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Judiciary Committee
October 26, 2007

[LR121]

The Committee on Judiciary met at 10:00 a.m. on October 26, 2007, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR121. Senators present: Brad Ashford, Chairperson; Steve Lathrop, Vice Chairperson; Amanda McGill; Dwite Pedersen; Pete Pirsch, and DiAnna Schimek. Senators absent: Ernie Chambers; Vickie McDonald. [LR121]

SENATOR ASHFORD: Good morning, everybody. I think we'll launch forward here. We're here this morning to discuss LR121, and I believe that's the only matter on the agenda this morning so I think we will get started with that, and Senator Pedersen is going to introduce it. Most of you have been here before. We will try to hold our testimony down to five minutes and apply the light system as we go, and it's a little less restrictive, however, on these resolutions so we'll play it by ear. Senator Pedersen, good morning. [LR121]

SENATOR PEDERSEN: Good morning. Senator Ashford and colleagues on the Judiciary Committee, for the record I am Senator Dwite Pedersen, representing the 39th Legislative District, and I'm here to introduce LR121, an interim study on the feasibility of juvenile certification. Twelve years ago, in 1995, shortly after I came to the Legislature, I introduced LB273, which would have made a fundamental change in juvenile procedure in Nebraska by changing the policy by which juvenile courts in Nebraska share concurrent original jurisdiction with the district court for juveniles accused of felony, whatever the age of the juvenile; with county and district court for juveniles aged 16 and 17 who commit a misdemeanor; and with district and county courts for youthful traffic violators. Although the bill was sent to the full Legislature, the floor debate shortly after the hearing, it was not prioritized and so it was not given any more discussion on the floor. Last year, I dusted off the idea and had the bill redrafted for possible introduction. Because of input I received indicating that while there was support for the general idea, but indicating there was disagreement about exactly how it

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should be introduced, written up, we decided to change it to a interim study which we are presenting here today. Basically I have proposed to start every juvenile case on a level playing field. Historically, the juvenile court system has been based on the idea that young people can be rehabilitated. In the juvenile court system, young people are given a chance to turn their lives around. I am also well aware that juveniles do commit crimes which are extremely serious, and there are cases that should definitely be decided in adult court. What I have been searching for is a way to eliminate the problem of some juveniles having to stand trial in adult court while others go to juvenile court with no good explanation of why that occurs. I would like to see legislation that would require that the reasons be set forth on the record as to why the proceedings could not or should not be handled in juvenile court. It is my hope that the Judiciary Committee, via this interim study resolution, will be able to take a closer look at whether or not all crimes should go through the juvenile court system, or if there are certain crimes that should remain in county or district court; whether there are certain types of crimes that would automatically be sent to the adult court, including the procedures that would need to be followed to get that done; and the types of evidence that would need to be presented to determine whether a case should remain in juvenile court or be transferred to adult court. As the resolution states, there are many issues to be considered in making these determinations, including whether violence was involved, motivation, the age of the juvenile and the victim, whether the crime was against the person or property, previous social history, the maturity level of the juvenile involved, previous contact with law enforcement agencies, what facilities would be available for treatment and/or rehabilitation, whether the best interests of the juvenile and the safety of the public would be best served if the juvenile could be supervised past the age of minority, and any alternatives that might be available. The original version of LB273 has been sent to some people as a basic outline, and today I'm looking forward to hearing suggestions as to how the idea can be improved upon, as well as input from those who work closely with the juvenile system regarding whether or not juvenile certification is a viable option for the state of Nebraska. Thank you for allowing me this opportunity to give you a brief explanation of the resolution and I look forward to hearing the testimony

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this morning. [LR121]

SENATOR ASHFORD: Thank you, Senator Pedersen. Any questions of Senator Pedersen? Yes, Senator Schimek. [LR121]

SENATOR SCHIMEK: Just a quick refresher, Senator Pedersen. How many juvenile courts do we have in Nebraska? [LR121]

SENATOR PEDERSEN: We have, I think it's just the two, isn't it? Lancaster and Douglas? Oh, Sarpy; Sarpy. Three. [LR121]

SENATOR SCHIMEK: Okay. And how does this study take into account the fact that there aren't juvenile courts in many parts of the state? [LR121]

SENATOR PEDERSEN: Well, there's not a separate juvenile court, but the county judges do serve as the juvenile court judges in them other counties. [LR121]

SENATOR SCHIMEK: Oh, okay, thank you. [LR121]

SENATOR ASHFORD: And Senator Pirsch? [LR121]

SENATOR PIRSCH: Oh, no, that's (inaudible). [LR121]

SENATOR ASHFORD: So you are basically shifting...your idea here would be to somewhat shift the burden a little bit and have the cases filed originally in juvenile court, and then they could be transferred to district court upon a finding. [LR121]

SENATOR PEDERSEN: Yes. [LR121]

SENATOR ASHFORD: And those criteria are set forth in the resolution. [LR121]

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SENATOR PEDERSEN: The old basic definition of what we were trying to do is, in most states a juvenile goes to the adult court no matter what crime they committed, and the juvenile court decides whether or not this crime was serious enough or the person has a long enough record and they've done everything they can with them to certify--that's why it's called certification. They would certify them as an adult, and once they were certified as an adult they would go to adult court from then on. In this state, the county attorney makes the decision. And the county attorneys, not saying that...you know, a lot of times, have to make political decisions, and this would take this basically out of their hands. But there are some cases, you know, that county attorneys in...we want everybody on the same page here and take a good look at it and see if, again, if it's going to be good for Nebraska or not. And some states have had it the way I just explained it, and they have switched it a little bit back again. But it's basically the certification meant the juvenile court decides whether or not they're going to be charged as adults, instead of the county attorney. [LR121]

SENATOR ASHFORD: And in your experience in working with juveniles, Senator Pedersen, the benefit here would be earlier intervention, potentially? Is that one of the benefits to this? [LR121]

SENATOR PEDERSEN: Yes, and less politics. [LR121]

SENATOR ASHFORD: Okay. Senator Pirsch. [LR121]

SENATOR PIRSCH: Just a question. Right now, the county attorney in Nebraska makes the determination whether to charge somebody as a juvenile or as an adult, right? These individuals who are under 18 years of age? When that happens, and when the county attorney makes a decision to charge, say, a 17-year-old as an adult in county court or whatnot, and it comes in front of the judge. And that the defense attorney for the 17-year-old files a motion to transfer the case to juvenile court, these factors that

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you spoke of--violence, the age of the person, whether or not personal property was damaged, the record of the individual, the maturity of the 17-year-old--is the paradigm now, and tell me if I'm wrong, isn't it that the judge shall order the youth to juvenile court unless those factors specifically are considered by the judge and entered into the record as something that would...or such that they would require the youth to stay in adult court? In other words, isn't the status quo right now that the juvenile shall go to juvenile court unless the judge reaches a finding that he should stay in adult court? [LR121]

SENATOR PEDERSEN: I don't think that's the law, Senator. [LR121]

SENATOR PIRSCH: Okay. [LR121]

SENATOR PEDERSEN: I think there's some, you know, status quo stuff there, but I don't see that in the law. [LR121]

SENATOR PIRSCH: Okay. [LR121]

SENATOR PEDERSEN: I mean, the judges make the decision, and sometimes theirs is political, too, obviously. But it's a...you know, hopefully, the people who know juveniles and work with juveniles and have the experience with juveniles at that age, would be making the decisions instead of them taking all the politics out of it. And when they've had to throw up their arms and say, we've done all we can, they can certify them and move them to the adult court. [LR121]

SENATOR PIRSCH: Yeah. But the way the current language reads in the statute as it exists today is not a paradigm where when it comes in front of the judge and the defense attorney files a motion to have it transferred to juvenile court, that the default or the status quo is that they shall be transferred to juvenile court unless the judge finds specifically that factors are present that would make them...made them more adult? It's not that way? [LR121]

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SENATOR PEDERSEN: Yeah. And hopefully that's the thing that does help us in this state, because the judge can make them decisions even though the prosecutor has charged them as adults, the judge...we do have another step in there where the judge makes the decision whether or not they want to move it down to juvenile court or up to juvenile court, however... [LR121]

SENATOR PIRSCH: I was just trying to remember, though, the way the language read. Was it default is unless the judge, the prosecutor can give a showing that he...that there's special factors in the case that would, because of the age or the prior record, etcetera, that the default...and say there is no testimony introduced at all on the issue that the default in current language would be that the child would be, then, sent to juvenile court, because there's been no showing to the contrary that, other than the age. [LR121]

SENATOR PEDERSEN: That may be. You've been a deputy prosecutor so you would actually know more about that than I would. [LR121]

SENATOR PIRSCH: Well, but I can't quite (inaudible) the language, I... [LR121]

SENATOR PEDERSEN: I don't see...I just have never...in all of my followings of this, is that I've not seen that. [LR121]

SENATOR PIRSCH: Yeah. And I can't quite remember the language (inaudible). [LR121]

SENATOR PEDERSEN: Yeah. And that's why we've got it here. I mean, so we can ask questions and get some grips on this. And it's not a bill; it's a study. [LR121]

SENATOR ASHFORD: It's a study, and we have an almost a small rooms' worth of

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experts here that are going to tell us all about it. [LR121]

SENATOR PEDERSEN: And I want to hear from all sides of it. It's a pretty... [LR121]

SENATOR ASHFORD: Right. It's a very interesting issue, Senator Pedersen, and you, better than anyone, I think, have a grasp on the outcomes and the problems that happen. So I think it's a valuable... [LR121]

SENATOR PEDERSEN: But we have a...somebody is going to testify here today, Mr. Beckman, about interests in a bill. We've got people doing life, long...you know, life imprisonment without option of parole who were sent there are the ages of 16 and 17 years old, and... [LR121]

SENATOR ASHFORD: And I think that's a very, very important issue, is what do you do with people that are in prison for 60 years or 70 years? [LR121]

SENATOR PEDERSEN: Immature, with tools in their hands. They have no idea what they're doing with no thought or anything else, but it's such devastating crimes that they committed that the society just says, well, you know, we've lost them so throw it out. And in my profession we don't do that to anybody. [LR121]

SENATOR ASHFORD: And we don't pardon anybody, do we? [LR121]

SENATOR PEDERSEN: Nope. [LR121]

SENATOR ASHFORD: That's another thing we don't do. Senator Pedersen, I really appreciate your bringing this to us. Any other questions of Dwite? Thank you. [LR121]

SENATOR PEDERSEN: Thank you. [LR121]

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SENATOR ASHFORD: Before we go any further, I'd like to introduce you to my colleagues. Senator Steve Lathrop just walked in. Senator McGill, Amanda McGill; Senator Pete Pirsch; and, of course, Senator DiAnna Schimek, who needs no introduction; and my--but I'll introduce her anyway just for the record--and then Stacey Trout, my legal counsel; and Jonathan Bradford who is the committee clerk. Who would like to talk about this resolution? Who's here today to...? Why don't we just come up, one after the other, and take...you know, we'll try to keep it around 5-6 minutes. I'm sure there will be some questions, so. [LR121]

TRICIA FREEMAN: Good morning. [LR121]

SENATOR ASHFORD: We're not going to use the lights. [LR121]

TRICIA FREEMAN: We're not? [LR121]

SENATOR ASHFORD: We're not, so just...but we are going to...we'll intuitively know whether you've... [LR121]

TRICIA FREEMAN: I think I will intuitively know, as well. [LR121]

SENATOR ASHFORD: ...whether you've talked too much or not. Go ahead. [LR121]

TRICIA FREEMAN: Okay. My name is Tricia Freeman. I'm the chief deputy in the Sarpy County Attorney's Office, and my primary function is to oversee the criminal division in our office, which would include both our misdemeanor and our felony division, as well as our juvenile division. So just so that you're understanding where I'm coming from, I'm actually speaking on behalf of our office. And perhaps the best thing that I can offer for you today is to kind of understand what the current process is and how we consider cases. We look at cases when they come across our desk, and we look at, is this a crime that is a crime that is needing appropriate remedy that goes beyond the juvenile

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court. Juvenile court is designed to be a rehabilitative court, not a punishment-related court. And the adult court definitely has a rehabilitation aspect to it but it also is designed for punishment. And we review those cases and determine do we have a juvenile who wants or needs to be treated as an adult? Do we have a juvenile who has committed a crime that is...that needs adult-type treatment? And when we make that decision, we file the complaint whether we decide we can file it in juvenile or we file it in adult. Defense will file a motion to transfer to the juvenile court. And current case law in Nebraska says there is a presumption for transfer, and that's what the case law says. And so there is that presumption for transfer, and the factors that are set forth in the resolution are those factors that we have to use, and we essentially have to convince the court that based upon these factors we have provided enough information to suggest this case should not be presumed to be transferred, but instead should stay in adult court. And I will agree...I can't speak for other county attorneys, but, you know, I guess I would like to think that when we make those decisions we're not looking at making politically based decisions; we're looking at making the best decision for what we think is appropriate for not only the individual but the protection of the public, which is definitely a very serious consideration that we have to make. So when we make that decision, then we have the hearing in front of the county court judge or the district court judge, wherever the case may fall. Then that judge has to give written findings about what his reasoning is, and it's not meant to be a weighing of the factors. There are 12 factors in the statute, and it's not meant to be a weighing. Well, you've given us information on, you know, only five of them, but really looking at the factors and where that leads them to conclude this case could most appropriately be handled. And so that's the basic process. And so I don't know that I necessarily can speak to whether or not we should file everything in juvenile court, but I do at least want to pose some concerns that I have. Do we have the necessary infrastructure that to file violent juveniles in juvenile court? Do we have the infrastructure and the placement for them? The place for them to go where they are held in the appropriate facility pending some determination as far as where this is going to go? And I simply ask that question because I do think that it's something that we need to be considering. The other issue

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that I see is not so much where we file the case, but what happens right now is that when there is a case that's filed in adult court on a juvenile, it's determined that it's to be transferred. When that juvenile attains the age of 19, jurisdiction is over. Whether or not there's been any rehabilitation, appropriate rehabilitation or not, at 19 the case the done. And I see that as being a very significant factor, and certainly we recognize that in our office as a significant factor. You know, I can certainly give you three or four examples. I don't know how effective that is, but it definitely is a situation where I think that there are several states who...and Kim gave me the right term, that says that it's a blended sentence, where when it's determined that there hasn't been appropriate rehabilitation, and then there is a need for punishment, that when the juvenile attains the age of 19, there then are adult sanctions that could apply to that juvenile beyond the age of 19, until you reach the point that we have had either sufficient rehabilitation or punishment has been achieved. And so that's definitely something that I think is definitely a real issue in our current statute because it just doesn't provide for those means. And, you know, I can't help but offer that we have, you know, an almost 18-year-old who's transferred to juvenile court for two counts of felony motor vehicle homicide, and, you know, issues that if he should choose not to participate in the variety of conditions that he is supposed to complete by the time he attains the age of 19, there's nothing more we can do. And so not only do we have a concern, has he been rehabilitated, is there a further risk to the public, but we also have the families of victims who are looking for how was this just. And so I think that there is a really a variety of issues that I think have to be looked at and have to be addressed. I'm not sitting here telling you that I think, you know, we have an answer to it, but I definitely want to make sure that we're really identifying and addressing what the issues are, and that we're looking to find a bill that's going to address those issues in a way that's, again, going to benefit not only the individuals, the juveniles, but also going to address the protection of the public, which I think is critical, so. I'm happy to answer any questions that you might have. I don't know that I fully anticipated that we would talk today. We were really coming down to show our interest, but I'm happy to answer any questions if I can. [LR121]

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SENATOR ASHFORD: Well, this is better than just showing your interest, because then you can tell us. Do we have any questions? Yes, Senator Pedersen. [LR121]

SENATOR PEDERSEN: Not necessarily any questions. There were was nothing you said that I disagree with. I mean, the whole idea of this is hopefully we can bring this together and see what we can do for the best of all. We have public safety is obviously very top priority, but we still have people that are...there are some states (inaudible) states you mean that we can carry that beyond the age of majority so we're just not reaching that...as a...by our state now, to juvenile court. They're out as soon as they reach the age of majority, we're done with them. That would be of concern too, and that's one of the things I mentioned (inaudible). You're not against working on it. [LR121]

TRICIA FREEMAN: I am absolutely not against working on it. I appreciate the fact that we're here talking about it, because it just really represents an interest that I think is important. [LR121]

SENATOR PEDERSEN: So you do believe there's some things that can be done here. [LR121]

TRICIA FREEMAN: No question. [LR121]

SENATOR PEDERSEN: Thank you. [LR121]

SENATOR ASHFORD: Senator Lathrop. [LR121]

SENATOR LATHROP: Sure. Judge Gendler was down here last session. He testified about the importance for allowing the juvenile court to retain jurisdiction longer than it does, because in some of the neglect cases where he's working with these kids, one more year even would help him get them, maybe get them on the right path. Is the issue

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here not so much opposition to having a juvenile court be the starting place for that determination, but do we really need to give the juvenile court jurisdiction to age 25 or hold on to somebody as long as they need to if they started out in juvenile court?
[LR121]

TRICIA FREEMAN: I don't know that...I think that I'm really neutral on the idea of whether or not everything should start in juvenile court. I don't know enough about that, and so I don't know that I can necessarily speak to that. But I absolutely think that whether we give jurisdiction to the juvenile court for a longer period of time or we allow there to be a carryover into the adult court because there's a need for further action to be taken; I don't know what the answer is but there definitely is a need. Right now, where we're at, it's...I don't think that it's an appropriate solution to dealing with some of the issues that we have, that at 19 it's just done. [LR121]

SENATOR LATHROP: And we'd actually, if we extended the period of time that the court retains jurisdiction, we'd actually have more people that are...you talked about the 18-year-old. It's the 17- and the 18-year-old that have to go through adult court because they're so close to that nineteenth birthday that the judges just say, I'm not letting go up.
[LR121]

TRICIA FREEMAN: I definitely think that that's an issue. I mean, I think that that's definitely one of the factors that they contemplate: How long do they have to work with this juvenile? And when you're talking about, you know, such a limited period of time, I do think that there is a tremendous limitation on behalf of the courts, because I think that what we see is there really are comparable services between adult court and juvenile court. I don't disagree with that. But at the same time, that termination of jurisdiction I think is really a hindrance sometimes. [LR121]

SENATOR LATHROP: Thank you. [LR121]

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SENATOR ASHFORD: Yes, Senator Pirsch. [LR121]

SENATOR PIRSCH: I'm kind of intrigued about you mentioned the blended states that have the ability to, after the individual hits 19 years of age, have some sort of adult court ramifications carrying over (inaudible) obviously familiar with the states in which there's juvenile court and then some states have juvenile court where Senator Lathrop mentioned you can be in that juvenile court until age 24 or thereabouts. But is there a different paradigm, a different state that you referenced where there is some sort of adult court ramifications for cases that started out in juvenile court? And if so, what states are there? [LR121]

TRICIA FREEMAN: I know there are states who do that. I'm not prepared at this point to tell you what they are, but I can tell you that I am happy to look for that information to produce some information for the Judiciary Committee if you are interested, and I will send that to you. [LR121]

SENATOR PIRSCH: Sure. I'd be interested, so yeah. [LR121]

TRICIA FREEMAN: Absolutely. We will definitely work on that product in our office because we have such an interest. [LR121]

SENATOR PIRSCH: That's it. [LR121]

SENATOR ASHFORD: Anyone else? I just want to follow...I think it's a good discussion, Senator Pedersen, and I appreciate that we're going in this direction, because I think it gets at it. I know in our city, obviously, and to some extent in Sarpy County, but clearly in Omaha, we have a terrible problem with youth violence and guns. And I am glad Kim is here and maybe she can talk a little bit about it. And the idea here, to me, is we have these jurisdictional issues, and that's part of the discussion. The other part is, you're right, it's the balance between punishment and trying to get at the problem these

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children or young people, juveniles, are having. I mean, for me, the issue is, what is going to have the best impact on society, the most positive impact on society? And even in the case of gun violence or possession of a firearm or whatever it is, a gun-related offense, even though punishment is, you know, logically part of the...probably part of the solution, the other part of it is, how do we try to eradicate gun violence in our community as best we can, utilizing the systems we have in place? My sense is, is that we have the people. We have the prosecutors who are knowledgeable. We have the public defenders who are knowledgeable. We have a court system. We have support personnel that are knowledgeable. And we've had discussions, and DiAnna Schimek, Senator Schimek, has brought up the idea, you know, sort of the uniformity in some of the...of how we deal with guardian ad litem and so forth and so on. You know, to me, it's really an issue, how do we address these offenders in the most effective way possible, as opposed to worrying so...we have to worry about the jurisdiction limits, but focusing more on the types of crimes that are being committed and what kind of...what should we do with these offenders to get them off the street, to get them away from guns, to get them back into some sort of productive...or into some sort of productive life? So this discussion is very valuable, I think in that regard. And I don't know if that elicits any comment, but it's really more a speech, but. [LR121]

TRICIA FREEMAN: I don't necessarily have the statistics to back it up. I can just tell you that my experience in the 13 years that I've been in the Sarpy County Attorney's Office would tell me that our violent offenders are becoming younger and younger, and some of the crimes that we are seeing is tremendous. [LR121]

SENATOR ASHFORD: And that's what really worries me, and is there a point...and I work a lot in north Omaha, and in seeing what happens when it gets to the point where the shots are fired. There are also other pieces of where it's prior to that happening, and how do you...? Maybe it's some other kind of a violent offense that you know from experience the next step is going to be shooting a gun at somebody. You just know it's going to happen. You know, what sort of intervention should occur and at what stage?

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And if it's at 13, 12, 14 years old, that's when this is kicking in, or even younger, and we have a chance in this committee, I think, to try to address that through Senator Pedersen's leadership, so thanks. Any other questions? [LR121]

TRICIA FREEMAN: I will provide some additional information to the committee on Senator Pirsch's question. To whom should I send that? Okay. [LR121]

SENATOR ASHFORD: And you can include Senator Pirsch too. Thank you very much. [LR121]

TRICIA FREEMAN: Thank you for the opportunity to address the committee. [LR121]

KIM HAWEKOTTE: Good morning, everybody. Kim Hawekotte, Douglas County Attorney's Office. As most of you know, I was in our juvenile division for over 8 years. I was the administrator for the Office of Juvenile Services for the state for over a year and a half, and now I'm back in the county attorney's office. At this point, it's difficult, Senator Pedersen, to take a definite position on this bill, but I would like to take the opportunity to raise some concerns or areas that I feel need to be looked at. And Senator Pirsch, I probably have most of the information you request, setting here, that I'm sure Stacey can make copies of if that would be of assistance too. But before, in my mind, I would need to consider as to whether or not this is a viable alternative and would achieve the results that you want, Senator Pedersen, because I think all of us agree those are the good results we want, what is the best way to work the system to get it, we have to look at a couple of issues. And in my mind, first, is are we dealing with both misdemeanors and felonies? In other words, are all misdemeanors going to go up there? All of us know, from a practical, say, from Douglas County, as it was in the paper with Marty Conboy stated, that's over 1,000 misdemeanor cases that would also be in juvenile court. So are we looking at all those cases also going up there or are we looking strictly at felony cases. The second issue would be, are we looking at all youth under 18 years of age, or are you looking at all youth under 16 years of age would go to juvenile court,

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but the 16-, 17-year-olds would be handled differently? A lot of states do it that way. Another issue might be, have they ever been in the juvenile justice system? In other words, is there something within the juvenile justice system that you could trigger, that after they've been through some many services and they're 17 years of age, the juvenile justice system says, you know, these youth are certified adult; we cannot do anything more within the juvenile justice system; they've exhausted all the available avenues. Another issue that I think needs to be considered is the blended sentence. In a lot of jurisdictions where it does start out in juvenile court, they do have some opportunity to do blended sentence. And there are two types of blended sentence, which I didn't realize until I started doing some more research. There's juvenile blended sentence and then there's criminal blended sentence, and you can do it either way. The criminal blended sentence states, and there's 17 of those--I do have a handy national overview chart that I can gladly make available--there's 17 of those, and the way those work is that the statutes give the criminal courts authority and jurisdiction to access juvenile services. So they then access juvenile services until the youth reaches 19 years of age, and then it goes--for us it be would 19--and then it goes to the adult-type sentence. There's other states, there's 15 of them that have a juvenile blended sentence. In other words, you are giving the juvenile court authority past the legal age, usually up to the age of 25, that after they turn 18, between that 18 and 25, they then go into the adult penal system. They leave the juvenile facility but they're getting an actual sentence. Now, there are some studies that have just started, and the results aren't in on those studies as to which one of those ways is the most effective; is it effective or is it not effective? And I don't have an answer, Senator Pedersen, on any of those, but those are some of the different ways that you can do a blended sentence. But I can tell you from the research I've done, if it's all handled in juvenile court, they have pretty much expanded then the jurisdiction of the juvenile court. And the reason mainly for that, that they state, is because it then gets around the situation where you have juvenile courts who retain jurisdiction over inappropriate youth. In other words, there are certain youth that we all have to state they are 17 and three-quarters; they've been through juvenile court twice; there are no services available; and they're out on the street, shooting

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people. That should those remain in juvenile court or should they be adult, and we all know when we are dealing with humans, judges are going to make different decisions, and if they retain to keep those then at least there is an opportunity for them to do longer-type sentencings in those situations. One of the interesting things for me that I don't have an answer for today, that before I could make some decision, is to look at some of the statistics. And to me, with the way that our state is set up, it would be very easy to do some case reads to figure some of this out. In my mind, what I would like to do, would be to go to the juvenile facility for adults that's in Omaha, and figure out what are those youth like. There's over 90 youth in there. Most of them are under the age of 20. What did they do to be sentenced there? Had they been through juvenile court before they were sentenced there? What is their average length of sentence? I don't know and I don't know if any study has ever been done of that to figure out what these youth are really like, what are they there for. Are they there for first-degree murder or are they are there for a Class IV robbery and they were 16 and they kept breaking into cars? Because I've seen some of those cases, too, that, yes, Senator Pedersen, those should be in juvenile court. But until we get a feel for what type of youth...we all know we have youth that are sitting in the adult system that probably shouldn't be, but what are they looking like? What is (inaudible)? Had they accessed juvenile? What is the situation? I would be interested in some of those stats. I also know there are stats that would be available within Douglas County to know how many cases are requested to transfer to juvenile court that don't get transferred to juvenile court for whatever reason. There is a presumption that needs to be transferred, so it's a high burden for a county attorney to overcome that presumption, and I don't know, are most of them transferred? Are most of them not? Do most of them stay in adult? I don't have the answer to that one either. A couple of other issues I just want to bring up that do come into play as you look at those whole waiver system. First off, there's three different types of waivers that can be used, whether you waive from juvenile to adult or whether you waive from adult to juvenile. In some states it's discretionary, which means it is 100 percent judge-based with no parameters. What Iowa and some of the other states have done, they have done like us, and done a presumption that it would go one way or another unless you

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overcome that presumption. What some states do, is it's mandatory. In other words, everything would start in juvenile court, but certain cases have to go and be transferred to adult court, and you're taking away judicial discretion. So is that the type of system you would like at? Are there certain cases that should automatically? And if you read the Iowa statutes, in particular, a lot of those deal with your Class I and II felonies, your first-degree murder, the use of a weapon to commit a crime. Those mandatory are in adult courts for 16- and 17-year-olds. So do you need to look at the type of waiver system that you want to use? Some states have gone to what they call a reverse waiver, in other words, which to me would be a strange system, but everything starts in juvenile, it gets waived to adult, and then the adult court again gets an opportunity to waive it back to juvenile, so it goes back and forth depending upon the situation. Like I said, there is a wonderful book that I'll make available to Stacey that's put out by the Child Welfare League of America. It's Transfer and Waiver in the Juvenile Justice System. It does an analysis for anybody that's interested as to the pros and cons of the different system. And then if you go to the National Center for Juvenile Justice, the NCJJ site, I have any literature available here. They talk about different states. They analyze each of the different states, what type of system they have, and the way that the statutes are set up. And I will gladly make that available, too, if that would be of assistance. And then the last thing, I guess what I would like to say, is from a...the last issue for me is probably an implementation. Even if it's decided that this is the best way that the system needs to be changed, and it is best because the juvenile court judge is in a better situation to decide what's the best for our youth and what services are available for that youth. When you deal with your three largest counties, that isn't as easy as just flipping a switch, because if you think about it, if you are doing misdemeanors, like I said, that's over 1,000 cases, and then I don't know how many felonies, but all of a sudden all those cases would be in juvenile court. You would need more infrastructure, more county attorneys, more public defenders in juvenile, more judges in juvenile court to handle that type of situation, or you would have to say, you know, county court judges that are in Douglas, Sarpy, and Lancaster, you're also going to hear juvenile court cases like they do in some of the others. I don't...there's not an

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answer to that. I just know that our current infrastructure wouldn't be prepared to handle a switch overnight. So I'm available for any questions or to make any of this research available. [LR121]

SENATOR ASHFORD: Any questions of Kim? Senator Lathrop. [LR121]

SENATOR LATHROP: Maybe just a couple. If the idea is to, under the current system you start out in the adult court, and then the defense lawyer makes a motion to move it to juvenile court and the judge looks at all the circumstances, and if the idea is we're keeping too many in adult court, too many juveniles that might be amenable to some kind of services that are available in the juvenile court, the biggest barrier, am I right, is that if a kid is 18, you may look at him and it may be something where you go, he's a good kid. We could...you know, if was a dumb thing he did. Juvenile court if he does this, this, and this, he's be fine. But he goes through adult court and now he's got a...because...and maybe the biggest consideration is, he's about to turn 19. That's probably the biggest snag in getting, if we look at the prison population and look at the population of youth that go through adult court, the biggest percentage of them that we would really rather see go through juvenile court are those that bump up against the age of 19. [LR121]

KIM HAWEKOTTE: You're bumping up against the age, and then do you need to consider, like some states have done, those 17, that criminal blended sentence where you would give then the district court the option to do some type of disposition so that they would get the same services as juvenile or be able to do it, or if they complete that part of it, then it would be like juvenile court, their record could be sealed, and it could be done, so that they don't have that conviction on their record, which would be a concern. [LR121]

SENATOR LATHROP: Is there a state--and I suspect if you're like me, what you did is you got ready and you looked at a kind of an overview--but is there a state where you

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would say, you know what, Indiana is really doing this in a way that seems to be kind of a model? [LR121]

KIM HAWEKOTTE: No. But I think that is possible if we can figure out, in my mind, is the issue that youth are not getting transferred to juvenile court that need to be there, or is it that too many youth are being transferred to juvenile court, or is (inaudible) too many are staying in adult court? I'm telling you the issue would be very hard for me to look up which one of these really is the best solution to our problem. But I do believe, by looking at some of the statistics and the way these different states operate, luckily all this research has been done for us, which this is one of the few areas that I think it's wonderful, you can go to Web sites, you can pull it down, they analyze state by state by state and tell you what each one does. And a lot of states have done their own internal research that we can also access. So it is available there, Senator, once, in my mind, we could figure that out. But I don't think it would be that difficult if you had whatever concern it was, to take a look at some of the information currently available and say, I think this is a state we really need to look at what their statutes do and what their effectiveness is. [LR121]

SENATOR LATHROP: One of the concerns all this comes back to maybe is the idea people have, I have, that if we take some kid that we might have been able to help in juvenile court, and throw him into the adult system, we've just turned him into a hardened criminal. [LR121]

KIM HAWEKOTTE: I think you have that, and then in my mind the flip side of the coin is the 17-year-old that all of us would probably agree today needs to be in the adult system, that that's where they need to be, and how do you make that determination. And that's where it becomes difficult. You know, how do you assess it? How do you make it? Because part of the difficult is, is as we're all aware within the juvenile system, we can do a lot of these assessments ahead of time to try to figure out where would it be appropriate and what the youths' needs are. We all have to admit, in the adult

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system that is not done, and it's not done until it's sentencing time and then you already have the conviction, you already have that going on. So you do need to look at that part of the system to figure out how do you pull the appropriate youth out. And what maybe we need to consider, what should these judges be considering? Maybe they need to consider different things. Maybe they need to look at more. Maybe there's some type of assessments we want completed so that we can make good decisions. At either court, whether it's a juvenile court or an adult court, our goal has to be making good decisions. And maybe we need to shore up that end of the statutes. [LR121]

SENATOR LATHROP: One last question: How do you think we're doing under the system as it exists right now? Are we...our batting average okay, or you think there's a need to make a change? [LR121]

KIM HAWEKOTTE: Like I said, my concern is going everything up to juvenile, that that's not the answer to some of the problems. I think there's some other ways that we can do it. I do believe, if you're asking for my personal opinion--this is not office opinion, this is not anything else--personal opinion, there are parts of the statutes that need to be strengthened, there are parts of the statutes that need to be looked at. I mean, this whole blended sentence idea has been around for years and years, no matter what court does it. I think we need to look at the effectiveness of some of that. So, yes, I'm like Senator Pedersen, you know if you have a 17-year-old, and the main issue is they're a methamphetamine user and they need some type of services, whether they're an adult or juvenile, I'd like to see them get the services and get it available without having to go through the state penal system to get that service, because then, yes, you are putting them in with some other individuals that might not be a great influence. [LR121]

SENATOR ASHFORD: Senator Pirsch. [LR121]

SENATOR PIRSCH: Could you just give me...or you may not know this...but just a...do

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you know how many cases a year the Douglas County attorney involves a case where there's a motion to transfer to juvenile? [LR121]

KIM HAWEKOTTE: No, I don't, but I think that would be an interesting statistic I would like to see in order to make that determination--how many are being filed--and then look at are they being transferred or not being transferred, and to take a look at that. I mean, it would be wonderful if we could do it statewide, but I just don't think it would be possible. You would have to do it probably a little bit more individually. [LR121]

SENATOR PIRSCH: So at this point in time, we really don't have (inaudible). I'm going to ask you, do you have another stand if more cases...the county courts have, volumewise, more cases flowing through them, correct, generally? [LR121]

KIM HAWEKOTTE: Correct. [LR121]

SENATOR PIRSCH: One may infer from that, that more cases than involving individuals 16, 17, which there's these motions to transfer to juvenile then? Is that sound approximately correct, or...? [LR121]

KIM HAWEKOTTE: There's probably more cases...more motions to transfer coming out of county court. [LR121]

SENATOR PIRSCH: But no way of knowing the exact numbers (inaudible). [LR121]

KIM HAWEKOTTE: And maybe Marty Conboy would know, from his office, how many motions have been filed and how successful they have been or not. I know we could find, from the Douglas County Attorney's Office, because we do keep this stat, from a juvenile side, how many transfer cases we receive from county court. So I could get that statistic for you, Senator, because that would also give you the same type. But that doesn't tell how many were actually filed and how many were successful or not. [LR121]

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SENATOR PIRSCH: Great. Well, thank you. [LR121]

SENATOR ASHFORD: Senator Schimek. [LR121]

SENATOR SCHIMEK: Thank you, Mr. Chairman. Kim, you mentioned early on in your comments about a study that's taking place? [LR121]

KIM HAWEKOTTE: Well, that's when you look through the literature, they are starting to look at the success, and there's trying to get some funding together to look at whether blending sentencing are effective or not effective, and what's the best way to handle blended sentencing. [LR121]

SENATOR SCHIMEK: So those studies haven't actually begun? [LR121]

KIM HAWEKOTTE: Not that I've seen. [LR121]

SENATOR SCHIMEK: Okay. [LR121]

KIM HAWEKOTTE: Not that I've seen. [LR121]

SENATOR SCHIMEK: My question was, should we be waiting for those study results, and obviously probably not. [LR121]

KIM HAWEKOTTE: Probably not, but we could do...and I'll gladly do some further checking into where that is in the whole process, because I don't know for sure either. [LR121]

SENATOR SCHIMEK: Okay. Thank you. [LR121]

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SENATOR ASHFORD: Kim, just a couple, really comments. I think you're really getting at this, and this is very important information, Senator Pedersen, and I know you work with Bright Futures. You're also working in that area. And I...there's got to be a play here. There's got to be a way where we, to your point about blending sentencing, blended sentences, or expanding the jurisdiction to 25 or whatever it is. The real issue is, are people getting into the adult correctional system that should be having other services made available to them, or is it sort of a blending of both or whatever it is. But it is key, it seems...and then how far back should we be going in age to really see...you know, can we predict certain activities are going to lead to other activities with any sign of certainty, and does that impact intervention and what sort of intervention should we have. So, to me, I think it's a combination of what Senator Pedersen is proposing and this other part which is to get to know more about the nature of what we're dealing with. Would that be a fair comment? [LR121]

KIM HAWEKOTTE: That's a very fair statement, especially...I mean, you know I'm very active in the Bright Futures and I'm the cochair of the truancy task force, that I have a passion that education is the key, that if the youth is in school and is engaged in school, the chances of them ending up in the juvenile justice system go down drastically. There's not a study out there that doesn't support that. And the key research in that area is showing you have to start working at the K-3 grade level, that that's where the love for education begin and those are your key years. But it is very important, I think, even that junior high age, that you need to blend the two. It's not just straight juvenile justice. You have to look at the other systems. [LR121]

SENATOR ASHFORD: And Senator Schimek has brought up the point in this committee that, on the guardian ad litem side, when you don't have an offender necessarily, but you have some sort of other problem in the family and you have guardians appointed, how does that all play into this, because you're starting to intervene then and disturb situations, and should there be consistency and what sort of consistency. How many SRI studies do you have? [LR121]

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KIM HAWEKOTTE: I only... [LR121]

SENATOR ASHFORD: John Cavanaugh told me yesterday they are all out. [LR121]

KIM HAWEKOTTE: They are out. They've ordered more. They have ordered more. I was told they should be within the next week to ten days. I gave your office one today. [LR121]

SENATOR ASHFORD: Oh, do we have one? Okay. [LR121]

KIM HAWEKOTTE: I gave Stacey one today, so you do have one of the SRI studies. I also... [LR121]

SENATOR ASHFORD: Can you explain to the committee what that is? I think that's important stuff. [LR121]

KIM HAWEKOTTE: Building Bright Futures, when they first got together, hired the Stanford Research Institute to come into the state of Nebraska and to do an extensive study as to what our juvenile system looks like, both our juvenile justice system, our education system, where we compare to the national average, and then they put together about a 40-50 page report. It's based more upon Douglas and Sarpy County because Bright Futures is out of those two counties, but is a very extensive report detailing the data and the information that they've found, and that we do pretty much mirror national averages. But it is a wonderful report that tells you it talks about poverty levels, it talks about the interplay between poverty and education and school issues that we all know are there. So it's a great report with a lot of data that can be used, where they're always improving the data, they're adding to it, they're coming up with other areas that we found (inaudible). [LR121]

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SENATOR ASHFORD: Well, I mean we'll get that study out to the committee members because it seems to me that's good foundation material for...instead...to find out what we're dealing with and really layer the jurisdictional changes, if there are any, to reflect those things. [LR121]

KIM HAWEKOTTE: Right. [LR121]

SENATOR ASHFORD: Great. Thanks, Kim, very much. Yes, Senator Pedersen. [LR121]

SENATOR PEDERSEN: You've been in the system long enough to, and I don't know exactly how I want to say it, but everything we do, the rate with the juveniles is still going up, is that right? [LR121]

KIM HAWEKOTTE: Yes. [LR121]

SENATOR PEDERSEN: You see that. It's...you know, I work in the Youth Center, and I do most of my work with the kids that are being charged as adults. Well, it used to...back about 1964 when I first started working with adults, I mean with adolescents, we saw very kids...and I wasn't working at the Youth Center then I was at Boys Town, I was pretty much aware of what was in the Youth Center because one of my jobs at Boys Town was to be the go-between for those boys that we did have from Boys Town at the Youth Center, so I visited there quite often. But we...you seen mostly misdemeanor-type stuff. Very, very seldom did you see a kid that was being charged as an adult. Yesterday we had 200...no, Wednesday we had 211 kids in the Youth Center. We are...I mean they are just on top of one another, which was built for private rooms, so we've got, obviously, 70 of them rooms that are now double occupied, with one sleeping on the floor. But more than a fourth of them are being charged as adults, and they range anything from a misdemeanor up to first-degree murder. Some very violent sexual crimes. And it's...you know, hopefully...and I'm not saying...because you've done

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your part...I'm not blaming on any...our whole society has got to take a look at this. No matter what we do, it seems to be still going up. I'm not saying that a bill like this or changing this would make any difference. By catching some of...I have known that if we catch them early enough and we get them some intervention and some decent stuff, that some of them do change. But (inaudible) move that kids back and forth to Kearney three and four times, and (inaudible). [LR121]

KIM HAWEKOTTE: And you bring up a point, I feel also, Senator, that no matter how you do the transfer statute or which way you do it, from whether it's juvenile to adult or adult to juvenile, it has to be faster in the process. [LR121]

SENATOR PEDERSEN: Um-hum. [LR121]

KIM HAWEKOTTE: Because currently under the current statute, you can file a motion to transfer up to juvenile court 30 days prior to trial. Well, that could be 9 months down the road. If you really want to get those services for the youth, you should get that juvenile court, in my opinion, as soon as possible to get those services started, not a year later. So even as you look at the system, you have to look at time, you have to look at the best opportunity in order to effectuate change. [LR121]

SENATOR PEDERSEN: This would not be an easy thing to do, I know that. That's why we are looking at it as a study instead of anything else. Then I also feel terrible when I visit some of the adult correctional facilities and see some of those kids that I've met at the age of...the one I think of most is Justeen Williams (phonetic). I don't know if you remember the name but she was...I met her at the age of 16, and she's doing life at the women's correctional facility, and has never seen life. She got mad and grabbed a gun and killed somebody, and it was a violent murder...a pregnant girl who lost a baby. And there's...I can name several of them that I've worked with in the past that are now doing...and that really has nothing to do with certification. That has to be with back to pardons and can we do something about kids that are being sentenced to life and

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then...I know mental has got one of them issues...thank you so much for coming.
[LR121]

KIM HAWEKOTTE: Thank you. Well, and if I could or if anybody has any other questions or need any other information, I'll gladly make it available. [LR121]

SENATOR ASHFORD: I found Kim as a resource the other day at a meeting, and now I'm bringing her into every meeting I have, so she is going to get awfully tired of it, but she's a great resource and I appreciate your comments. [LR121]

KIM HAWEKOTTE: Thank you. [LR121]

SENATOR PEDERSEN: I do too. Thank you. [LR121]

SENATOR ASHFORD: Anyone else would like to...? Good morning. [LR121]

SARAH ANN LEWIS: (Exhibit 1) Good morning. Good morning, Senator Ashford and members of the Judiciary Committee. My name is Sarah Ann Lewis and I am the policy coordinator for Voices for Children in Nebraska. We'd like to thank Senator Pedersen this morning for introducing LR121 to examine the feasibility of the adoption of juvenile certification legislation to provide that the juvenile court shall have original jurisdiction. The law undoubtedly acknowledges the difference between adults and adolescents, and the most obvious evidence of this in the entirely separate juvenile justice system. For the record, and this goes along with what has been heard already, but we are in favor an effective juvenile system appropriate to the particular developmental and rehabilitative needs of youth in conflict with the law, however we would like to know how the law is being practiced as we discuss change. For example, we would encourage the State Court Administrator's Office to keep data on the number of cases filed in juvenile court, adult court, and how many cases are waived between the two. We would also like to see the data and comparison by age, race, gender, type of offense, and history of

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offense. To the issue of treating youth as adults in the criminal adult system, the national data have shown the following: that public safety is not served by treating youth as adults. Youth in the adult system are more likely to recidivate and to recidivate more quickly and with serious offenses than youth who are prosecuted through the juvenile system. Adult sanctions for youth are not proportionate punishment, as they do not account for differences in culpability. Research in youth brain development shows that certain areas of the brain, particularly those that affect judgment and decision making, do not fully develop until the early twenties. While youth must be held accountable for breaking laws, their punishment should take into consideration their lesser culpability resulting from their immature development. Also transfer to the adult system disproportionately impacts youth of color. Youth of color are overrepresented among youth transfers to adult court. Nationally, they are 2.5 times as likely as white youth to be tried as adults; 8.3 times more likely to be incarcerated by the adult court; and are particularly overrepresented in nonviolent drug and public order cases sent to adult court. We strongly support change that is in favor of serving our youth and we support original jurisdiction within the juvenile court system that allows for youth to receive the opportunity for rehabilitation and education. How we go about this, I've been...and still...I would still like to know more about (inaudible) sentences and how to best serve children and youth on a case-by-case basis. But clearly our system that allows for 14-year-olds to be charged as adults and serve sentences of life without parole is not in the best interest of anyone, and we hope today's study will lead us to a system that is in the best interest of our youth. And I'm happy to try to take any questions that you have. [LR121]

SENATOR LATHROP: Any questions? It doesn't look like any. [LR121]

SENATOR PEDERSEN: Thank you for coming. [LR121]

SARAH ANN LEWIS: Thank you. [LR121]

SENATOR PEDERSEN: Hi, Joe. [LR121]

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JOE KELLY: Good morning. I'm Joe Kelly with the Lancaster County Attorney's Office. I'm the chief deputy. That's at 575 South Tenth. I wanted to follow up with one of the many good points that Kim made, and just give you a practical example of a transfer hearing that I went through, or actually three of them in the last week. And the focal point is this: the time is so important for a youth compared to an adult, and more so when they're 17 years old and approaching that 19-year-old window that's going to--and wall I guess I should say--that's going to end it all. In the last week I've done three different transfer hearings in adult court on some juveniles charged with a burglary and a lot of guns taken during this burglary. And in each case, our method in Lancaster County is to ask a juvenile court probation officer to come and testify for two different reasons. One, to give us and to give the judge the criminal history in juvenile court for the individual that we're dealing with, and whether or not the individual is in a family that we've been working with over the years, and then secondly, to try and give the adult court judge some basis to know what can you do for this individual if we do send them to juvenile court. In each case, when I start those questions I'll ask that probation officer, all right, if today, this is a person who turns 17 a few months ago, so how long do we have to work with them? And they'll say, well, until they're 19. All right, so we're less than two years to work with them. And then the next question I'll ask is, if that person came in today and we filed on them in juvenile court today, how long until we had an actual dispositional hearing on that person? In other words, if they didn't plead guilty, how long until we had the trial in juvenile court? Two to three to four months. All right. And after the two to three, four months, how long until we have the dispositional hearing--or the adjudication hearing, rather--where we decide guilt or not guilt, and whether we decide what we're going to do for an adjudication. Add another couple of months. Well, you can see where this is going for that 17-year-old, you've already pushed 19 before you're even ready to start doing anything for them in juvenile court. So no matter how well-intentioned everyone is, you're already up against that wall from the get-go. So it gives you perhaps a better idea of why those adult court judges are sending people and keeping people in adult court when they know that, yeah, I'm

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looking at...and sometimes you just look at their face. Two of these three that I did, you look at their face. They've still juveniles and you can see that there's some good there. But the judge has no...the judge really has no choice at that point. And think of it from this perspective: If I did have a 25-year-old burglar in front of the court, and even if the judge decided that the 25-year-old needed probation only and didn't need to go to the penitentiary, they're probably going to get a three-year probation term. So a 25-year-old adult would have a longer management by the system than that 17-year-old if you sent them to juvenile court--two years. And it won't be two years; it will be substantially less than two years. That's really all I had. [LR121]

SENATOR ASHFORD: Senator Pedersen. [LR121]

SENATOR PEDERSEN: First of all, and if it's the only thing I want you, is to carry a message back to your boss, saying thank you for sending the softer side this time. (Laughter) Back in 1995, he came into our hearing and just said, over my dead body, and left. (Laugh) [LR121]

JOE KELLY: He's in a Crime Commission meeting today, so yeah. [LR121]

SENATOR PEDERSEN: Great. Good to have you, Joe. [LR121]

SENATOR LATHROP: I do have a question and it's a little bit of a tangent, but maybe it's more relevant than I might think at first, and that is, this last session we appropriated or provided for another juvenile court judge. And in doing that, we looked at the numbers of cases that are handled by the different judges across the state, and decided that the juvenile court in Lancaster Court was buried and needed a new judge. When we looked at those numbers or when I looked at those numbers, I was impressed with this, that it appeared to me that juvenile court in Lancaster County had as many cases--and you can correct me if I'm wrong--as many cases as the juvenile court in Douglas County, or close to it. It didn't have as many judges but it had that number of

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cases. And the population differences are obvious to us. Do you know why there are so many more cases per capita in juvenile court in Lancaster County than there is in Douglas? [LR121]

JOE KELLY: I don't know. I saw...I remember seeing those too, and Kim might be the better person to answer that after the hearing or otherwise, but I know there's two things going. I think there are some alternative disposition mechanisms that Douglas County is still using to take care of the stealing the piece of candy in the store and some of those lesser crime violations. Beyond that, I'm not the person to ask, but I never looked at those after I talked with some of the people involved, and thought that Douglas County wasn't doing something that they needed to be doing. [LR121]

SENATOR LATHROP: I didn't either, and... [LR121]

JOE KELLY: I look at it more like what we were counting, and I just wasn't sure we were counting the same thing. [LR121]

SENATOR LATHROP: Oh, that's interesting, because you've got a new judge, and I... [LR121]

JOE KELLY: I understand that. [LR121]

SENATOR LATHROP: And my concern... [LR121]

SENATOR ASHFORD: Well, we can always...can we...? [LR121]

SENATOR LATHROP: We can yank that, can't we? (Laughter) [LR121]

SENATOR ASHFORD: We can rescind a judge, can't you? [LR121]

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JOE KELLY: No. (Laughter) [LR121]

SENATOR LATHROP: No, I...but my point was, I looked at those numbers and I thought, what are they doing in Lancaster County, because they had...your population is much smaller than Douglas County. Douglas County has a lot more, it seems to me, a lot more population, a lot more crime, and the numbers of cases moving through your juvenile courts were close. And I thought, what's...what are they doing? Are they hanging on to them longer? Are they filing more of them in juvenile court in Lancaster County, or...? Do you guys do something...do you know that you do something different than Douglas County, or...? [LR121]

JOE KELLY: Well, without a doubt we're filing more per population, I mean. [LR121]

SENATOR LATHROP: Maybe you've got to the...and forgive me for taking the committee's time with this, but it's been bothering since we had that hearing, and you've got this judge, and I'm wondering...so you think that Douglas County is diverting kids so that they might have to go to shoplifting class but they never do open a file on them? [LR121]

JOE KELLY: There was some of that mentioned at the time that we were comparing those two numbers. [LR121]

SENATOR LATHROP: And you--and I say you--Lancaster County is actually, for that kid that shoplifts, I mean he may be a straight A student and he does something stupid with one of his friends at age 13, and he shoplifts from the Walgreen's, some gum or something. Instead of diverting him, Lancaster County would actually file something and run it through the system? [LR121]

JOE KELLY: Could be. Yeah, could be. Could be. [LR121]

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SENATOR LATHROP: Okay. Nothing about what they're doing, though, you can say we're doing it better down there. We have more cases but our outcomes are better or...? I mean, we're here looking for better outcomes in juvenile court. [LR121]

JOE KELLY: Yeah, I... [LR121]

SENATOR LATHROP: You're just running them all through the system. Okay, that's what I wanted to know. Thanks. [LR121]

SENATOR ASHFORD: Thanks, Joe. Any other questions? Thank you. [LR121]

MEL BECKMAN: (Exhibit 2) My name is Mel Beckman, 3636 Lafayette Avenue in Omaha. I had come to listen, not to testify, but since Senator Pedersen mentioned my name, I just wanted to say a word about one of the outcomes of transfer to adult court, which I think is kind of bad, which possibly could be removed easily is the life without parole for kids as young as 14. Nebraska historically has, adult courts have sentenced 30 individuals to life without parole and they're still in prison today, so that's something I think needs to be changed. Possibly some of the resistance to transfers to adult court could be eliminated if that were changed, if the Legislature would change the...or exclude crimes committed before age 18 from a life without parole sentence. Thank you. [LR121]

SENATOR ASHFORD: Thanks. Thank you. Anyone else like to talk about this issue? Senator Pedersen? Dwite, do you want to comment any further? [LR121]

SENATOR PEDERSEN: I think it's a good hearing. Obviously, it's not something that is going to be done easily. I want everybody's input, from the prosecutors to the juvenile court to the Voices for Children who have been religiously close to this issue all along. And I think everybody wants to do something that is going to help change what's going on in our society. I see these kids on a personal basis once or twice a week, and they

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are not violent kids on an individual basis. They fit into this...they fit into the structure of, for instance, the Youth Center, as well as if they were shoplifters or murderers, and seem to get along just fine. But it's our society has got a serious problem with the way the violent stuff that they do when they're on the street. And I don't know that this bill is just a tiny little part of that, but people are getting more concerned and more concerned, and hopefully we're going to get back to having some control over what's going on in our youthful world, and have more people responsible for their behavior. Thank you for all you coming down, for your time, those who testified, and my colleagues and staff for being here. [LR121]

SENATOR ASHFORD: Well, let me just, for the record...unfortunately, because of the way our system of electing officials has changed, Senator Pedersen, we have one bite at the apple with you being here next year, to do something in this area, and I know I want to do something to address this. And the more I hear from Kim and others about what Bright Futures is doing and some of the things we're trying to do in education, I think it's an incredibly important time, this year. And I don't know exactly what it is, but hopefully we can read this SRI study, which we'll get everybody a copy of, and think together about a way to address this issue. And I don't know whether it's the blended sentences, or as you say, or the jurisdiction. I don't know. But I think we would missing a significant opportunity with you here on this committee this year, to not address this issue. And that's just my feeling about it, so I appreciate your... [LR121]

SENATOR PEDERSEN: A teeny bit of history: 1964 when I came to work at Boys Town, we had close to 1,000 boys out there. More than half of them had committed felonies, and it was not a locked up, barred situation. And our AWOL status was below 5 percent for those kids who ran away. No locks, no...and things worked just fine. Today we have locks, we have shackles, we have...and these institutions that we put them in, and our recidivism rate is terrible and we're not doing...things are...something is screwed up somewhere along the line. [LR121]

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SENATOR ASHFORD: And it's not...it's good to hear that we have county attorneys from Lancaster, Sarpy, and Douglas here, all of whom are interested in helping find a solution, and I think that's a real positive, so. I think we should continue to work towards the next session and get something out there, so... [LR121]

SENATOR PEDERSEN: Thank you. [LR121]

SENATOR ASHFORD: ...thank you, Senator Pedersen. That concludes this matter.
(Also Exhibit 2) [LR121]