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BOSN: Good afternoon, everyone. Good afternoon and welcome to the Judiciary Committee. I am Carolyn Bosn. I represent Lincoln, District 25, which is southeast Lancaster County, including Bennet. I serve as chair of the committee. We will be taking up bills in the order posted outside the room. This public hearing is your opportunity to be part of the legislative process and to express your position on the proposed legislation before us. If you are planning to testify today, please fill out one of the green testifier sheets on the back table. Print clearly, fill it out completely, listing every organization you represent. When it is your turn to come forward to testify, give the testifier sheet to the page or to the committee clerk. If you do not wish to testify but would like to indicate your position on a bill, there are yellow sign-in sheets back on the table for each bill. These will be included as an exhibit in the official hearing record. When you come up to testify, please speak clearly, stating and spelling your first and last name to ensure we get an accurate record. We will begin each hearing with the introducer's opening, followed by proponents, then opponents, neutral testifiers, and finish with a closing statement by the introducer if they wish to give one. This is important. We use a 3-minute light system in this room for all testifiers. When you begin your testimony, the light on the table will be green. When the light turns yellow, you have one minute remaining, and red means you need to stop, and questions from the committee may follow. The committee members may be coming and going during the hearing. This has nothing to do with the importance of the bills, just the process, as senators may have bills to introduce in other committees. A few final things. If you have copies of your testimony, please bring up 10 and give them to the page. Please silence or turn off your cell phones. Verbal outbursts and applause are not permitted in the hearing room and will be cause for you to be asked to leave. Finally, committee procedures for all committees state that written position comments on a bill to be included in the record must be submitted by 8 a.m. the day of the hearing, and the only acceptable method of submission is via the Legislature's website at legislature.nebraska.gov. Written position letters will be included in the official hearing record, but only those testifying in person before the committee will be included on the committee statement. Additionally, you may submit a position comment for the record or testify in person, but you may not do both. I will now have the

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committee members with us today introduce themselves, starting with Senator Hallstrom.

HALLSTROM: Thank you. Bob Hallstrom, Legislative District 1, southeast Nebraska, representing counties of Otoe, Johnson, Nemaha, Pawnee, and Richardson.

STORM: Good afternoon. Jared Storm, District 23, Saunders, Butler, Colfax County.

STORER: Good afternoon. Senator Tanya Storer, I represent District 43, 11 counties, Dawes, Sheridan, Cherry, Keya Paha, Boyd, Brown, Rock, Blaine, Loup, Garfield, and Custer.

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

DeBOER: Good afternoon, everyone. Hello, my name is Wendy DeBoer. I represent District 10 in vibrant, northwest Omaha.

McKINNEY: Good afternoon. Terrell McKinney. I represent District 11, north Omaha.

ROUNTREE: Good afternoon. Victor Rountree. I represent District 3, the place to be, Bellevue and Papillion.

BOSN: Thank you. Also assisting the committee today to my left is our legal counsel, Denny Vagelis, and to my far right is our committee clerk, Laurie Vollertsen. Our pages for the committee today are Kyanne Casperson, Kleh Say, and Luke Lawton. All are from UNL. With that, we will begin today's hearing with LB1084, with our very own Senator Storer.

STORER: Good afternoon, and thank you, Chair Bosn. I am Tanya Storer, T-a-n-y-a S-t-o-r-e-r, and I represent Legislative District 43. I'm here today to open on LB1084. This is really a cleanup bill, so this corrects a drafting error that occurred last session in LB386, which was amended into LB150. So LB386 created the Regional Mental Health Expansion Pilot Program. Because that program interacts directly with the Nebraska Mental Health Commitment Act, the bill requires several harmonizing amendments to Section 71-919, which governs where a person in emergency protective custody must be admitted. So under Section 71-919, placement depends, in part, on whether the individual is a

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convicted sex offender. Historically, the statute used the phrase, a person who has a prior conviction for a sex offense, listed in Section 29-4003. LB386 streamlined that language by adding a definition of convicted sex offender in subsection (2)(a) without intending to change the underlying policy. So subsection (2)(b) addresses individuals who are not convicted sex offenders. It provides that such individuals must be admitted to an appropriate and available medical facility with a limited exception, allowing temporary placement somewhere with an available mental health bed under the new pilot program until a medical facility becomes available. Subsection (2)(c), by contrast, is intended to address individuals who are convicted sex offenders. Under longstanding law, those individuals are admitted to a jail or Department of Correctional Service facility unless a medical or psychiatric emergency requires treatment at a medical facility. However, during the harmonizing amendments in LB386, subsection (2)(c) was inadvertently drafted to say that a person who is not a convicted sex offender shall be admitted to a jail or Department of Correctional Service facility. So that is really the primary change in the bills. That single word "not" creates an internal inconsistency within the statute and conflicts directly with subsection (2)(b). So LB1084 simply removes the word "not" from subsection (2)(c), so that the statute functions as originally intended and the 2 subsections align logically and legally. The bill also makes a related harmonizing correction in Section 71-1203. That section cross-references subsection (2)(b) of Section 71-- if you're keeping up with me here-- in Section 71-919, but after last year's amendments, the reference should point to subsection (2)(c). So LB1084 simply corrects that cross-reference. I would also note that the bill contains an emergency clause, so we can avoid any issues with the implementation of the pilot program. LB1084 does not create any new policies. It does not expand the pilot program. It does not change who may be taken into emergency protective custody. It simply corrects a drafting error and ensures the statute reads consistently with legislative intent. So with that, happy to answer any questions.

BOSN: Thank you. Are there questions for Senator Storer? Seeing none. Thank you very much. Before we start, can I see a show of hands how many individuals are here to testify on LB1084? All right. Are you waiving? OK. That will-- I will note, we had one opponent and one neutral comment submitted for LB1084. That will conclude our hearing

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on LB1084. Next up, we have LB1040, with Senator Kauth. She probably didn't know that we have no testifiers.

STORER: I had no idea that would go that fast.

BOSN: OK. Should we-- do you want to go to yours? Are you prepared?

DeBOER: Yeah.

BOSN: All right. In the interest of time, we're going to skip over LB1040 and go to LB1055, with Senator DeBoer.

DeBOER: I said I was prepared, but I do not have the [INAUDIBLE]. I will hopefully [INAUDIBLE].

HOLDCROFT: I say we skip them all. Let's go home.

HALLSTROM: I could, I could introduce it for her.

BOSN: No, we are going to decline.

DeBOER: Give me one second.

BOSN: You're fine. This literally never happens. So can I, just in-- for scheduling purposes, can I see how many-- OK. How many are here to testify on LB1055, Senator DeBoer's bill?

_____ : [INAUDIBLE].

BOSN: OK.

_____ : He also is on his way.

BOSN: That's fine, but still a short number of individuals, so we should let Senator Kauth know she's coming. OK. Thank you, Senator DeBoer.

DeBOER: This is my very last bill to introduce in the body before I am term-limited, so I'm very excited. I asked Senator Storer if she would take a picture of it.

BOSN: Oh, I was going to do it.

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DeBOER: Well, you can, too.

BOSN: OK.

DeBOER: Good afternoon, Chair Bosn and members of the Judiciary Committee. My name is Wendy DeBoer, W-e-n-d-y D-e-B-o-e-r, and I represent the 10th Legislative District in vibrant, northwest Omaha. I'm here today to introduce LB1055. LB1055 requires adult protective service employees to undergo training regarding the care of individuals with Alzheimer's disease and other dementia. Working with individuals with Alzheimer's disease is much more complex and challenging than working with cognitively aware adults. Individuals with Alzheimer's require more attentive, personalized care. LB1055 addresses that by requiring Alzheimer's and dementia-specific training for APS officials. There is already a training module which has been created by the Alzheimer's Association. This training applies to current and new employees, and employees need to undergo this training once every 5 years. As outlined in LB1055, the training will cover the caring for an individual suffering from Alzheimer's or other dementia. For examples, individuals with Alzheimer's often experience a much different reality than others, so being trained on how to properly communicate with them will help ensure a positive experience of care for the patient and the, and the APS official. These good communication techniques will be useful in de-escalating situations where an individual becomes nervous or panicked when they are somewhere or with someone unfamiliar, an unfortunate common occurrence amongst this population. LB1055 will help ensure that patients and families interacting with APS officials have a positive experience, and that APS individuals are equipped with the knowledge and techniques to properly and efficiently handle any scenario. I'm happy to-- I'm happy to answer any questions you may have. I will note that there's not a fiscal note, since the training already exists.

BOSN: Thank you. Are there questions for Senator DeBoer?

STORER: You need to actually smile for this one.

BOSN: All right. Well on a personal level, I'm very glad you're bringing this, and we've talked about why that is, so I'm very grateful. So, thank you. All right. First proponents. Good afternoon and welcome.

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ALEX DeGARMO: Good afternoon, Chairwoman Bosn and members of the Judiciary Committee. My name is Alex DeGarmo, A-l-e-x D-e-G-a-r-m-o, and I'm the Nebraska State Government Relations Director for the Alzheimer's Association. The Alzheimer's Association is dedicated to leading the risk-- the fight against Alzheimer's and all other dementias by advancing global research, promoting risk reduction and early detection, and enhancing quality care and support for those affected. The Alzheimer's Association would like to thank Senator DeBoer for LB1055. I also have the honor of being Senator DeBoer's last bill in front of Judiciary. LB1055 ensures that all Adult Protective Services officials will receive dementia-specific training. Training will include: psychiatric and behavioral symptoms of Alzheimer's and dementia; methods of communicating with those living with Alzheimer's and dementia; techniques for understanding and approaching behavioral symptoms; information relating to safety, including wandering; alerting law enforcement to potential criminal behavior by a family member, caregiver, or institution; alerting law enforcement to neglect or exploitation, the most common types of abuse-- identifying self-neglect; identifying neglect by a caregiver; and protocols for referral to local care and resources. There are over 35,000 Nebraskans living with Alzheimer's disease and over 40,000 unpaid caregivers. With LB1055, we want to ensure that if adult protective services is called into a very difficult and sensitive situation with these vulnerable populations, they're trained to handle it effectively. Training will lead to a better understanding of what those living with Alzheimer's and dementia are going through, what their caregivers are going through, and how to better assist the situation they're in. The training requirement will be no cost to the state of Nebraska. It would be required for every APS official once every 5 years. Additionally, legislation allows a nonprofit organization to provide the training. The Alzheimer's Association offers states a 1:06 online training module that covers all the topics required in LB1055 at no cost to the state. I'd like to thank the committee for their time, and I'd be happy to answer any questions.

BOSN: All right. Are there questions from the committee? Seeing none, thank you very much.

ALEX DeGARMO: Thank you.

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BOSN: Yes. Next proponent. Opponents. Neutral testifiers. Senator DeBoer, you can't waive your last close.

DeBOER: And then, I will just come up and say that it is an honor to have been here with you all for 8 years, and I did not expect that.

BOSN: Thank you, for all that you've done. Are there any questions from the committee? All right, seeing-- oh, I should note, there were 5 proponent, 1 opponent, and 1 neutral comment submitted online for LB1055, and that will conclude our hearing. Next up, we have Senator Kauth on LB1040. Can I see a show of hands how many individuals are here to testify in some capacity on LB1040? 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11. All right. Thank you very much. Welcome, Senator Kauth.

KAUTH: Thank you very much, and congratulations, Senator DeBoer. And I must say, I did not expect this to go so fast, so well done, Judiciary Committee. You guys always are the best at getting things done. Good afternoon, Chairperson Bosn and members of the Judiciary committee. My name is Kathleen Kauth, K-a-t-h-l-e-e-n K-a-u-t-h, representing District 31, and I'm here today to introduce LB1040. For too long, our state's mental health commitment laws have required families and law enforcement to wait until a tragedy is imminent before they can intervene. We often hear from desperate families watching a loved one spiral, unable to provide for their own basic needs like food or shelter, yet told that because no violent act has occurred, the state cannot step in. LB1040 changes that. This bill modernizes the Nebraska Mental Health Commitment Act by recognizing that a total inability to care for oneself-- a grave disability-- is just as dangerous as an overt threat of violence. By expanding the grounds for commitment to include a profound failure to meet basic human needs and allowing interested parties to petition for help, we are providing a lifeline before a crisis becomes a catastrophe. This is something-- an individual in my-- one of my constituents is dealing with this. They have a neighbor who has, they believe, profound mental illness, because they are constantly destroying their own property, yelling and screaming, harassing neighbors. They've called the police. The police have been unable to do anything because there's not been an actual assault. When there was an actual assault, the person eventually dropped charges. So this person is, is continuously struggling to, to survive and, and handle things appropriately within the neighborhood. The neighborhood is very afraid. The neighbors don't know how to

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handle it anymore, and they're, they're struggling with how do we protect ourselves and how do we get this person help. My constituent wanted to be here to testify today, but she's so upset by this entire thing. She was very distraught at the thought of testifying and exposing herself to more violence. So I view this bill, bill as a starting point. This is by no means a, a, a done deal. This is a starting point that we can start this conversation. I like to use the short session as a way of saying, let's see who is interested in this, let's see who can work together over the interim. What can we come up with, how do we identify the problem, and who steps up to say, hey, I'd like to help work on this? So I know we have a couple people. We have DHHS, has talked to me privately. I know the ACLU is here, Douglas County Attorney and I have spoken. So anybody who's interested in meeting over the interim to work on this issue, please let us know. My staff will be keeping track of who comes and testifies. This is just a starting point for the discussion. We talk all the time about the mental health of our state and how serious it's getting, and being able to put some, some proactive measures in place is going to be very, very important. We shouldn't have to wait for a tragedy before we help someone address those issues. So if anyone has any questions, I'd be happy to answer them.

BOSN: OK. Thank you. Questions? Senator Storer.

STORER: Thank you, Chair Bosn. And thank you, Senator Kauth. A couple of, a couple of quick questions. So currently, as I understand it, only the county attorney--

KAUTH: Correct.

STORER: --can file that petition.

KAUTH: Correct.

STORER: Is that right?

KAUTH: Mm-hmm.

STORER: OK. And this is-- that's just-- they file the petition with the courts.

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KAUTH: And that's, that's actually protective. So-- and I've talked with them about that, because that lets them be the responsible party, so that it, it keeps the family members out of being responsible for all the legal aspects of it. So that may be something that we look at and say, we actually need to keep it that way, but how do the county attorneys find out about it? Is it that process that we need to change? Again, this is part of let's figure out exactly what we're doing and where is that pinch point? Where are, where are things breaking down or not wide enough so that we can get people help?

STORER: OK. And, and I assume-- but I'm going to ask-- that, that part of the impetus for this is that-- because common sense would say, well, you know, if-- my neighbor, in your-- in this case, if I had concern, I would go to the county attorney, and say-- you know, report the-- my concern, give him the information, and then he would take it from there. But what I'm assuming is this just falls through the cracks. There's none of--

KAUTH: It's not even that it falls through the cracks. It's that right now, there's not much until there's been an actual incident where there's harm to themselves or others, they can't do much. And so, you know, that's why property damage is involved in this, because property damage is kind of the, the-- before somebody gets attacked physically, there's probably property damage. There are the steps that we're trying to list out and say-- again, with my constituent, the destruction to this individual's house. He's thrown bowling balls through the windows. He has thrown a stereo out the picture window. The property is, is completely in shambles now, because of aggressive abuse of it-- yelling and screaming, and, and all of this stuff is going on. But yet, there doesn't seem to be any way to say, hey, listen, you are really-- you're struggling. He actually did attack his girlfriend by beating her car while she was in it and doing damage to the car-- didn't actually strike her. He was arrested, but held only 4 days. She dropped the charges. So it's-- there, there doesn't seem to be a real way to, to get help, or to-- it's just a very, very sticky situation, and that's why I think we need to spend a lot of time, this summer, talking about it.

STORER: And last question, I guess, is it-- and so, that kind of explains maybe the situation-- probably what, what I'm going to guess

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has raised some question or concern is that number for another person acting in the best interest of the individual.

KAUTH: Right. And that's-- and again, that was-- these are-- will this work, will this not. And I've heard that that is something that we-- might be abused. There's a section in there that addresses if you do something in bad faith, and you prove bad faith. So that may be more-- again, how broad do we make it. If we make it too broad, now all of a sudden, we've opened this huge funnel, and we have a narrow choke point of people and funding to be able to service it. So this is-- that is one of those things that I want to have the discussion about. Who should be the one who's able to-- is, is my constituent, who is a neighbor, who is being directly impacted by this. Is she the one who can say, this is someone who I am witnessing-- I have video, I have all of these recordings, of what she believes is mentally ill behavior, and from everything I've seen, would indicate that. But how does she get that-- how does she to be the person who says, someone needs to help, and that's kind of where the breakdown is.

STORER: And, and again, just for clarification, the petition is filed with the courts. The courts make the determination.

KAUTH: Correct. Correct.

STORER: Thank you.

KAUTH: Yeah. Thank you.

BOSN: All right. Are you staying to close?

KAUTH: We got a lot going on in Revenue, so I'm going to-- I-- again, my staff is taking notes and anybody who, who turns in a sheet, we're going to contact you over the summer, so make sure you put your contact information on it. But I--

BOSN: Thank you.

KAUTH: --appreciate everyone's work on this.

BOSN: Or even if they don't testify, and just reach out to your office.

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KAUTH: Or-- yeah, yeah. If you fill in a yellow sheet. If want me to call you and say, hey, here's when we're going to meet, and I have secured a meeting room that has more spaces than what we have in the Capitol, so--

BOSN: OK.

KAUTH: We'll be working on it over the interim.

BOSN: Excellent. Thank you. Are you waiving close, then?

KAUTH: I am waiving close, yes.

BOSN: All right. Perfect.

KAUTH: I have to get back. Thank you.

BOSN: All right. First proponent. Yes, thank you. Anyone here to testify in support? Good afternoon and welcome.

CHRIS SHARP: Good afternoon, Madam Chair and members of the committee. My name is Dr. Chris Sharp, C-h-r-i-s S-h-a-r-p, and I am, I am here on behalf of Cicero Action, a nonprofit public policy organization to testify on be-- on behalf of LB1040. I would like to thank Senator Kauth, Kauth, for introducing this bill, as well as our partners, DHHS, and the County Attorneys, for working with us on this bill. As background, as I mentioned last week when I was here, I'm a former probation officer that worked with mentally ill offenders. I'm also a retired army officer and have been a professor of criminal justice and public policy for a little over 20 years. Nebraska's unsheltered population of severely mentally ill and chronically addicted, in 2013, according to HUD point-in-time counts, made up 40% of the population. By 2024, this had increased 372%, to now, where the mentally ill and the chronically addicted make up 85% of the unsheltered homeless population. Simultaneously, Nebraska, in 2013, had 427 psychiatric beds. That decreased by 55%, to 194, in 2023. Also, there was a 26% increase of mental ill offenders in the, in the prisons and jails, and a 386% increase in the use of psychiatric beds-- forensic psychiatric beds in the, in the state's hospitals. LB1040 reopens the door to meaningful treatment options for the seriously mentally ill and chronically addicted by recognizing both psychiatric de-- deterioration and property damage as a measure of dangerousness to

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create a true continuum of care. It is also aligned with Executive Order 14321 and 14212 that directs funding for mental health and substance addiction and treatment, and also directs the federal agencies, SAMHSA and DHS, to send funds to states to provide. That continuum moves from a fully residential psych-- psychiatric, psychiatric facility, down through assisted outpatient treatment, assertive community treatment, halfway houses, to a full, full community-based living model, which is ultimately what we, what we want to get to. This includes also, long-lasting injectables, which, for schizophrenia, can last up to a year or more. In that sense, this bill complements LB925, which this committee heard last week and answers-- or addresses Senator McKinney's quest-- question on where do the unsheltered homeless go once-- if, if LB925 is enacted. Obviously, not all people will need residential treatment care. But what this does, is it aligns all of Nebraska's involuntary civil commitment statutes into a true continuum of care. This is in keeping with both the Olmstead decision and Title II of the American with Disabilities Act. One of the key factors of LB1040 is the recognition that property damage is an integral part when defining dangerousness, and is associated with dic-- with addiction and serious mental illness. Last week, opponents of LB925 illu-- illustrated this in their testimonies regarding arson within homelessness camps. Case in point, Omaha, last year, experienced 35 different cases of intentional arsons within their homelessness camps, and that was just Omaha. Last week, opponents, they talked about arson, destruction of property through vandalism, litter, theft, mental illness, and addiction within their encamp-- and encampments, and several of them called for treatment options.

BOSN: Sir, that is-- yeah.

CHRIS SHARP: I see that my time is up. OK. Yes, ma'am.

BOSN: OK. Let's see if there's any questions from the committee. All right. Are there questions for this testifier? Senator Rountree

ROUNTREE: Thank you so much, Chairwoman Bosn. And thank you for your testimony. Thank you for your service, as well, in our United States Army. We appreciate that.

CHRIS SHARP: Thank you, sir.

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ROUNTREE: I got a few questions. Let me try to run down quickly.

CHRIS SHARP: Yes, sir.

ROUNTREE: I was going to look it up, but a forensic psychiatric bed.

CHRIS SHARP: So, a forensic psychiatric bed, when someone has become a danger to themselves, meaning they're suicidal or homicidal, or whatever the case may be, they will be taken to a hospital and there are specific beds that are attributed to them for-- because they've committed a criminal act.

ROUNTREE: OK.

CHRIS SHARP: And so, that's why they're being held under a forensic bed. Yes, sir.

ROUNTREE: OK. All right. Got that. And then-- and secondly, you talked about the executive orders to send funds down?

CHRIS SHARP: Yes, sir.

ROUNTREE: Where are we in the process of getting funds? How much are they? Are they ample enough? Are they being held up, or are we executing well?

CHRIS SHARP: So some of that was actually held-- part of it was under the HUD notice of funding opportunity that came out last fall, which was held up, because, under the previous administration, they put it on a two-year cycle as opposed to a one-year cycle. That is being changed now, and mental illness and addiction treatment is now being made a part of homelessness funding, through the HUD NOFO that's supposed to come out in 2027.

ROUNTREE: All right. Thank you. And then, finally, I heard you mention the Olmstead decision, that what we're doing is in accordance with that.

CHRIS SHARP: Yes, sir.

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ROUNTREE: Could you elaborate a little more? Yesterday, I had a bill-- we were talking about reporting and it's all based on Olmstead, but it got a lot of pushback, so I just want to hear this relation.

CHRIS SHARP: Right. So when the Department of Justice first put out their guidance on the Olmstead decision, they were looking at Title III of the American with Disabilities Act. Title II of the Americans with Disabilities Act is where Olmstead-- the basis for Olmstead really came from. Justice Thomas and Justice Ginsburg both attributed their, their differing opinions on the Olmstead decision on Title II. The key factor of Title II and Olmstead was that the treatment provider's recommendations have to be a part of any recommendation for follow-on treatment, including residential. Now, again, that, that allows for assisted outpatient treatment, halfway houses, underserved community treatment. Unfortunately, what has happened, and we saw this with the Department of Justice, they focused on Title III, which was much more vague in, in, in the recommendations, and so it went to the most integrated setting possible, but Title III left out the treatment provider's recommendations.

ROUNTREE: All right. Thank you so much, and I appreciate it.

CHRIS SHARP: Thank you, sir.

BOSN: Thank you. Any other questions? Seeing none, thank you for being with us.

CHRIS SHARP: Thank you, ma'am.

BOSN: Yes. Next proponent. All right, we'll move to opponents. Anyone else here in opposition to LB1040?

JAMESON CANTWELL: Good afternoon.

BOSN: Good afternoon and welcome.

JAMESON CANTWELL: Thank you for having me. My name is Jameson Cantwell, J-a-m-e-s-o-n, Cantwell, C-a-n-t-w-e-l-l. I'm a county attorney from Douglas County Attorney's Office, deputy county attorney. I am testifying on behalf of the Nebraska County Attorneys Association in opposition of, of LB1040. And while I appreciate Senator Kauth's intentions-- I, I was lucky enough to be able to sit

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and speak with her a couple Fridays ago. We went over some of the issues that, that LB1040 presents as it's currently written. But respectfully, we are opposing the bill. I oversee the Board of Mental Health process in Douglas County, and while each county might have little nuances they do differently, I wanted to give a little bird's-eye overview of how the process is carried out statewide, per statute. Currently, as the law is, is written, any person can submit their information to the county attorney in their respective county for a filing of a Board of Mental Health. The county attorney's office receives those information-- in Douglas County, we call those intakes, or they might call them something different. It's a form any person can fill out and submit it to their county attorney and say, I want to request a Board of Mental Health on a person. The county attorney reviews it, determines if legal criteria are met-- and we'll talk about criteria in a moment-- but approves it, fills out a petition, submits it to the board for approval. Clerk stamps it, gives it to the sheriffs', and the sheriff carries out the warrant. They're taken in on a warrant; taken to a hospital for evaluation. OK? That's kind of how the process starts. So, my job, generally, and the county attorney's job, is a gatekeeping function, largely. We're receiving those petitions, with those intakes, those requests, reviewing them to ensure they meet the legal criteria. In Douglas County, in 2025, I looked-- I reviewed about approximately 1,000 requests for Board of Mental Health petitions. It is a full-time job. It's just mine, and each county has their own full-time that does this, but we review those to ensure legal criteria are met. Some easy ones, jurisdiction, age, those kind of things, would-- largely make sure that the, the information itself meets the imminent danger criteria set out in statute, that no other less intrusive measure is available. In Douglas County, we have a lot of resources that we, we utilize. We use Region 6, we use our Omaha Police Department co-responders, Sheriff's Office co-responders, to ensure these individuals are at the point where we need to file and force them against their will-- a balanced process that we take very seriously. It's a gatekeeping function because we are taking people's liberty away. Every time I file on somebody, I know that I'm taking them against their will to a hospital for evaluation. As law, as LB1040 sets out, it allows any person to file that Board of Mental Health petition directly with the clerk's, clerk's office. It bypasses the county attorney's office, no gatekeeping function, and then the process carries out with a sheriff

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...serving that funct-- that person against their will and taking them to a hospital. That's the issue with LB1040 as it's currently written. I have brought that to Senator Kauth's attention. I, I believe she understands kind of the issues there, and why the county attorney's role is important. The, the second, kind of major change-- I mean, actually, let me, let me get back to kind of the-- bigger issue is the gatekeeping function. We do receive petitions in every county by mistake. People will file on juveniles, people will file on their parents with dementia or Alzheimer's. Unfortunately, that's not currently a psychiatric disorder that would allow us to involuntarily hospitalize that person. I see I'm out of time.

BOSN: You're out of time, but you can finish your last thought there, because I understand where you're going.

JAMESON CANTWELL: Thank you. So-- but there are also circumstances when malintent is involved. Spouses could file against their, their significant other when they're going through a divorce, and neighbors in neighborly disputes that might not have merit. It's good to have a gatekeeping function to ensure that we follow the law and that we're filing on only the circumstances that it's currently presented. I'd be happy to answer questions.

BOSN: Questions from the committee? You were here when Senator Kauth did her opening--

JAMESON CANTWELL: Yes.

BOSN: --and the example that she talked about. I mean, I can imagine that's traumatic for the neighbor.

JAMESON CANTWELL: Sure.

BOSN: If law enforcement came out and documented those instances, law enforcement could file the notice requesting this if, if it met-- you know, when someone's throwing a bowling ball out their front window, that's a risk of harm to not only themselves, but to potentially others. Right?

JAMESON CANTWELL: Absolutely. Absolutely.

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BOSN: And so, if I'm understanding you correctly, there's, perhaps, maybe some communication that needs to go on with that particular individual, but that those circumstances are covered under the current statute.

JAMESON CANTWELL: Yes. And, and law enforcement, they could even EPC them directly. They wouldn't need necessarily to file with the county attorney. They could submit that to the county attorney for review. In circumstances like that-- and again, I, I don't know the full details.

BOSN: Sure.

JAMESON CANTWELL: But, but largely, we're trying to determine is this behavior that's occurring, meaning behavioral and not psychiatric. That's kind of a hurdle that a lot-- and I know there are people that will talk a little more about that than me, but we want to make sure that we're filing it for the right reason under, under Nebraska's Board of Mental Health statute. There's several people that need help for mental illness throughout, throughout the state. We want to make sure that we're utilizing this, this statute as it's currently written for the right reasons. So yes, law enforcement that, that meet individuals, they have the opportunity to EPC them if they believe that they're in imminent danger, due to a psychiatric illness, or they can submit it through the county attorney automatically. The neighbors could submit those through the county attorneys. And in circumstances, for example, when maybe it might not meet criteria, or we're not sure it might not meet criteria, many counties have some resources we use where we can send out co-responders, nonlaw enforcement co-responders. I use them every single day. And I, I hope they're watching, because they, they, they mean a lot to us. Because they'll check on these individuals, and make sure that we're filing for the right reasons and we're not taking somebody out of their home in handcuffs, if we don't have to. So.

BOSN: Thank you. Any questions in light of-- oh, I'm sorry. Senator Rountree.

ROUNTREE: Thank you, Chairwoman Bosn. Thank you so much. Mine is just a basic question. You say you had about 1,000 as a gatekeeper this past year?

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JAMESON CANTWELL: Yes.

ROUNTREE: I think one of the great concerns with the bill may be the malintent. How much of those-- how many of those would you say were malintent and how many were allowed to go through that were valid?

JAMESON CANTWELL: So I'll say-- malintent is kind of hard to, hard to gauge, I'd say. We, we filed approximately 800, I believe, or just, just about 800, in 2025, and I know we, we received well over 1,000, so a certain percentage there. And it's not all malintent. Again, people that could have good, good intent in what they're doing and not necessarily fall under criteria, but avoiding the county attorney might lead to people just filing it directly, and then we're filling up our hospital beds for reasons we shouldn't.

ROUNTREE: Thank you.

JAMESON CANTWELL: Sure. Thank you very much. Any other questions?

BOSN: Seeing none, thank you for joining us.

JAMESON CANTWELL: Thank you for your time.

BOSN: Next opponent. Anyone else here in opposition? Good afternoon and welcome.

DANIEL ZAK: Thank you, Chair. Thank you, Judicial Committee. My name is Daniel Zak, D-a-n-i-e-l, Zak, Z as in zebra, A as in apple, K as in kitten. I am here representing the Stephen Center's HERO Program, which is a dual diagnosis program in Omaha, Nebraska, southeast side. And I want to speak to something that the previous person had spoken to, which is the gatekeeping function of the Board of Mental Health. Previous to this role, I was a co-responder, crisis response, worked in the emergency department, and did threat assessment for the federal government for approximately 10 years. In that role, I was able to work with boards across all county lines, and I was able to work with family members who were petitioning through me and/or advocating through me for their loved one. One of the pieces in the bill as it is currently-- is written that has given me pause, is removing the arbitrator, if you will, being the county attorney, who is weighing whether or not the legality threshold has been met. Oftentimes, family members are petrified of a neighbor or their loved one because of the

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behavioral aspect that they are presenting with. What we do well in our state, I believe, is assessing whether or not it is psychiatric or behavioral. I also think that, when I read the bill itself, there is some ambiguity about mentally ill and dangerous, and I speak to this, having the 10 years of threat assessment training as to how do we define dangerousness and how do we define imminence, and keeping in mind that once we go through this process if the gatekeeper is in agreement, it is a significantly traumatic event for the person. Because the police come to their house, they do interview them, they then cuff them, and then they bring them to a place that they are unaware of, and then they are put through a barrage of questions from physicians and social workers and psychologists, and this is completely outside of their norm, and it is a highly traumatic situation for the person. And oftentimes, if done with malintent or not done very, very collaboratively with co-responders, it is, in itself, a traumatizing event that sometimes they don't come back from. And what I mean by that is, if they can't trust the system that brought them in, are they going to show up when they actually need that system? And I would venture to say, at least in my experience, from an antidotal perspective, once we use that, it's a one-time use. Because once we use it, they will never trust us again. And so, I appreciate the spirit of the bill and wanting to resolve this, but I need to advocate that I believe that the gatekeepers are critical and I think that the people who are experiencing the Board of Mental Health process itself, we have to be very patient and be incredibly empathetic, because we are doing harm if we don't do it well.

BOSN: Thank you very much. Are there questions for this testifier? So you've at least got the experience of working with the county attorney through the process and--

DANIEL ZAK: Yes. Across--

BOSN: --the resources that he referenced.

DANIEL ZAK: --just about every county, over the last 10 years.

BOSN: Oh, awesome. Well, thank you. Thanks for your service. All right. Next proponent-- opponent. I'm sorry. Sorry. Next opponent. It's Monday-ish. Good afternoon and welcome.

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GEORGE MCGINNESS: Good afternoon. My name is George McGinness, G-e-o-r-g-e M-c-G-i-n-n-e-s-s. I'm a peer sports specialist at Heartland Family Service, and I'm here today in respectful opposition to LB1040. Heartland Family Service has been a cornerstone of our community since 1875. Last year alone, we connected with nearly 120,000 individuals across Nebraska and Iowa. We see the faces behind the statistics every day. We oppose LB1040 because it creates new problems without solving the ones we already face. Involuntary commitment is highly traumatizing, especially for individuals with prior trauma histories. To put a face to that statement, I'm here to share my story. I spent 28 years lost in the cycle of addiction, incarceration, and involuntary confinement. Five times I was locked up, only to be released back into the streets, with absolutely nothing: no plan, no support, and no hope. Every time that happened, I went right back to using drugs, just to cope with trauma, and assist in the desperation of my si-- of my situation. We cannot support strategies that undermine trauma-informed care. LB1040 expands coercive treatment without expanding our actual capacity to help. Nebraska's behavioral health system is already struggling with massive workforce shortage and lack of treatment beds. This bill is an unfunded man-- unfunded mandate. It legally requires facilities to take people in without providing the resources to actually treat them. This doesn't lead to recovery. It leads to safety threats, more trauma, and a revolving door that never stops spinning. Furthermore, the broad definition of an interested party in this bill is a red flag. It opens the doors for misuse and unnec-- unnecessary filings that will strain an already buckling legal system. Lastly, LB1040 is reactive. Commitment procedures are our last resort-- response to a crisis that has already happened. If we want to save lives, we must put our resources into, into prevention, early intervention, housing supports, and community stabilization. My phoenix rose on August 3, 2021, not because I was coerced, but because I finally found a path to clinical and peer support that worked. We need more lifelines, not more legal mandates. For these reasons, Heartland Family Services and I urge you to vote no on LB1040.

BOSN: Thank you very much for sharing your story. Are there questions for this testifier? I, I genuinely think the work you do, it really matters, because individuals tend to relate very well to someone who has that lived experience, so thanks for the work you do.

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GEORGE MCGINNESS: Thank you.

BOSN: Yes. Next opponent. Good afternoon and welcome.

VELMA LOCKMAN: Good afternoon. My name is Velma Lockman. That's V-e-l-m-a L-o-c-k-m-a-n. I'm here speaking today on behalf of the Nebraska Criminal Defense Attorneys Association. Many of our members represent people facing civil commitment pursuant to the Mental Health Commitment Act. I am personally a third-year law student at the University of Nebraska College of Law, and I have been a law clerk at the Lancaster County Public Defender since May of 2024, and I have worked on the Mental Health Board docket since May of 2025. My comments are informed, in part, by my experience working on this docket. I oppose LB1040 as a proposed reform to the Mental Health Commitment Act. This bill would, in effect, permit anybody in the state to file a mental health petition against anybody else, with minimal safeguards to prevent abuse of the system. Notably, current law already provides a means for members of the public to notify officials if they are concerned about the well-being of another person. Section 71-921, subsection (1) of the current Mental Health Commitment Act permits any person concerned about the mental health of another to communicate that belief to the county attorney. It then properly entrusts the county attorney, who has the requisite legal expertise to determine whether the facts alleged may be sufficient to bring a case that has a reasonable chance of resulting in civil commitment, with the decision about filing a petition. The proposed change in the bill would enable anyone, regardless of the familiarity with the applicable legal standards, to file petitions. This could result in a number of negative outcomes. First, mental health boards across the state may find themselves having to contend with weak petitions brought by members of the general public, in addition to their already overburdened dockets. Second, members of the public might file petitions with strong underlying facts that could support commitment, but their pleadings and arguments may be weaker than those that could be raised by a county attorney, such that mental health boards end up dismissing those petitions. Third, despite the fact that the proposed changes include a provision for the prosecution of bad-faith filings, that does nothing to prevent an individual from being placed under emergency protective custody under Section 71-922 subsection (2) after the filing of a bad-faith petition. This final point leads me to a critical flaw in the bad-faith provision of the

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bill. The prohibition on petitions brought in bad faith or for an improper purpose implies a subjective standard, such that an individual sincerely held yet idiosyncratic or unscientific view of mental health may be sufficient to prevent that individual from being successfully prosecuted under the bad-faith provision. Finally, there are many problems facing the mental health commitment system in Nebraska, most of which are tied to the broad-- broader crisis in mental health care services, as noted by the previous testimony. The waiting list for people committed inpatient to the Lincoln Regional Center is several months long. The Lancaster County Mental Health Crisis Center is perpetually at capacity, such that people are being placed under emergency protective custody in hospitals in more far-flung parts of the county, and most of the counties in the state have a severe shortage of mental health professionals. Unfortunately, this bill will confound the problems with mental health services and the existing civil commitment system in the state. I respectfully urge this committee not to advance LB1040. I'll take any questions.

BOSN: Thank you. Are there questions for this testifier? Seeing none, thank you very much. Next opponent. Good afternoon and welcome.

DAVID MIERS: Good afternoon, Chair Bosn and members of the Judiciary Committee. My name is Dr. David Miers, D-a-v-i-d M-i-e-r-s, and I serve as the senior director of Behavioral Health Services at Bryan Medical Center. I've been with the medical center for 29 years as a licensed independent professional counselor and suicidologist with a Ph.D. from the University of Nebraska. I'm also the founder and current board member of the Nebraska State Suicide Prevention Coalition. I'm testifying today on behalf of the Bryan Medical Center, Nebraska Association of Behavioral Health Organizations, and the Nebraska Hospital Association in opposition to LB1040. Our mission is to provide compassionate, clinically sound care for individuals experiencing behavioral health crisis. Because of that responsibility, we take proposed changes to the Nebraska Mental Health Commitment Act very seriously. While I appreciate the intent behind LB1040, several problems raise significant clinical, ethical, and operational concerns for our patients, their families, and the professionals tasked with delivering care. First, LB1040 broadens the definition of mentally ill and dangerous to include individuals who pose a substantial and immediate risk of causing significant property damage. While property destruction can certainly be a sign of escalating distress, not all

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individuals who damage property are experiencing a psychiatric crisis. This change could lead to unnecessary loss of liberty, particularly for individuals whose behavior may stem from developmental disabilities, traumatic stress response, or substance-related episodes that require different intervention strategies. At the heart of our concern with LB1040 is that it fundamentally alters who is empowered to initiate civil commitment and in-patient, in-patient treatment. Shifting that authority away from trained clinical professionals to spouses, close friends, guardians, and other interested parties, civil commitment is one of the most serious actions the state can take. It involves the loss of personal liberty and involuntary medical treatment. Nebraska's current framework appropriately treats civil commitment as a clinical and judicial process grounded in professional assessment and due process. While LB1040 intro-- introduces a Class IV felony penalty for filing a petition in bad faith, this accountability measure does not erase the potential harm caused by an improperly initiated commitment process. From the provider perspective, this bill places hospitals and behavioral health providers in an extremely difficult position. It puts clinicians in the middle of family conflicts, forces providers to navigate competing obligations, and exposes hospitals and behavioral health providers to heighten the legal and ethical risk without improving access to care or expanding system capacity. Civil commitment should never be based on relationship status or proximity alone, no matter how well-intentioned. It must remain grounded in clinical evaluation by licensed professionals and protected by clear judicial safeguards. I'll take any questions that you might have.

BOSN: Thank you. Are there any questions for this testifier? Seeing none, thank you very much for being here.

DAVID MIERS: All right. Thank you.

BOSN: I appreciate it. Next opponent. Anyone else here in opposition? Good afternoon and welcome.

BETH LIBRA: Good afternoon. My name is Beth Libra, B-E-T-H-L-I-B-R-A. I serve as the chair of the Nebraska Council on Developmental Disabilities, and I'm testifying in opposition of LB1040. The NCDD is a federally-mandated independent council that works to improve systems and protect rights of people with developmental disabilities and their

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families. Although the NCDD is appointed by the Governor and administered by DHHS, our council operates independently and our comments do not necessarily reflect on the views of the Governor's administration or the department. The council is a federally-mandated independent council made up with individuals with developmental disabilities, their families, community providers, agency representatives. We advocate for system change and quality services for those sourced information and advise, and advise state policymakers. When necessary, we take nonpartisan approach to provide education and inform on legislation that will impact individuals with DD. The council has concerns with LB1040. LB1040 makes significant changes to Nebraska's Mental Health Commitment Act, most notably expanding on who can file the commitment of the petition with a broad category as interested parties. Under the current law, enforcement officers may initiate an emergency protective custody, EPC, when there's probable cause for people to believe someone's mentally ill or dangerous. That individual must be evaluated by a licensed mental health professional with strict timelines. This process ensures training professionals as the gatekeeper before someone else's liberty is restricted. Civil commitment is one of the most serious actions outside of the criminal justice system. It requires a convincing evidence and must be, be the least restrictive alternative available. My primary concern is the impact that LB1040 could have on individuals with intellectual and developmental disabilities. Research published by the National Institute of Health shows individuals with DD experience a significant higher rate of co-concern [SIC] mental health conditions. However, individuals with DD often communicate distresses through behavior, rather than words. Challenging behaviors may reflect on trauma, pain, medication issues, communication barriers, or environmental stress, not necessarily being dangerous. Expanding the, the petition authorizes acquaintances, neighbors, coworkers, and increases the risk of people who simply just don't understand. I welcome questions.

BOSN: Thank you. Are there any questions for this testifier? Seeing none, thank you very much. Oh, I'm sorry. Senator Rountree.

ROUNTREE: Thank you so much, Chairwoman Bosn. Not so much a question, but a comment. Thank you so much for really expounding on the presentation for our DD community, and I appreciate that greatly. Thank you.

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BETH LIBRA: Thank you. I have a, a person I'm guardian for, in Omaha, that would-- this would be-- she would be committed regularly, because people don't understand her, her ways of communicating. And that's kind of her favorite place to be, so she would learn that, and then it would be a revolving circle. Thank you.

ROUNTREE: All right. Thank you.

BOSN: That's good perspective. Thank you. Next opponent. Anyone else here in opposition? Welcome.

ALICIA CHRISTENSEN: Hello.

BOSN: Hi.

ALICIA CHRISTENSEN: Good afternoon, Chair Bosn, and members of the Judiciary Committee. I'm Alicia Christensen, A-l-i-c-i-a C-h-r-i-s-t-e-n-s-e-n, here in opposition to LB1040 on behalf of Together, an Omaha-based organization working to ensure everyone in our community has access, access to enough nutritional food and a safe, affordable place to live. We all want Nebraska's laws to recognize the importance of individual liberty and advance constructive solutions to the complex issues that we face. Together opposes LB1040 because it fails to meet this standard by devaluing personal liberty and facilitating an expensive and ineffective policy approach. Involuntary civ-- civil commitment is a serious deprivation of liberty, and current state statute is carefully calibrated to give an individual's liberty interest the weight it deserves: limiting involuntary commitment to circumstances where an individual poses a substantial risk of serious harm to themselves or others. LB1040 would upend this balance by elevating the mere threat of property damage to the same level as personal safety and liberty. In doing so, this legislation suggests that confining someone to an institution for treatment against their will is something to be taken lightly, in contradiction to a well-established body of case law, and some of that, as in Olmstead, is codified in Nebraska statute itself. So whether or not that is-- whatever title that the Supreme Court was talking about, it still is part of our state statute and part of the state Olmstead plan. I think that ultimately, even though it might not be Senator Kauth's intent in introducing this bill, LB1040 is aligned with a larger policy approach of addressing complex issues by

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segregating people from society. This approach, exemplified in the immigration context over the past year, ignores constitutional rights, legal protections, and best practices, to indefinitely confine people against their will. In doing so, LB1040 would reverse decades of civil rights progress by promoting an expensive and ineffective approach for the sake of public convenience. There's nothing in this bill to address the root causes of the problems or to improve the lives of affected individuals. The aim is simply to make these problems and people invisible. Nebraskans know that infringing on people's liberty to push a problem out of sight is not a productive solution. Therefore, I urge the committee to oppose LB1040 and similar legislation that weaponizes civil commitment, creating a dragnet to isolate and institutionalize individuals with disabilities, people with behavioral health conditions, and people experiencing homelessness. Thank you.

BOSN: Thank you. Are there any questions for this testifier? Seeing none, thank you for being here. Next opponent. Welcome.

STACY PFEIFER: Good afternoon, Senator Bosn and members of the Judiciary Committee. My name is Stacy Pfeifer, S-t-a-c-y P-f-e-i-f-e-r. I was previously-- I previously served as the director of the Enable Savings Plan for the state of Nebraska until-- from February of 2022 until November of 2025. And while I'm not here representing a group today, I'm here as an advocate, based on experiences I had under that position and just working with all the different disability groups around the state. And so, I had a few points that I wanted to make. You know, there are several situations where people may believe they're working in the best interest of the individual, but they may not be, in fact, doing that. You know, family-- some family members of people with disabilities might live in a different state and really not even know the person's situation, but maybe they think that they're doing what they think is best, but they're really, you know, in fact, not. You know, this bill is unfortunately another thing in a long list of things that have encouraged individual-- individuals to be institutionalized. It's chipping away at the rights of those individuals with disabilities and, and we just can't be having, you know, a lot of that. Individuals with disabilities have the same intrinsic value as anyone else and should be treated as such. Olmstead states that the individuals should be in a least restrict-- restrictive environment for them and this

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would not be in line with that. Additionally, you know, there are reports out currently that, that institutions are already having issues with, with having enough beds for people to be in, and so this is going to be a huge cost to the state to try to accommodate all these people, or there's going to be waiting lists, people who truly need this resource, it's not going to be available to them because they're-- the beds are going to be filled with people who maybe don't need the resource, so, you know, that could be an, an issue. Also, they spoke earlier about how people-- this could cause severe trauma for people. You know, there are some individuals currently, who, institutionalization is the best for them. Right? It, it works well for their disability, and that's the best place for them, and that's where they want to be, and that where they've chosen to be, so when you're bringing trauma into that situation, now you're, you're making that maybe a more traumatic situation, also, for those individuals where this was working well. So, you know, you're having a, a negative effect in multiple ways. I think, I think if anything, LB1040 shows that there needs to be better communication, allocation of resources, and that institutionalization is not the answer to this issue. That should be the last step. So I think maybe the better answer is to, to look into what are things that we can do to prevent this even getting this far, and what can we do before it gets to this, this situation. Being able to support more mental health services instead of the, the current want to, to cut things, I think it-- this highlights those, those needs. Any questions?

BOSN: Are there questions for this testifier? Senator Rountree.

ROUNTREE: Thank you, Chairwoman Bosn. And thank you so much for your work on the Enable, and being here in this space today. As Senator Kauth mentioned, she wants to do a study this summer. Are you willing, or will you be participating and bringing your strengths to the discussion this summer, as well?

STACY PFEIFER: Yeah. I'm, I'm open to any kind of discussions and doing anything I can to help. Absolutely.

ROUNTREE: All right. Thank you so much.

STACY PFEIFER: Yeah. Thank you.

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BOSN: Thank you for being here.

STACY PFEIFER: Yes.

BOSN: Next opponent. Good afternoon and welcome.

ELAINE MENZEL: Good afternoon. Chair Bosn and members of the Judiciary Committee, for the record, my name is Elaine Menzel. That's E-l-a-i-n-e M-e-n-z-e-l, here today on behalf of the Nebraska Association of County Officials. I'm going to take the opportunity to veer a little bit differently, with respect to-- while had expected to come in-- well, not full force, because I don't generally do that type of approach. However, take the opportunity to express appreciation to Senator Kauth, to invite individuals to participate in future study on this and that type of thing, because I-- our organization is and has seen the importance and value of attempting to address mental health issues for years. And way back when, I think it was 2004, perhaps, when they changed some of the regional health centers and-- or closed those things, and took some of the community-based aid away from counties and that type of thing, we've come in asking for continual support for those types of programs. I think that testifiers prior to me-- that our opponents have done a good job with respect to the county's perspective, in terms of county attorneys and public defenders in terms of what our opposition to the bill as currently written would be. I think a large part of the concern would be that funding would not be attached to this for the regional health-- or-- I'm sorry-- the regional-- the regions-- excuse me-- and also, then, the overburdening, perhaps, of the court system and other infrastructure shortages that would be-- perhaps occur through this legislation. With that, I'll go ahead and conclude my comments. But I, perhaps, am anticipating a question that Senator Rountree sometimes asks. And it was my understanding that my boss-- well, was anticipating talking to Senator Kauth, and I hope that she-- he was able-- they were able to connect this morning, about our opposition. So thank you for the opportunity to speak. If there's any questions. I'll attempt to answer them

BOSN: Thank you. Are there any questions for Ms. Menzel? Seeing none, thank you--.

ELAINE MENZEL: Thank you.

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BOSN: --for being here. Next opponent. Good afternoon and welcome.

SPIKE EICKHOLT: Thank you. Good afternoon, Chair Bosn 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 the ACLU of Nebraska in opposition to the bill. I have visited with Senator Kauth on a number of occasions. She did say that she would extend an invitation to us to talk about revisiting this issue over the interim. You've got my statement. I am not going to read it. I will not make the same points that other people have made, but I will answer any questions if you have any.

BOSN: Do they have to be about the bill, or just any questions in general? All right. Any questions for Mr. Eickholt? Seeing none, thank you. Next opponent. Anyone else here in opposition? Good afternoon and welcome.

BRAD MEURRENS: Good afternoon, Senator Bosn and members of the committee. For the record, my name is Brad Meurrens, M-- B-r-a-d M-e-u-r-r-e-n-s, and I am the public policy director at Disability Rights Nebraska. We are the designated protection and advocacy organization for persons with disabilities here in Nebraska, and I want to be on record as opposit-- as being in opposition to LB1040. It has several irreparable flaws, which all have been mentioned before. Our-- my testimony here does not-- it bears out and echoes the points that were made earlier, so I will refrain from boring you with repeats. But I also thought it would be really important to think about it in te-- this perspective. LB1040 allows 8 categories of new petitioners to collect a wealth of personal data: a law-- mental health reports, law enforcement reports, treatment records, mental health records. Interested parties can withdraw their petition at any time, well after they've gathered the information, which they can gather upon release of the petition-- or filing of the petition. At that point, the bad faith and improper purpose protections no longer apply. We echo that the bill may not-- is unnecessary because 71-921 still exists. We are willing to work with the Unicameral and interested parties to improve the behavioral health system here in Nebraska. Even with the best intentions, this bill is not the answer and should be not-- should not be advanced. Thank you. Happy to answer any questions.

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BOSN: Thank you. Are there questions for this testifier? Thank you for your handout. Next opponent. Anyone else here in opposition? Moving to neutral testifiers. Anyone here to testify in the neutral capacity? Did I cut it off too quick? Are you opponent or neutral?

JOAN DAUGHTON: Neutral.

BOSN: Come on down.

JOAN DAUGHTON: My name is--

BOSN: Welcome.

JOAN DAUGHTON: My-- thank you. My name is Dr. Joan Daughton, J-o-a-n D-a-u-g-h-t-o-n. I'm a physician, a child psychiatrist practicing in Omaha for almost 20 years. I was not planning to testify today on this, but I have trainees with me who are in training to be psychiatrists, and we're teaching them advocacy. And I felt maybe it would be helpful if I explained what happened-- what happens when people are EPCed and on a Board of Mental Health. So once patients get EPCed, you've heard, they will be brought to an emergency room, typically, and evaluated by a psychiatrist, or psychologist, or nurse practitioner, for mental health needs. And then we determine what placement they need from there, just as anybody else entering the ER with a mental health need would have done. So some patients do need to be placed inpatient for treatment. And most people know, inpatient psychiatry treatment is a very short-term treatment. It is not weeks long. It is days long, typically, and then further treatment is determined from there. So in that time, there is typically a Board of Mental Health hearing, which is made up of psychologists, and psychiatrists and, I think, attorneys, if I'm remembering correctly. And the psychiatrist presents why they think treatment needs to move forward, the patient gets to speak about why they don't want that treatment to move forward, and the Board makes a decision whether or not to continue to follow the psychiatrist's plan. At any time, if a patient's-- becomes voluntary, stating, yeah, I'm actually OK with this treatment, the Board of Mental Health disappears. They're just voluntary treatment status, at that point. You can be committed under the Board of Mental Health to a state institution, but you can also be committed to outpatient care-- seeing a psychiatrist monthly, seeing your therapists every week. And those providers report back to the

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Board of Mental Health: how the patient is doing, is the patient in compliance, are they still against the treatment so we need the Board of Mental Health to continue, or are they voluntary and now they will comply, and they're in agreement with their treatment and we can move on. I think I would like to echo the concerns of the opponents. I think those are all appropriate. And I take into consideration Senator Kauth's example. I can't see how the, the bill that she has presented would help that situation. Even if the person comes into the emergency room, if they have no mental health issues, they're not going to be placed inpatient. It would be more of a legal issue, again, for law enforcement to deal with. So, I'm happy to take any questions.

Thank you. Thank you for being here. Are there questions from the committee? Seeing none, thank you--

JOAN DAUGHTON: Thank you.

BOSN: --very much. Any other neutral testifiers? Last call. All right. Before we close the hearing on LB1040, I will note for the record there were 5 proponent, 7 opponent, and no neutral comments submitted online. That concludes LB1040. And next up, we have LB1060, with Senator Murman. Oh, here he is. While he's making his way up, can I see a show of hands who's here to testify on LB1060? 1, 2, 3. All right. Thank you very much. While you're taking your seats-- oh, 6-7, here we go. LB1060 had 6 proponents and 7 opponent comments submitted. 6-7. That's the whole-- yeah. I know. My kids would appreciate that.

DeBOER: My nephew.

BOSN: I don't get it, but I don't think I'm supposed to.

McKINNEY: I don't think they get it either.

BOSN: That's exactly right.

DeBOER: But they're happy with it, so.

BOSN: All right. Senator Murman, welcome.

MURMAN: Thank you. Was that LB1060, or was that the previous bill, that you just said the proponents/opponents?

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BOSN: 6-7 is a whole thing that--

DeBOER: No, no, no. He's asking which bill.

BOSN: --elementary-- oh.

DeBOER: LB1060.

BOSN: LB1060.

MURMAN: LB1060.

BOSN: LB1060, yes, had 6 proponents, 7 opponents. Sorry. Now I've really thrown everyone.

MURMAN: OK. Well, it's a well-balanced bill.

BOSN: There you go.

MURMAN: Good afternoon, Chair Bosn and members of the Judiciary Committee. My name is Dave Murman, D-a-v-e M-u-r-m-a-n, represent Nebraska's 38th District, and today I have the opportunity to introduce LB1060. LB1060 is a fairly simple bill. It begins with some basic findings, noting the value of Nebraska's long-standing history of public-private partnerships to have a variety of diverse, qualified child placement agencies, including both faith- and nonfaith-based agencies. Under this bill, to the fullest extent permitted by law, any child-placing agency shall not be required to provide or participate in any service if that service conflicts with an agency's sincerely-held religious belief. Furthermore, the state shall not take any adverse action against a child placing agency because the agency chooses not to provide or facilitate a service based on those beliefs. To be clear, this does not mean a family that is turned away from one child-placing agency is out of luck. Instead, if an agency chooses not to participate based on its strictly held religious beliefs, that agency could gather information about another agency that could be capable, capable of providing that service, provide a list of agencies capable of providing that service, or provide that family with internet information about those other agencies. So why is this needed? While I'm not aware of this currently happening in Nebraska, LB1060 is a preventative measure to ensure that the government cannot punish or harass relig-- religion-based child placement services. This

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isn't just a hypothetical scenario, but instead has happened in other states. In New York, the state's Division of Human Rights threatened to investigate and penalize the Christian nonprofit New Hope Family Services, an adoption agency with a long history of successful adoption services since 1965, all for the nonprofit's religious belief in facilitating adoptions with couples consisting of both a married mother and father. Instead, the agency policy was to simply refer them to one of the other 130 potential adoption providers in the state. Eventually, New Hope Family Services was successful at fighting off the government of New York's prosecution, but it took years of time and money fighting for their religious rights in court-- time and money that could and probably would have rather been spent uniting children with loving homes. A similar case happened to Catholic Social Services in Philadelphia. The Supreme Court eventually ruled unanimously in favor of Catholic Social Services, but much like the New York example, it took years of time and resources in court to occur, and I think Family Social Services is more interested in spending their time and resources helping families, not in a courtroom. In both of these examples, if the states of New York and Pennsylvania had laws such as LB1060 in place, the mentioned agencies would have likely had a much stronger and quicker defense against these lawsuits. But in other cases, there is no quick legal action. That was the case for Catholic so-- Charity Services of Buffalo, New York, which was forced to close its doors when the New York government ceased contracts based on the Catholic charity operating within traditional Catholic teaching. In Buffalo, Catholic Charities basically were given the options to either A, act against their sincerely-held religious beliefs, or B, shut down their charities with a long history of uniting children with a loving mother and father. Regardless of your own personal or religious convictions on matters of family, the important question to think on is who are the ultimate victims when the government has the ability to pressure and prosecute child-placing agencies out of existence? The victims are the children. The more child-placing agencies we have, both religious and nonreligious, there is less pressure on any individual agency, which ultimately allows the system as a whole to thrive. But when these agencies are closed down, children suffer. I don't think anyone here wants to see an adoption center or a foster agency shut down, but that is a path other states have chosen. With LB1060, we protect our faith-based agencies, which, in turn, protect our children. Thank you.

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BOSN: Thank you. Are there questions for-- Senator Hallstrom.

HALLSTROM: Senator Murman, maybe this is for someone that will follow you. I just-- I'm looking at Section 4, and it just-- it's been kind of strange nomenclature. To the fullest extent permitted by state and federal law, a child-placing agency shall not be required to provide-- if state or federal law says you're not required to provide it, why do we need a state law to reinforce that? Maybe, maybe I'm reading it wrong, but it's jus-- it's kind of a double negative.

MURMAN: Yeah. I was just trying to think that through myself.

HALLSTROM: OK. Well, let's-- maybe somebody that follows can--

MURMAN: Yeah. Otherwise, I'll try and answer at the end--

HALLSTROM: Thank you.

MURMAN: --if it didn't get answered.

BOSN: Senator McKinney.

McKINNEY: Thank you, Chair Bosn. Thank you, Senator Murman. I guess my question is, what about the kid-- what if a kid grows up in a non-Christian home?

MURMAN: Well, I don't-- this bill does not address that.

McKINNEY: I get that. But what I'm trying to say is, shouldn't these agencies be neutral? Because kids are coming from different backgrounds and diversities, and when you have agencies that are leaning this way or that way, and a kid is coming from an environment or grew up in an environment that is another way, how are we make-- ensuring that the kid isn't losing their sense of identity and things like that?

MURMAN: Yeah. That's why it's important to have a variety of adoption agencies, so that those kinds of situations wouldn't occur, that they have a choice.

McKINNEY: So the department is-- so maybe if somebody from the department comes up, I can ask the question. But does the department

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screen the youth or the kids in the system to say what religious background do you have or practice?

MURMAN: Yeah. I think maybe someone behind me would be able to address that. I really don't know.

McKINNEY: All right. Thank you.

BOSN: Senator Rountree.

ROUNTREE: Thank you, Chair Bosn. Thank you so much for your opening. I just wanted to, if you could expound a little more on, I think the last part of your introduction, you talked about agencies having to close, maybe, up in New York. Could you read that again and just talk to me about those for half a second?

MURMAN: Yeah. I think that was in Buffalo, New York. I don't know the exact reason that they had to close. But apparently, the, the state of New York did not agree with what that child-placement agency stood for-- was doing, so closed them down.

ROUNTREE: OK. All right. Thank you.

BOSN: All right. Thank you very much. I appreciate it.

MURMAN: Thank you.

BOSN: Did I already ask for-- yes, I did. I'm sorry. 3. Thank you. First proponents Good afternoon and welcome.

LANCE KINZER: Thank you so much. My name is Lance Kinzer. I'm here on behalf of First Amendment Partnership. With respect to a couple of the questions that have been asked so far, I would just note, the, the language regarding to the fullest extent provided by state or federal law, there's similar language with respect to federal law in statutes that have and passed by a number of states. That language, from my perspective, at this stage, given the way litigation has developed in this area, is kind of surplusage, and could be easily removed. I know the intent of that language initially was-- for a period of time, there were some concerns that laws like this might run afoul of federal regs regarding kind of pass-through money for funding of foster and adoption services in states, and so the intent of that

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language, at least in the other states where I know it's on the books, was to say that if this protection is violative of, kind of a federal law, with respect to funding, then it wouldn't apply. Where the litigation has gone, especially in the aftermath of that 9-- the 9-0 opinion that the Senator mentioned, the Fulton case in Philadelphia, is that there was some pending legislation around the funding issue, especially a couple, a couple of federal district court cases in South Carolina. For a variety of reasons, including some of the rationale in Fulton, those cases were resolved favorably to the state. And to the best of my knowledge, there-- that really isn't an issue anymore. So I think at least-- while the wording may be awkward, I think that was the intent of that language being in some perhaps statutes that this language may have borrowed from in the drafting, at least that would be my understanding. I, I do think the Senator did a, a good job of explaining the, the real heart of this bill, and that is that by preserving choice-- so for example, this could apply in the context of an agency that's licensed to provide private adoptions. And there, it's very typical to allow a birth mother to make decisions-- a birth mother to say, I would prefer that my child be placed with a married mother and father from a particular religious tradition. And from our perspective, that's a, a good thing, because it's promotive of the birth mother's choice. And oftentimes, and we've got some, some data on this, some survey data, that suggests that some birth mothers just feel more comfortable, let's say that's their preference, in working with a faith-based agency that shares their religious beliefs, and so this preserves the ability to do that. But as the Senator was indicating, a multiplicity of agencies that allow birth mothers from a variety of perspectives to work with organizations that make them feel the most comfortable is positive. It also could, could impact the, the situation where you're talking about people being adopted out of the foster system or providing foster services. And this data may be a little bit dated, but the last data I saw from Nebraska suggested that there were 35/mid-30s, numbers of agencies in the state. About 10 of those were faith-based, and they were provid-- being-- kind of in the high teens, in terms of the number of people they were recruiting for foster placement. And again, the ability of these organizations to work, particularly in communities that share their faith traditions, is helpful, in terms of promoting people participating. So I'm happy to answer more questions, but-- yeah. I'll-- I'm red, so I'll stop there.

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BOSN: All right. Are there questions for this testifier? Senator DeBoer.

DeBOER: So with the adoption of the child, the state's primary interest is the best interest of the child, right?

LANCE KINZER: Certainly.

DeBOER: So. Would requiring the state to allow the agency to enact or live out their sincerely-held religious beliefs, what would happen in situations where that was counter to the best interest of the child?

LANCE KINZER: Well, first of all, I would note that it's my understanding that that is the current practice in Nebraska right now. So in other words, the state works with, even contracts with agencies that only engage in facilitating placements that are consistent with that agency's religious beliefs. There was actually some controversy over that about a decade ago, and there was an opinion issued by the Attorney General at the time, indicating that that was consistent, in his view, with both state law and with federal law, and I think the Fulton opinion and subsequent federal cases justify his view. But the reality is, is-- to, to, to answer the question as I understand it, the best interest of the child standard always applies with respect to the, the-- an adoption agency, for example, in the foster system, the agency doesn't-- you know, the, the state has custodial control and then they work with agencies that bring parents to the party, so to speak, to be evaluated for potential placement for foster or adoption out of foster. A lot of times, in fact, I think the vast majority of times, the adoption out of foster is happening with families that are already fostering, and then adopt. And so, my point is to say the determination is made, is it in the best interest of the child, let's say, where somebody-- where parental rights have been, you know, where the parental rights that have, have, have been abrogated. First of all, there's a best interest of the child determination, with respect to is, is it in the best interest of child for those parental rights to be abrogated, but then the question of best interest of child happens in a little bit of a different level of analysis. It's not as if we're saying, is this particular couple, you know, of every possible couple in the universe that could adopt, is this the very best couple--

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DeBOER: No. No. But--

LANCE KINZER: --that we could-- so that's not-- so--

DeBOER: But, but sir, I think there could be a situation, I can think of several, where the best interests of the child would not be-- would not take into consideration the sincerely-held religious beliefs of the agency. And in that situation, does this bill allow for the best interest of the child to trump in that situation?

LANCE KINZER: Well, again, I think what the agencies are primarily doing is they're recruiting, facilitating licensure of, and promoting having as many--

DeBOER: That may be. That may be, but let's say a situation occurs where they think they have someone that they think they understand them. They're within their religious views of what is a proper person. Then, independency of the fosterhood, the family gets divorced. The, the father-- foster father decides that he would like to, perhaps, marry another man. Now, the agency that set him up no longer agrees that he's the right place. That child has been with this family for 2 or 3 or 5 years. Now, there could very easily be a situation where the best interest of the child is to stay with the foster family for a permanent adoption.

LANCE KINZER: So--

DeBOER: But the agency, because they don't believe in that particular-- they have a sincerely-held religious belief that doesn't believe in that kind of family structure, will now be at odds with what is the best interest of the child, which is to stay in the family that they've been in.

LANCE KINZER: Right. And so if the agency can't participate in facilitating a particular placement, they don't get to say, OK, that placement can't happen. All they get to do is step back and say, we won't facilitate it, but we'll provide you information about other agencies that could facilitate it. And so this isn't a King's X, we decide who gets placed. It's rather, there are some placements we can participate in, others we don't.

DeBOER: OK.

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LANCE KINZER: And so, that's-- I think that solves that, that issue, is how it's-- that would be--

DeBOER: So--

LANCE KINZER: --how it would work under the bill.

DeBOER: So how would that work in a situation where there aren't a lot of folks acting in maybe a geographic region, or for whatever reason, a particular specialty of adoption, so there's not very many agencies. How would that work? Or is that just not something that ever comes up? There's always multiple redundancies in an area, and with respect to someone could come in and take over the, the situation.

LANCE KINZER: Yeah. So I'll stand-- I can be-- I'll stand corrected as to Nebraska, if I'm incorrect on this, but in the vast majority of states, the state itself, there's the ability to work with the state itself, as opposed to working with a contractor, and that becomes kind of the placer of, you know, the, the agency of last resort, and I think that's correct in Nebraska. In addition to that, although it may be the case that there may be more providers in certain urban areas, I don't believe that the contracts are geographical, so I think the ability of agencies to assist parents across the state is, is preserved. And so, at least my understanding in Nebraska, is there's 30-plus of these organizations that are available. And you know, the, the only ones that could potentially claim this protection is, is a very narrow subset. So at least my experience in, in the, the 14 states that have, have passed this, is that it, it can work pretty seamlessly. And they-- frankly, because this really locks in the status quo, it's kind of what's happening already. If you've got one of these agencies that can't participate in placement, then there are other mechanisms available, other agencies available, where the state can serve in that role. And, and again, it wouldn't really operate any differently than it's operating today in Nebraska, as I understand it.

DeBOER: So, so then, so then, I'm a little confused about what the purpose of the bill is. Because could not an agency just withdraw from the-- you know, from the particular child?

LANCE KINZER: In some states, they've not been allowed to do that. So in some states, either at the contracting level or there's been-- in

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some places, it's been regulatory. These faith-based agencies have been told if you're going to provide adoption and foster services, you have to be willing to facilitate any lawful placement. We won't allow any kind of carveouts, and so that's the circumstance that's resulted in a fair amount of litigation around the country. That Fulton case, it was 9-0. It was a strong opinion in favor of Catholic Charities. It was decided on relatively narrow grounds, however, and because of that, a number of states have gone ahead and passed protections. Arizona, Utah, Idaho, Montana, Arkansas have all passed new protections in this area since the Fulton opinion, recognizing that while it was helpful, it probably means that if there was litigation, the faith-based agencies would likely prevail, just, I think, as the Senator indicated. Having clear statutory language would be-- reduce conflict in this area and decrease the likelihood of litigation that ultimately, the state would probably lose.

BOSN: Before I let you go, could you please state and-- or spell your first and last name for the record?

LANCE KINZER: Yes. Lance, L-a-n-c-e, Kinzer, K-i-n-z-e-r.

BOSN: Wonderful, thank you. Any other questions in light of that? Seeing none, thank you for being here.

LANCE KINZER: Thank you so much.

BOSN: Yes. Next proponent. Welcome.

TOM VENZOR: Good afternoon, Chairwoman Bosn and members of the Judiciary Committee. My name is Tom Venzor, T-o-m V-e-n-z-o-r. I'm the executive director of the Nebraska Catholic Conference. The NCC supports the LB1060, which would ensure the government does not engage in unjust discrimination against faith-based foster care and adoption agencies, which, like other agencies, serve the children in our state who need a loving, caring home. Catholic social teaching and basic human reason teach us about the fundamental goods of marriage and the family, and that kids have a right to be raised by their mother and father. Unfortunately, for various reasons, this is not always possible, and some children are placed in the foster care system or are placed for adoption. Well before the state of Nebraska got involved in child placement, the Catholic Church cared for children in

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need of a loving and caring home. When Nebraska was a mere 4 years old, St. James Orphanage, run by the Sisters of Mercy, was the first home established in our state to care for orphaned children. Eventually, Catholic Charities of Omaha assumed responsibility for St. James, and for over 100 years, St. James provided care for thousands of vulnerable children in and around Nebraska. This story is similar for Catholic social service agencies around the country, including states where agencies have been forced out of child placement services. LB1060 would ensure that these types of outcomes do not occur for child placement agencies in Nebraska. As the legislative findings indicate, at a time when the number of children needing foster care and adoption placement outnumber the homes available for placement, it is important that the state values and honors the mission and charity of faith-based foster care and adoption and placement agencies. Rather than require agencies to avail themselves of extensive, rigorous, and costly litigation in an instance where the state might unjustly discriminate against them because of their faith-based beliefs and practices, LB1060 provides important, upfront statutory perfection-- protection. And in doing so, Nebraska can continue to rely on a diverse array of service providers to meet the demanding needs of serving Nebraska's children. Thank you for your time and consideration.

BOSN: Thank you. Any questions for Mr. Venzor? Seeing none, thank you for being here.

TOM VENZOR: Thank you.

BOSN: Next proponent. All right, opponents. Anyone here in opposition? Good afternoon and welcome.

CHARLES RIEDESEL: Thank you. Senator Bosn, members of the Judiciary Committee, I'm Dr. Charles Riedesel, C-h-a-r-l-e-s R-i-e-d-e-s-e-l, Professor Emeritus, UNL. I had challenging, yet ultimately successful experience with foster care and adoption services in Nebraska. Our 2 nieces came to us in emergency situation, age 7 and 9. We continue to be thankful to DHHS and for the support of Child Guidance and Lutheran Family Services. It is now 41 years later, and we love both of them. I'm here to speak in opposition to LB 1060 because it would weaken our system. My problem is with Section 4, paragraph (1), which refers to the child-placing agency's sincerely-held religious beliefs. First, I

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am a person of faith. My faith derives partly from my extensive study of science, logic, and human nature, which persuades me of the rightness of creation and the amazing capacity of the human mind to grasp the universe's scope and intricacies, and moreover, provides the means for engineering incredible technological solutions. At the same time, I perceive a pervasive goodness in humankind that appears to surpass, surpass what could be expected from an evolutionary altruism. Contrasting with that goodness is an apparent, selfish and destructive evil. Most incredible is that each one of us seems to be able to choose which side to follow. Is there a physical reality to this perceived goodness and evil? I do not know, based on my studies. It may come from who or what we refer to as God. But I take this existence on faith, and am committed to the "good side of the force." My problem with the vaguely worded "sincerely-held religious beliefs" begins with the sources and firmness of those beliefs, how well thought through and tested the beliefs may be, then the level of dogmatism that insists on exactly those beliefs, and finally, the impact of those beliefs on the person's life. Do these beliefs lead one to adhere to beneficence, as in the New Testament beatitudes, rather than being formulated with sets of conditions and prohibitions to impose on and judge others, as in the Mosaic laws? Designing and building successful families can be excruciatingly hard because truly understanding people is hard. There's little evidence that applying sincerely-held religious beliefs, particularly of the formulaic variety, has a higher probability of success for foster and adoptive families, as compared to utilizing professional guidance. Just look around you-- at your families, at your churches. What do you see? Passage of LB1060 would preclude having the state insist on the best our experienced subject experts have to offer all our clients. I would not as readily trust services offered by agencies that are limited by sincerely-held religious beliefs, a la prohibitions. I believe instead that all hopeful families and children should be served without prejudice. Thank you for listening.

BOSN: Thank you very much for your testimony. All right. Seeing none, thank you very much for being here. Next opponent. Anyone else here in opposition? Welcome.

KATIE NUNGESSER: Thank you, Chairperson Bosn and members of the Judiciary Committee. My name is Katie Nungesser, K-a-t-i-e N-u-n-g-e-s-s-e-r. I'm here representing Voices for Children in

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opposition to LB1060. Child welfare policy must prioritize the best interests, safety, stability, and timely permanency of children. Every decision in this system should be guided first by what kids need to heal, grow, and thrive. We are in opposition because although this bill is framed that it is protecting providers and preserving capacity, when examined through a child welfare lens, it raises serious concerns. The structure and substance of this bill centers institutional protections rather than children's access to timely, nondiscriminatory, and stable placements. The bill does not establish the child's best interest as the standard. It does not require that service refusals avoid placement delays. It does not ensure that refusals protect a child's path to permanency, and there is no safeguard to prevent a refusal from prolonging time in foster care, emergency placements, or congregate care. Delays in placement are not neutral. They increase trauma, instability, and harm. Every extra day without permanent stable home matters for a kid's emotional health, educational stability, and long-term outcomes. As of December 2025, there was over 4,000 children in Nebraska in out-of-home placements, and 413 days is the median number of days that these kids are in out-of-home care. This bill also creates a risk of discrimination that affects kids. It uses broad language about the sincerely-held religious beliefs, and the practical impact is clear. It allows agencies to refuse services in ways that can reduce placements and options for kids. This can affect kids who need kinship placements, children who need culturally appropriate placements, LGBTQ-plus youth, and children with LGBTQ-plus parents or caregivers. Children are going to pay the price when adult system-- adult belief systems limit the pool of safe and loving homes available to them. Fewer placement options means longer waits, greater instability, and higher risk of disruption. The referral requirement in this bill does not solve that problem. A referral is not the same as access. The bill does not require that the alternative agency-- that they get referred to actually has capacity, is geographically accessible, or can place a child without delay. In many parts of rural Nebraska, there may not be realistic alternatives. From a child welfare perspective, this is not a child-centered bill. It prioritizes agency protections over child's needs. It increases the risk of delay, weakens oversight, and creates inequitable access to permanency for vulnerable kids. If our goal is to strengthen the child welfare system, legislation should be built around kids' rights and outcomes, and at a minimum, a child-centered

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approach would include clear best interest of the kids as the standard, safeguards against placement delays, protections against discriminatory impact on kids, preservation of meaningful state oversights, and required reporting on all child outcomes impacted by this. Children should not bear the consequences of adult belief-based exclusions. Public systems exist to serve kids, not institutions. For these reasons, we respectfully urge you to oppose LB1060. Thank you to the committee, and I'm available for any questions.

BOSN: Thank you. Are there questions for Ms. Nungesser? Seeing none, thanks for being here. Next opponent. Neutral testifiers. All right. Senator Murman, to close. Welcome back.

MURMAN: Thank you. This bill does not change anything that's already the status quo in Nebraska. And what it does, as I said in my opening, is to protect faith-based child placement agencies that are in the state. And I don't think it's an issue now, but it could be someday, so that's the reason for the bill. Thank you.

BOSN: Thank you.

Any questions?

Any questions? All right. Seeing none, thank you very much for being here. That will--

MURMAN: Thank you.

BOSN: --conclude our hearing on LB1060. Next up, we have Senator Machaela Cavanaugh, with LR316CA. Can I see a show of hands, how many individuals are here to testify on this bill? 1, 2, 3. Gotcha. All right. Welcome. Let me note, for the record, there were 26 proponent comments, 49 opponent comments, and no neutral comments submitted for the record. This is your first hearing in front of us, is it not?

M. CAVANAUGH: This year, I think it is.

BOSN: Well, welcome to your Judiciary.

M. CAVANAUGH: My first and my last.

BOSN: Is this really your last bill?

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M. CAVANAUGH: No, my last hearing in front of Judiciary.

BOSN: Oh, OK, but not your last hearing in general.

M. CAVANAUGH: No. I have lots of bills this week. I actually have another bill going right now, in another committee.

BOSN: Oh, OK. Well, we'll get you started, then.

M. CAVANAUGH: OK. Thank you. Good afternoon, Chairwoman Bosn and members of the Judiciary Committee. My name is Machaela Cavanaugh, M-a-c-h-a-e-l-a C-a-v-a-n-a-u-g-h. I represent District 6 in west central Omaha, and I'm here today to introduce LR316CA. So I'm just going to cut to sort of the crux of this. We had an announcement from DHHS several months ago, about changes that they were making to the disability waiver process that kind of ignited a lot of interest. And I talked to a lot of people about their interest in, in trying to maybe do something different than what was, at that time, being proposed-- and DHHS has since changed their proposal. But I do have a bill tomorrow, which is my priority bill in HHS, that addresses more of the issue around the disability waivers. But while I was doing that, I thought, what do other states do around this? And we've talked, as a state-- the Governor and ourselves-- about how important the developmental disability community is, and how we want to take care of them. And I just thought, a nice thing we could do is to codify it in our constitution, so that's how LR316CA came to be. There we go.

BOSN: All right. Any questions from the committee? I know Senator Rountree is very glad he's still here to see this. All right. Are you staying to close, then, or what are your thoughts?

M. CAVANAUGH: I have to go.

BOSN: OK.

M. CAVANAUGH: But thank you.

BOSN: Yes.

M. CAVANAUGH: And I apologize for not being here to close, and thank you to everyone who's come to testify.

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BOSN: Yes. Thank you. All right. We'll start with proponents. Anyone here to testify in support? Good afternoon and welcome.

JONI THOMAS: Thank you. Good afternoon. Thank you Chairperson Bosn and the committee. I appreciate your time today. It's been a long afternoon, I'm sure. My name is Joni Thomas, J-o-n-i T-h-o-m-a-s, and I am here today in strong support of LR316CA, because constitutional, constitutional protections define who we are as a state and who we choose to include. Disability rights are not special rights. They are fundamental rights, and these rights belong in our constitution alongside the values Nebraska already claims to uphold. The amendment affirms that Nebraskans with disabilities are full participants of our communities, our workforce, and our democracy. Constitutions reflect a state's highest values. They establish the principles that guide decision-making across generations, regardless of changes in policy, priorities, or political leadership. LR316CA offers Nebraska an opportunity to affirm clarity, clearly, that people with disabilities are entitled to constitution protection under the law, meaningful opportunity, and full inclusion as a matter of constitutional principle. The proposal does not create new programs or impose new mandates. Instead, it provides clarity and consistency by recognizing disability rights within the same framework as other fundamental civil rights. Nebraska already benefits from federal protections such as the Americans with Disabilities Act, but prac-- but placing these values within our State Constitution demonstrates leadership and reinforces our commitment to fairness and consistent treatment under the law at the state level. For many Nebraskans with disabilities, participation in everyday community life still depends too heavily on systems that were originally designed without inclusion in mind. Constitutional recognition helps ensure that future policies are guided by principles of independence, accessibility, and meaningful participation. It signals that disability is not a limitation on citizenship or contribution. As someone who worked-- sorry for driving myself into your table. Firsthand, clear expectations create outcomes for everyone. When fairness and consistency guide decision-making, it promotes innovation, strength-- strengthens communities, and reduces barriers before they become problems. LR316CA does not create special rights. It affirms constitutional protections for Nebraskans with disabilities and provides clarity and strength-- our legal and civic framework for generations to come. Constitutional language sets the

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foundation upon which policies are built, ensuring that future decisions reflect fairness, inclusion, and meaningful participation. And I hope that it [INAUDIBLE]. Thank you so much for your time.

BOSN: Thank you. Let's see if there's any questions from the committee. Does anyone have any questions for this testifier? Senator Hallstrom.

HALLSTROM: I just want to thank you for your heartfelt comments on this. Thank you very much.

JONI THOMAS: Thank you.

BOSN: Would you be willing to give the pages a copy of your testimony, so they can have a copy circulated for each of us to have?

JONI THOMAS: Sure.

BOSN: OK. Awesome.

JONI THOMAS: OK.

BOSN: Any other questions in light of those comments? Senator Rountree.

ROUNTREE: I just, Congress, I just want to thank you always, for all the support and work that you do. I appreciate that.

JONI THOMAS: Thank you.

BOSN: Thank you. Thanks for being here.

JONI THOMAS: OK. Thank you so much.

BOSN: Yes. Next proponent. Kleh, do you mind making copy [INAUDIBLE]. OK. Good afternoon and welcome.

ALANA SCHRIVER: It's freezing in here. Good afternoon, good afternoon, Chair Bosn and members of the Judiciary Committee. My name is Alana Schriver, A-l-a-n-a S-c-h-r-i-v-e-r, and I'm representing the Nebraska Association of Service Providers. We're the statewide association for the home and community-based service providers supporting individuals with intellectual and developmental disabilities on the 1915(c)

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Medicaid waivers. Thank you for the opportunity to testify today in support of LR316CA. At its core, this resolution is about dignity, stability, fiscal responsibility, and the fundamental right of Nebraskans with disabilities to live in their own homes and communities. This proposal is modeled, in part, on California's Lanterman Act, formerly known as the Lanterman Developmental Disabilities Services Act. That landmark law established that individuals with developmental disabilities have a legal entitlement to the services and supports they need to live more independent and productive lives in the community. It transformed disability policy by recognizing that these services are not charity. They are a human right. In contrast, in most states, including ours, home and community-based services are optional under Medicaid. They are provided through waivers. That means they can be capped, limited, reduced, or eliminated, depending on budget pressures. There's no guarantee that a person with a permanent disability will receive the supports they need when they need them. Families like mine live in uncertainty. Providers struggle to maintain workforce stability. At the federal level, proposals tied to President Donald Trump's so-called One Big Beautiful Bill Act threaten deep cuts to Medicaid. Medicaid is the primary funding source for home and community-based services. When Medicaid is cut, home and community-based services is often the first place states look to reduce spending, because it is technically optional. We are already seeing warning signs. In Idaho, the governor has proposed eliminating these services to balance their state budget. This is not a hypothetical risk, it is happening now. Yes, these services are a significant line item in a state budget, but they are essential for people with disabilities. They are not luxuries. People with disabilities serve to live in their home-- deserve to live in their homes and communities, just like you do. They deserve to work, to build relationships, to worship, to volunteer, to participate in civic life. History has shown us that the harm-- history has shown us the harm that mass institutionalization causes. Institutions are also far more expensive. The average cost for an individual at Beatrice State Development Center is about \$400,000 a year, as compared to \$86,000, via home and community-based services. Investing in HCBS is not only morally right, it's fiscally responsible. LR316CA does not appropriate funds. It does not mandate a specific program design. It simply allows Nebraskans to vote on whether the right to community-based supports should be

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constitutionally protected in our state. It places trust in the voters. It affirms that the lives and dignity of people with disabilities are not optional line items, subject to shifting political winds. Nebraskans value independence, family, and community. LR316CA reflects those values. It ensures that individuals with permanent disabilities will not be forced back into institutions. It provides stability for families, it provides predictability for providers, and it provides clarity about who we are, as a state. So, happy to answer any questions.

BOSN: Thank you very much. Any questions for this testifier? Seeing none, thank you for being here. Next proponent. Welcome back.

BETH LIBRA: Hi. Good afternoon, my name is Beth Libra, B-e-t-h L-i-b-r-a. I'm here to testify in support of LR316CA, as-- both as a parent of a young adult who experiences a developmental disability and a guardian to several, and the current chair of the Nebraska Council on Developmental Disabilities. Although the council is appointed by the Governor's administration and DHHS, the council operates independently and our comments do not necessarily reflect on the views of the Governor's administration or the department. The council is federally mandated, and independent council is made up of individuals with developmental disabilities, their families, communities, agencies' representatives. We advocate for system change and quality services, and a source of information and advice for state policymakers. When necessary, we take a nonpartisan approach to provide education and information on legislation that will impact individuals with DD. LR316CA would put forth a constitutional amendment for voters to approve that would provide certain rights to persons with disabilities. As a parent, this is an issue that is deeply personal. Every family raising a child with disability asks the same fundamental question: will my child be safe, supported, and included in their community, long after I'm gone? LR316CA helps answer that question. Constitutional amendments recognize that individuals with disabilities have the right to access public facilities, transportation, health care services, services and supports necessary to live an integrated life in their community, regardless of their age, level of disability. Integration is not simply a preference, it's a civil right. In *Olmstead v. LC*, the United States Supreme Court affirmed that unnecessarily institutionalizing is a form of discrimination. People with disabilities have a right to receive

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services in the most integrated setting. Individuals-- Nebraska has made significant process-- progress in building community-based systems and care. We have seen the outcomes firsthand, individuals working in competitive, integrative employment, families remaining stable because of the supports and systems in place, individuals living in their homes of choice and not facilities, a stronger, more inclusive community. Community-based services are also fiscally responsible. Institutionalized care and infrastructure operating costs are quite high. As the chair of the DD Council, I work alongside self-advocates, families, providers, state partners, and we consistently hear that, that Nebraska must continue to move forward and not backward. Embodying those rights in our constitution would serve-- ensure long-ster-- long-term stability in protecting against policy swings. It sends a clear message to Nebraska values inclus-- values inclusion, dignity and equal opportunity for all stude-- people. We do not want to return to an area-- era of segregation and institutionalized. We want Nebraska to be a place where people with disabilities live, work, worship, and contribute. For the families like mine and thousands of other Nebraska families that ensure-- this assurance matters deeply. Thank you.

BOSN: Thank you very much. Are there questions for this testifier?
Senator Rountree.

ROUNTREE: Thank you so much, Chair Bosn. And thank you so much for testifying and the work you do. As Chair Bosn stated, we had so many proponents and opponents, and I tried to get down to read what the concerns are, for and against. But I want to just read one opponent testimony, and see your thoughts on that. It just said: I oppose this resolution as it would seriously change the very heart of Nebraska's Constitution. With its broad interpretation, it would no doubt be used to circumvent the safeguards that now protect the general population by creating a specially privileged class of people, to be determined by the ruling faction of the Legislature. You must vote no on this bill, which is nothing less than a gateway to socialism, and then communism. Just, just thoughts.

BETH LIBRA: I don't really believe that that person probably understands the basis of this resolution. I see this as a civil rights. I also see it as protecting our DD and ID and disabled community. We, we see what's happening in, in Idaho, for instance.

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Where are those people going to go? The people that I'm guardian for are people that don't have family members that can take care of them. One was-- both of his parents had passed away and there was no one to help him. If there isn't home and community-based services, they would either go to a nursing home. They would live on the streets. They would live in an institution like State Beatrice. We're not in the 1950s anymore. This is actually a cost savings for our state, and we're seeing that people like my daughter are able to work and, and live a happy life. And since we accepted our waiver, her health has, has gotten better. Prior to accepting a waiver, she had been in and out of the hospital over 400 times in her life. She had been lifelighted to Omaha 6 times. We had, had to go all the way out to Denver for treatment. It, it was a roller coaster. We got home and community-based services. I was able to work, move my career, be able to provide a stable family, and for her to have a quality of life. She hasn't been in the hospital for over 2 years. She has not been ambulated for over a year. We have had a reduction of her medication. We used to have to go to the doctor every month to every 3 months. We have not had to do-- we go every 6 months to a year. Our kidney doctor, she was a-- she's in kidney failure, and she has not-- she only sees her kidney doctor now every year, because we have stabilized it by home and community-based services, which is also a cost savings for Medicaid. And, and for us, as a family, just imagine living in the uncertainty. I had a, a bag packed in my car, because I never knew when I was going to end up at Children's Hospital or the Med Center, because I didn't want to go without a toothbrush and I didn't want to have to go without clothes, and I didn't know what that was going to look like. Because I live in Wayne County. You know, I'm, I'm not just across town from clothes when she got sent. I was a single mom for a lot of years, and my son had to bounce from place to place. If we could have had the stability of a waiver service to know that we were safe, and also for her not to live in that hospital setting. Her quality of life is so much better. And I really think we need this for all people, so we're not living of, is it going to get it taken away from us tomorrow? Is it-- are we going to go back to that? It's very scary.

ROUNTREE: Thank you so much. I appreciate that testimony, and just sharing your personal life as well.

BETH LIBRA: Thank you, guys, very much for everything you do.

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BOSN: Thank you for being here. All right. Next proponent.

***MARY ANGUS:** As a person with a disability, I support the passage of LR316CA. I cannot say how important it is. Our rights need more attention in Nebraska. When it comes up for a vote in May, I will vote for it.

BOSN: Moving to opponents. Anyone here in opposition? Neutral testifiers. Anyone here and the neutral capacity? Good afternoon and welcome.

BO BOTELHO: Good afternoon, Chairwoman Bosn and members of the Judiciary Committee. My name is Bo Botelho, B-o B-o-t-e-l-h-o. I'm legal counsel for the Department of Health and Human Services. I'm here testifying in neutral capacity. The department is in full support of promoting the rights of individuals with disabilities and ensuring Nebraskans in need have access to robust community services. This includes ensuring those with high needs are served in the least restrictive settings in accordance with their choice and needs. With that, the department wishes to bring the following information and legal considerations to the committee's attention. The Olmstead Court, while interpreting the Americans with Disability Act, established that institutionalization of people with disabilities violates the act when the transfer from the institutional care to a less restrictive setting can be reasonably accommodated while taking into consideration the resources of the state. It is important to recall the court's decision was its interpretation of the act and was not independent of the act. It is also important to note the Olmstead Court was careful to factor in the reasonableness standard. It has long been held that the act does not require states to redesign, overhaul their existing systems, or otherwise significantly alter state programs. Federal ADA law employs a fact-based reasonableness standard. The Olmstead decision and its progeny, combined with the Act, provide states with a roadmap for compliance. The proposed constitutional amendment would create an unknown state standard. The current proposed language does not define disability, but would seem to consider any individual with a proclaimed disability, to any extent, a member of a new protected class; nor does the proposed amendment provide any guidance as to how to assert the rights granted or against whom to assert said rights. It is unknown what new or different obligations the proposed constitutional amendment would place on the state, its political

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subdivisions, or private entities. These standards would have to be fleshed out by a new line of cases derived from litigation against the state, its subdivisions, and private entities or individuals. Nebraska courts would not have the luxury of a robust act, the ADA, to guide their decisions, but instead would have only the language as amended into the constitution with which to work. Federal precedent based primarily on the ADA would likely be of little value, if any. Thank you for your time. I'll answer any questions I can.

BOSN: Thank you. Are there questions for Mr. Botelho? Seeing none, you're getting off easy today.

BO BOTELHO: Thank you.

BOSN: Thanks for being here. Next neutral testifier. That will conclude our hearing today on LR316CA, as well as our hearings for today, unless I missed something. There's still a lot of you here, so I get a little nervous. OK. Alrighty, thank you very much. Oh, yes. Does the committee want to stick around for--