFT:** Sure.

**WAYNE:** Welcome back, Senator Holdcroft.

**HOLDCROFT:** Thank you, Chairman Wayne. I'll be brief. So something has to be done. We are coming up against this population threshold. And so, either we need to increase the threshold or I think, the better solution, based on the recommendation from the Resources Commission, is to, you know, shift over to the way we make those determinations in the, in the court-- in the county and district courts. So I'll be happy to work with Tim and with Corey. I will not work with Spike.

**WAYNE:** We're already-- we're already starting out here. Any quest-- do you want to elaborate on why-- no-- Spike. Thank you all for being here. That closes-- do you have a question?

**BOSN:** No.

**WAYNE:** Oh. We have 1 letter, 1 letter of support. And that closes the hearing on LB1084 [SIC] and today's hearing.