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Judiciary Committee
January 27, 2010

[LB800 LB923]

The Committee on Judiciary met at 1:30 p.m. on Wednesday, January 27, 2010, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB800 and LB923. Senators present: Brad Ashford, Chairperson; Steve Lathrop, Vice Chairperson; Mark Christensen; Colby Coash; Brenda Council; Scott Lautenbaugh; Amanda McGill. Senators absent: Kent Rogert.

SENATOR ASHFORD: Hi, everyone. I think we're going to get started. That's why this is such a great group because we just keep interacting no matter what I say. (Laugh) Thank you for coming. There are obviously many people in this room that we've worked with for the last three years on all of these issues involving juveniles. And today we're here again to talk about juvenile justice and juveniles in general in our society. And we have two bills: LB923 and LB800. We're going to take both bills together, so we'd ask that your comments reflect that. And there's no...I do have a list and we'll go through the list with the idea that we're going to use the lights. But since I know almost everyone here I will be somewhat sympathetic to...especially if it's positive testimony. (Laughter) I want to introduce my colleagues and you know most of them. But Senator Steve Lathrop from Ralston; Senator Brenda Council from Omaha; Senator Colby Coash from Lincoln; and Senator Mark Christensen from Imperial; Christina Case is the committee clerk; and Stacey Trout, who most of you know because she's been working on these issues for the three years, is here as committee counsel. I will introduce both bills together. And as I said, we will go through the list and hopefully get everybody out of here by around 3:30 or somewhere like that. With that, I'll introduce the bills.

SENATOR ASHFORD: For those of you who know me, I did write them down, my comments, which is a first. (Laughter) Thank you all, members of the committee. The Legislature has worked long and hard over the past few sessions to address the needs of at-risk youth. In the metro area, we have provided for a new and Innovative Learning Community to address the well documented obstacles to learning for poverty students. The Safe Haven Task Force and the subsequent legislation enacted by this body started our state down the road to resolving challenges of families and children in need of services, with the focus on mental health. This body created, last session, the Office of Violence Prevention, which is actively engaged in working with violence issues throughout the state with the focus on strategies to address the plague of juvenile violence on our communities. We are making strides utilizing intervention and prevention strategies in reducing violence by finding alternatives to gang activity with the focus on jobs, education, mentoring, and other worthwhile programs. Today we are here to talk about how we can give to the juvenile justice system, and all of the elements of it, the tools and flexibility it needs to find alternatives for juveniles who make mistakes early in life. We know that minority unemployment is dreadfully high in our major urban areas of our state. Juveniles with minor infractions have criminal records that stop them before they get started in life. We know also that truancy is reality for

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January 27, 2010

several hundred K-12 students every year in our state. It is impossible to learn if children are not in school. Parents and guardians must bear a greater responsibility and we must encourage our schools to find creative and innovative ways to keep its students in school and out of the juvenile court system. Our county attorneys are spending valuable time and resources attending to truancy cases that could be used to address more serious criminal matters. Truancy rates have risen significantly over the last few years. In many instances, these juveniles can and should be handled at the school level and parent level. We will hear today about innovative initiatives to deal with truancy. It is my purpose here to make certain that obstacles are removed to advancement in the area of reducing truancy. Children who commit minor, nonviolent offenses do not belong in a youth detention center. Alternatives must be found. Redeploying resources from youth detention centers to third-party providers, such as Boys Town, Uta Halee, CEDARS and other providers, is critical. It costs taxpayers over \$5,000 to house a nonviolent juvenile, for example, in the Douglas County Youth Center with the average length of stay of 33 days. We are hopeful that the shift of resources from these detention centers to other services, which is happening across the country, will become a high priority in our state. The good news is that we have so many committed professionals, both within and outside government, ready to make this shift if they are given the tools to do so. The filings in the juvenile court system across the state continues to rise. At the same time, there is good work being done to increase diversion of juveniles. For example, HHS, juvenile probation and Douglas County are working collaboratively on a program to divert juveniles from the jurisdiction of the Office of Juvenile Services into other alternatives. This is a direct cost-savings to the taxpayers and is an opportunity for resource reallocation to third-party providers that can help with these children. Likewise, through the good work, I think generally, of everyone in state government and at the local level, the number of state wards are decreasing. The Douglas County Juvenile Assessment Center, for example, successfully diverts over 1,500 juveniles to resources outside of the juvenile courts in my county. Our juvenile court judges are applying cutting-edge strategies to these issues. Chief Justice Heavican is a national leader in juvenile justice. Nebraska's Through the Eyes of the Children Initiative focuses on improving court oversight of abuse and neglect cases. This initiative emphasizes front-loading of services and prehearing conferences to improve timeliness of permanency for children. However, so much more work lies ahead. We are not here to impose burdensome requirements on our schools and our juvenile justice system. However, we do believe that reforms are required absolutely now to help encourage juveniles to stay in school and to redeploy resources to alternatives to juvenile court and the incarceration of juveniles. This committee, all of this, every single member of this committee, has been devoted to this issue. We have spent the interim listening to you, those of you in the room, and scouring the country for best practices that can be applied here in Nebraska. We are now participating in the Models for Change Initiative, sponsored by the McArthur Foundation, that has provided our committee with invaluable information. We are now ready to move forward. In that regard, we, including everybody in this room, have introduced together LB800 and

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

LB923. This is not my bill, this is your bill. Both bills, which will be heard together today, deal with what we believe to be significant obstacles to helping juveniles realize their potential and initiatives to reduce the number of juveniles in the court system and keep our children in school. We propose the following: (1) reform is sorely needed to reduce the population of nonviolent juveniles in our youth centers, as I said. This will result in the opportunity for the redeployment of resources from the youth centers to other less restrictive options. The youth centers across our state should only be used in those cases where juveniles impose a significant risk to themselves or the public. We are proposing that the state, in distributing funds under the County Juvenile Services Aid Program, prioritize programs and services that reduce juvenile...the juvenile detention population. Many other states and several counties in Nebraska are already on the road to reform in this area. (2) a civil citation option is an alternative to a criminal warrant for nonviolent juvenile offenders. And it will give juveniles and their families another chance to avoid a criminal charge and criminal record, while still insisting upon accountability by the juvenile and his or her family. (3) we are asking our public schools to be innovative and proactive to help us keep juveniles in school and avoid a juvenile court filing. We also propose that parents be held to a certain level of responsibility if they are to ignore...decide to ignore the efforts of our schools to keep their children in school. Truancy rates must go down and juvenile court truancy filings must be reduced. We are also clarifying any question in current law that the juvenile courts have jurisdiction over the parents of juveniles in the court system. (4) we propose that the time frames for OJS evaluations and hearings on those evaluations be reduced. We believe that the three-judge panel requirement in cases where a court-ordered plan differs from the OJS plan should be eliminated. And we require expedited...and we are requiring by this bill expedited hearings by the Court of Appeals on all appeals from the juvenile court. (5) reintegration of juveniles back into the schools is often challenging. In the metro area, we propose that the Learning Community have the budget authority to create a reintegration center for juveniles who have been out of school due to truancy and delinquency issues. Further, we are proposing that the Learning Community be given the authority to make grants to providers who specialize in diversion alternatives to court and otherwise help close the learning gap to these at-risk juveniles. (6) lack of actionable data on at-risk youth makes it so much more difficult to provide needed services at the earliest possible moment. Coordination of existing data is critical and prompt reporting of relevant data must improve dramatically. We will be asking school districts to report to the Department of Education suspensions, expulsions, contact with law enforcement, and referrals to the county attorney within 48 hours. We are proposing the establishment of a Child At-risk Task Force including the Department of Education, probation, HHS, and the University of Nebraska Medical Center College of Public Health, and school superintendents to evaluate this at-risk data and make recommendations to the Legislature by December 31, 2010, on strategies to reduce truancy and other behaviors that impede learning. (7) an effective process for sealing juvenile records is absolutely necessary to give our children a chance to succeed. Today, so many of our children are unable to obtain a scholarship, find employment, or

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

otherwise become productive citizens because there is a record of a mistake they made as a juvenile. There is a misconception that juvenile records are automatically sealed. That is not the case. LB923 would replace the current process for requesting to have an adjudication set aside because currently the system is not comprehensive and it is not automatic. Under LB923, more juveniles will be eligible to have their records sealed--including those who are not filed upon, those who are diverted, and those who are filed upon in county court--for misdemeanor offenses. This is critical. Records will automatically be sealed in cases where there is no filing and in cases where the juvenile completes his or her diversion or mediation. In cases where there is a filing, the juvenile may motion the court after the completion of their probation, supervision, or treatment to have their record sealed. If the juvenile does not initiate the process prior to reaching age 17, the court will do so automatically. In summary, these measures are designed to remove obstacles to real reform in the juvenile justice area. Early intervention, parental involvement, school attendance, youth employment, and alternatives to detention and court are, in our opinion, critical to reducing the learning gap in our state and putting our at-risk children on a pathway to fulfilling and productive lives. [LB800 LB923]

SENATOR LATHROP: Thank you, Senator Ashford. Any questions for Senator Ashford? Senator Council. [LB800 LB923]

SENATOR COUNCIL: Yes, Senator Ashford, and thank you for introducing the bill and thank you for all the work that I know personally you've done on this during the interim, joining Senator McGill and myself and trying to learn from others in Illinois. And I appreciate that. But on the portion of the legislation that deals with the sealing of the juvenile record there's been a question raised. And it could be easily addressed. But the intent is that if a youngster successfully completes their probation or diversion that they would be eligible for it to be sealed. And I think that distinction needs to be addressed in the legislation because there are occasions where the judge can rule that the youngster has completed the probation or just terminates the probation but the youngster hasn't successfully completed the probation. I think we need to recognize that, because successful completion of probation means that the youngster has done everything that he or she was directed to do and that they have fully completed every step in that process. So I was talking to the person who brought that to my attention. And it could be easily addressed by just inserting the word "successful." [LB800 LB923]

SENATOR ASHFORD: And that would be our intent, Senator Council. And I might say that this is a big bill, obviously. We will have time, all of us in this room, working together to address these issues. Obviously, law enforcement will need to continue to have access to these records. And that certainly...it's in the bill, but if it's not in the bill in a comprehensive enough way, we can address that. So thank you. [LB800 LB923]

SENATOR LATHROP: I don't see any other questions. Thank you. Do you want to...yeah, you can go ahead, sure. [LB800 LB923]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

SENATOR ASHFORD: It's no reflection on Senator Lathrop, but he's an excellent Chair, obviously. (Laugh) We have a list, we're just going to go through this, starting with Father Boes. Father Boes, welcome. [LB800 LB923]

STEVEN BOES: Thank you. [LB800 LB923]

SENATOR ASHFORD: Now I did...someone else wanted to sit...Dan, want to sit up here? We have another chair. [LB800 LB923]

SENATOR COUNCIL: Before you start, Senator Ashford... [LB800 LB923]

SENATOR ASHFORD: Yes. [LB800 LB923]

SENATOR COUNCIL: There were a lot of individuals who asked if there was a list. But at the time they asked the question I didn't know that there was a list and that I advised them that they would just be allowed to come up and testify. [LB800 LB923]

SENATOR ASHFORD: Oh, absolutely. [LB800 LB923]

SENATOR COUNCIL: So if you need to... [LB800 LB923]

SENATOR ASHFORD: It's not a long list. [LB800 LB923]

SENATOR COUNCIL: So you need to explain that these are individuals who made it known to you that they intended to be here today and testify, so that others don't think that we've neglected them. [LB800 LB923]

SENATOR ASHFORD: Okay. Well, I was going to...thank you, Senator Council. (Laugh) Those of you who...I did not mean to exclude you from this process. Thank you. Father Boes, welcome. [LB800 LB923]

STEVEN BOES: (Exhibit 1) Thank you, Chairman Ashford and members of the Judiciary Committee. My name is Father Steven Boes, that's B-o-e-s, and I serve as the national executive director of Boys Town. I'm here to offer Boys Town's support for LB800. I'd like to thank Senator Ashford for his leadership and vision in working to substantially change our juvenile justice system here in Nebraska. And in my remarks, I'm not going to attempt to address individual parts of the bill, but I'd like to speak to some of the broad problems that LB800 tries to resolve. Nebraska recently had a wake up call as a result of the safe haven crisis. It dramatically publicized the needs for an integrated continuum of care for our kids in the state, especially for our hurting families. And in tough economic times, the Legislature should be commended for passing LB603 to address some of these needs. I believe that LB800 focuses on an equally critical

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

problem in the lives of Nebraska's hurting kids. We have a serious problem in our juvenile justice system. Many parents whose children go astray of the law, due to truancy or drug use or other delinquent acts, really feel helpless to solve the problems of their children. As a result, our court dockets are backed up, our detention centers are regularly overcrowded. And kids who have committed minor offenses, who pose little or no danger to themselves or the community are housed with violent offenders. And for these kids, their time in detention makes them worse. Let me tell you a story to illustrate this problem. A kid from Boys Town, a 15-year-old boy whom I'll call Daryl. I actually saw him at lunch today but his name is not Daryl. A few years ago, Daryl got behind in schoolwork and started skipping school. He hung out with peers, smoked a lot of marijuana and began to steal to support his habit. Parents tried to intervene, but despite their best efforts, they weren't able to keep him from his bad behaviors. And after a few convictions for these crimes, a judge sentenced Daryl to detention and evaluation in Douglas County Youth Center. During his 75 days there, 75 days, he learned lots of new things, all of them bad. He learned to be more violent because of the peers that were surrounding him, he became despondent, he became sullen. I talked to him just today. He said, school there was a joke, he didn't learn anything, that his time in detention hurt his relationship with his family because he was away from them for that time. It took 75 days for him to receive all the assessments and to complete the court process and finally be sent by the judge to Boys Town's Treatment Family Home, which is the traditional residential home that we offer on campus. Now Daryl is thriving. He's on the basketball team, he's succeeding in school. We found out he had undiagnosed ADHD. He's really got friends and doing great. His parents are now reinvolved in his life. We have Boys Town in-home family services that's getting ready to welcome Daryl back home, and he should be home in six months. I believe that if Daryl had received a quick evaluation...not the lengthy one that's required now, a quick evaluation to determine whether he was a danger to himself or others, his level of family cooperation, if they were willing to help, and his specific needs, a judge could have sent Daryl home and required the family to participate in in-home family services like those provided by Boys Town. And he could have skipped that 75 days in detention. There's really no need to lock up status offenders just to determine what services they need. Better yet, if the judge had had the option of funding to require the family to participate in in-home family services after Daryl's first court appearance, he may not have been arrested for subsequent crimes. These options are less restrictive, less costly to the state of Nebraska and its citizens and, more importantly, they help keep a family together. Boys Town would support an amendment to LB800 to fund a pilot project for early in-home family intervention to help kids stay out of detention by helping their families. Let me just tell you what good in-home family services look like. It's a comprehensive intervention involving parent training, mentoring, building connections to community resources like schools. And in 2009, Boys Town served over 3,000 families just like Daryl's in Nebraska and helped 12,000 kids nationally out of 21,000. Many people think that Boys Town is a residential program--65 percent of the kids we helped nationally last year lived at home, mom, dad, grandma, somebody. Our success rate with these kids in

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

in-home family services is 80 to 90 percent, and that means that the child graduates from high school on time, has no further contact with the law or social services. If you ask me where we'll find the money for this project, I propose two things. One, to take the long view. Every child that doesn't graduate on time in the state of Nebraska will cost the state \$2 million, that is in a lifetime of lower tax revenues because of lower income, and a lifetime of higher costs for law enforcement, incarceration, and human services. In the shorter run, this pilot project could free up other services that we could deploy from...that are currently being used to lock up kids. So a test pilot program could show success in a few years and free up funds. We could say, hey, we need 10, 20 percent, whatever, less capacity, spend some of that money helping kids stay out of detention. I'm also asking you to join Boys Town in proclaiming that not only are there no bad boys as Father Flanagan taught, but there's no bad families. Let me tell you what I mean by that. My Boys Town experience has taught me through thousands and thousands of kids and families across America that there's always at least one person in a family that wants what is best for their children and is willing to ask for and receive the help they need to help their child. Thanks for this opportunity to testify. Boys Town stands ready to help with the legislative process. Be open to any questions. And Dr. Daly is here for details. [LB800 LB923]

SENATOR ASHFORD: We love specific proposals, that's the best. [LB800 LB923]

STEVEN BOES: Yeah, yeah. [LB800 LB923]

SENATOR ASHFORD: So any questions of Father or Dan? Thanks, again, for all your work on safe haven and bringing us all together. It was miraculous work. [LB800 LB923]

STEVEN BOES: It was fun. Thanks, guys. [LB800 LB923]

SENATOR ASHFORD: Yeah, thank you. Pat, you're all driving together probably, so...you're going back to the same place anyway. [LB800 LB923]

PAT CONNELL: (Exhibit 2) Chairman Ashford and members of the Judiciary Committee, my name is Patrick Connell. And one of the roles I serve at Boys Town is as the vice president of Behavioral Health and Government Relations. I am here today offering testimony on behalf of the Nebraska Association of Behavioral Healthcare Organizations, or NABHO, which includes over 46 organizations delivering mental health and substance abuse services in locations all across the state. Our association includes hospitals, mental health centers, outpatient providers, private practice, and managed care organizations in all six Mental Health Regions. Additionally, we have a number of professionals and advocacy associations as affiliate members, including the Nebraska Psychiatric Society and the Nebraska Association of Social Workers. We support LB800 and its goals to begin the process of reforming Nebraska's juvenile justice system and applaud Senator Ashford for his work in this area as well as the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

committee. For years, providers have seen the negative impact that spending extensive time in detention centers has had on youth with mental health problems. Therefore, sections of LB800 focusing on diversion programs as alternatives to detention, use of civil citations instead of arrests, and accelerating the evaluation process thereby shortening the waiting time to access the right mental health programs are all critical components of this bill. NABHO also supports the measures to reduce truancy, because one of the most important goal for any adolescent is to complete their high school education. These measures will increase the accountability of youth, schools, and parents. It is also important to note that youth needing temporary placements, as quoted from the bill, need to be placed in the least restrictive environment possible. This goal requires a continuum of care approach to make sure that the youth are placed at the right level of care at the right time. Because there is so much unknown about some of these youth, we need to err on the side of caution in placement decisions to ensure the safety of the other youth in our programs, families, visitors, and staff. It will take time to develop and implement the necessary services in a reformed juvenile justice system. We believe that all services must be fully in place before implementation of this new system of temporary placement. If not, as we learned from the reduction of beds at the regional centers, that if we get ahead of the system, then the system will be forced to place children in the wrong program or at the wrong time. If not, this new system will be forced to place youth in the wrong program just because that program is available, and because a program that is right for the youth is not available. This type of poor planning could have serious consequences. As the committee considers LB800, please consider NABHO in partnering your efforts and calling on us at any time with questions or input. Thank you for your time today. And I'm available to answer any questions. [LB800 LB923]

SENATOR ASHFORD: Thank you, Pat. Any questions of Pat? Thank you. Now I have a jurisdictional issue. I have Judge Irwin and Judge Crnkovich. Let me see, Judge Crnkovich. (Laughter) [LB800 LB923]

LIZ CRNKOVICH: He has seniority... [LB800 LB923]

SENATOR ASHFORD: I know, but... [LB800 LB923]

LIZ CRNKOVICH: ...but I have the bigger mouth. (Laughter) My name is Liz Crnkovich. I'm a juvenile court judge in Douglas County, Nebraska. When I signed in, I wrote proponent, opponent, and neutral on the sheet. (Laughter) I want to begin by also thanking Senator Ashford, because of...I think you have, not only in this endeavor but in many others, demonstrated a concern about kids in the state of Nebraska and are very devoted to finding solutions to those problems. And on behalf of the separate juvenile judges, of whom there are 11 in the state, we appreciate that. I'm not here to talk about me, but I want to say that I was a prosecutor in juvenile court for 9 years in Douglas County and I have just completed my 15th year as a separate juvenile court judge. So I

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

want...I'm happy to answer any questions that you may have. I don't want to go through each and every part of this bill either. I sure respect Father Boes. I'm sending him all my children. (Laughter) If I had that ability for 15 years, they would have been there. On the issue...some of the issue...here's my concern. First and foremost, and I say this with respect, I always give advice that nobody is asking for, and I'm getting older so that isn't going to change. You have a hard job, all of you, as state senators. And that's...you don't need me to tell you that. On the one hand, we're hearing: do things quicker, do things faster, change these laws, get these evals. At the same time, caution, thoughtfulness. And with all due respect, I think whether as a legislator or as a judge or as an executive, we've all had the experience of rushing too quickly to judgment and then regretting that later. Some of the things in the bill, in my humble opinion, are already in statute and do not need additions to the statute. One example is the requirement of least restrictive alternatives. That's already in the statute and that is something that is considered by every judge with juvenile jurisdiction. It is not the desire of juvenile judges to incarcerate youth. I think there may be a misunderstanding of the purpose of detention. And I'm very concerned that many of the...with all due respect to Mr. Ashford...Senator Ashford... [LB800 LB923]

SENATOR ASHFORD: Hey, that's okay, Liz. I'm wrong a lot. [LB800 LB923]

LIZ CRNKOVICH: But some of these concerns are set out to meet the needs of a particular county and do not require statutory change but merely a renewed commitment by that county, including executive, judiciary, legislative, and private factors to address those needs. My concern about an absolute restriction on the issue of detention is that you will be asking judges to tie one leg and one arm behind their back and meet the needs of children. The fact of the matter is...I heard somebody gasp. [LB800 LB923]

SENATOR ASHFORD: It might be the system here. (Laughter) Sometimes it... [LB800 LB923]

LIZ CRNKOVICH: Well, every time I...Father Boes described the truant. You need to look at the specific facts of each individual youth. And what brings them to court is not what's on the paper, be it the delinquent act, the status offense, the truancy. What brings them to court are the whole array of family problems, mental health problems, behavior problems. We want more services to minimize the need for detention, but sometimes detention is required and for the safety of the community and for the safety of the child. I have had Father Boes's experience with children. I have also had children who are alive today because they were detained. And I'm not going to sit here and name each one of them, but I can give you names and circumstances. The evaluations are a concern. The portion that would require that Health and Human Services be the only one to decide what types of evaluations is quite concerning to the court for many reasons. (1) the lack of due process in terms of considering those evaluations; (2) in a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

perfect world one would probably argue that they have the expertise. I am telling you from 15 years of experience that they do not. I have ordered psychological evaluations, I have received psychiatric evaluations. I have children using drugs regularly, I have people not concerned about getting a chemical dependency evaluation. Managed care wants everybody to get what is called a pretreatment assessment. That's nothing more than looking at the problem and saying, my goodness, we need an evaluation. I'm very concerned that that is money-driven. Video conferencing I'm neutral about, except that I am telling the world that at a time when children more than ever need personal relationships, we are putting more and more distance between children and those people who...with whom they have to have relationships, whether it's privatization where they have five caseworkers now. Sometimes in juvenile justice, frankly, I don't quote Judge Colleen Buckley very often, but she used to say for some of my kids I'm the only constant person in their lives. And that is correct. Video conferencing is great, it saves a lot of time, it saves money, it keeps the child from even seeing their judge in person. But I really am neutral on that. The issue of citations, probably neutral, although I think it's meant to address a problem that may not exist. If anything, I would ask that should you deem civil citations to be appropriate, that perhaps for the sake of many counties, have it be a voluntary concept. [LB800 LB923]

SENATOR ASHFORD: It is optional in the bill, I think, Judge. [LB800 LB923]

LIZ CRNKOVICH: Yes. And you did mention that. We are working very strongly in Douglas County, in fact I have been meeting, I know my time is up, but I'm... [LB800 LB923]

SENATOR ASHFORD: Going to go on anyway. (Laugh) [LB800 LB923]

LIZ CRNKOVICH: ...second in command here. Yeah. Working very hard on the issue of truancy as a community in Omaha, including the court supervised diversion, the use of what are called SARBS, student absence committees. And I am in the midst of working with OPS and Bright Futures and other collaborative on that. One thing, without...I'm going to keep silent on the appeals panel so as to maintain my good relationship with Judge Irwin. (Laugh) I'm happy to be rid of them; he may not be. And finally, every juvenile...every judge with juvenile jurisdiction would absolutely embrace clarification of what authority we have over the parent of the child before the juvenile court because if anything hampers our ability to meet the needs of the kids, it is that lack of clarification, what authority we have over the parent. I didn't answer everything or say everything, aren't you glad. Do you have any questions of me? [LB800 LB923]

SENATOR ASHFORD: Judge, thank you. It was very comprehensive and important. Yes, Senator Coash. [LB800 LB923]

SENATOR COASH: Thank you, Chairman. Thanks, Judge, for being here. I wanted to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

specifically ask you about the sections in the bill, 9 and 10, that give...that allow the court to order HHS to provide therapeutic services to parents, guardians, to all those folks. Don't you already still have that authority to order particular services? [LB800 LB923]

LIZ CRNKOVICH: Yes. [LB800 LB923]

SENATOR COASH: Okay. [LB800 LB923]

LIZ CRNKOVICH: To order the parents on neglect cases. The question is, what authority do we have to require parents to assist us in our job of monitoring the children? For example, there are cases in...within the country that say that a juvenile judge might have a right to order a parent to help with curfew or to take the child to therapy or to get them to school. It becomes more dicey when you talk about things like chemical dependency evaluations of a parent or things like that. [LB800 LB923]

SENATOR COASH: Okay. [LB800 LB923]

LIZ CRNKOVICH: And it's not clear in statute whether we even have that earlier authority. [LB800 LB923]

SENATOR COASH: And your last comment, if I heard you correctly, you'd appreciate some clarity on the court's role... [LB800 LB923]

LIZ CRNKOVICH: Absolutely. [LB800 LB923]

SENATOR COASH: ...in working with the parents. [LB800 LB923]

LIZ CRNKOVICH: Absolutely. That would help our children. [LB800 LB923]

SENATOR COASH: Do you find that to be a contentious issue with the cases that you see, parents don't want to comply with the kinds of things that you think are in the best interests of the child? [LB800 LB923]

LIZ CRNKOVICH: Here's the challenge. Father Boes was quite correct. And he forgot, maybe because there are some bad girls, I don't know that there are no bad boys. (Laughter) But when he talked about...I'm teasing, when he talked about families, absolutely, we have respect for the families. There's no question about it. But the challenge is that in a legal system, we are dealing with relationships, we are dealing with emotional issues, we are dealing with psychological issues. And the nature of the beast is that when it is the child who's named before the court, it is all too easy to say that the child is the problem, fix the child, I have no issues here. Or sometimes you guys need to know it, you get caught up in some of these psycho dynamics. And so I'm not

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

saying there are bad parents out there. There are troubled parents, there are parents who also have mental health problems and drug abuse problems. There are parents who are, you know, in denial and that is a huge challenge, always has been, will continue to be if we cannot work better with the parents. That's why some of the challenges, I mean, it's very nice to say we can do the services in the home, and we want to. Children should be at home, all things being equal. They should...if they can't be home, they should be in a setting that meets their needs, without question. What we want is that continuum. That's when you go from here, home to detention. But simply being at home is not correcting the problem and often is exacerbating it without further attention. [LB800 LB923]

SENATOR COASH: Could you just briefly expound on your comment about pretreatment assessments and your feelings on those, because this committee has been dealing with managed care as part of the continuum of services for juveniles? Could you just tell us again how you feel about those and what you think we can do to make that better? [LB800 LB923]

LIZ CRNKOVICH: Well, anyone else who knows me would never ask me how I feel about that. (Laughter) [LB800 LB923]

SENATOR ASHFORD: Within reasonable... [LB800 LB923]

LIZ CRNKOVICH: Right. Here's my concern in that. Well, first of all, it's understanding what they are. Sometimes they are called pretreatment assessments, sometimes they are called mental status exams. And in fact they are conducted by someone with some level of mental health background. But basically what they are is...what we get from our probation officers and our social workers in sitting in front of the child, family history, how are things going. Oh, your child is using drugs. And then they make recommendations, and these are the recommendations--individual and family therapy, a chemical dependency evaluation, a psychological evaluation. [LB800 LB923]

SENATOR COASH: So you're saying you're not finding that kind of feedback helpful or... [LB800 LB923]

LIZ CRNKOVICH: Well, not in this case. I have a youth who's tested positive every single time that probation has tested him. He's running away from home. He gets suspended from school all the time because of behavioral issues. I'm not saying judges are better. A judge uses all the information that is provided. I think it's safe to say that child needs a chemical dependency evaluation. I'm not sure I need to send him for a pretreatment assessment to tell me he needs a chemical dependency evaluation. I have sent...I have ordered psychiatric evaluations that have been conducted through Health...and I respect Health and Human Services. I work with all of these folks. I was thinking the other day they're all like siblings. We love each other and we hate each

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Transcriber's Office

Judiciary Committee
January 27, 2010

other, but we support it, you know. Why send someone...why send a parent for a psychiatric evaluation that comes back and tells me that I need to order a psychiatric evaluation? That's my concern. I think they're a good tool to minimize...to...it's a money issue. But to say that you cannot order any other evaluation, even if evidence is before you, other than a pretreatment assessment is to waste people's time and money. [LB800 LB923]

SENATOR ASHFORD: I don't think that's what we're attempting to do here, Liz. [LB800 LB923]

LIZ CRNKOVICH: Well, the issue in your bill is that only the department can decide what evaluation... [LB800 LB923]

SENATOR ASHFORD: Well, we're trying to get away from the cookie cutter evaluations. I think we're trying to do what you're talking about, so we'll... [LB800 LB923]

LIZ CRNKOVICH: Well, can I make a suggestion? [LB800 LB923]

SENATOR ASHFORD: Sure. [LB800 LB923]

LIZ CRNKOVICH: The cookie-cutter evaluations came from...many years ago because...and it has to do with the Youth Rehabilitation and Treatment Centers. And it was decided that no one should send a child to the YRTC's without a psychological evaluation. [LB800 LB923]

SENATOR ASHFORD: Right. [LB800 LB923]

LIZ CRNKOVICH: That has morphed into this comprehensive evaluation, which has morphed into everything else. [LB800 LB923]

SENATOR ASHFORD: And I think just for the...and we'll move on, but I think that's sort of...that's why this is such a great session is because there have been things that have morphed. There are things that have been institutionalized that everybody, I think, would like to change or at least look at changing. And that's why I think this is such an important process. But let me do this, because we have so many people, I want to thank you for your service most importantly, because I know about it, and it's been a commitment of many years. And you do a great job, so. And everything you're saying to us is important and I do appreciate it. Thanks, Judge. [LB800 LB923]

LIZ CRNKOVICH: All right, thank you. If there are no other questions, thank you very much. [LB800 LB923]

SENATOR ASHFORD: Let's...Judge Irwin, and then Chris Rodgers, and then Ben Gray.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

[LB800 LB923]

SENATOR LATHROP: You understand the light system, don't you, Judge? [LB800 LB923]

JOHN IRWIN: Oh, very well. (Laughter) [LB800 LB923]

SENATOR ASHFORD: People just go right through the roof. [LB800 LB923]

SENATOR LATHROP: I know that I've been cut off in the Court of Appeals when the light turns red, so. We'll give you a little bit of breathing room. [LB800 LB923]

JOHN IRWIN: I can't say anything, so (laughter). Chairperson Ashford, Senators Christensen, Coash, Senators McGill, Council, and Lathrop, good afternoon. Legal counsel, Ms. Trout, Ms. Case, good afternoon as well. I'm here today to testify specifically on LB923, not on LB800. And for the record, I would just spell my name, it's John Irwin, I-r-w-i-n. I come here today to talk in my capacity not as a Court of Appeals judge, although that has certainly given me some experiences. In my former lives, I was a prosecutor. I was in private practice, so all those things, obviously, are part of me and what I bring here today. But I come here today as the cochair of the juvenile and criminal subcommittee, what is called the Minority and Justice Committee, which you may or may not be familiar with. Ten years ago, the Nebraska Minority Justice Committee was created. It's a joint initiative between the state bar association and the Supreme Court. It was established to address issues, specifically of racial and ethnic fairness in the courts. And I'll tie that in, in a few minutes, that particular aspect. During these ten years, the committee has been involved in a number of successful initiatives, and these initiatives have created a fairness, more fairness in the courts. And I'd love to share those with you today, but that's not why I'm here. And before I move on, I would like to say one thing. I refer to this bill as the sealing of records bill. I try to use that vocabulary very specifically because what happens sometimes is people will say expungement. I've read newspaper articles where it was a reporter's words, and I understand that. But expungement to me means destruction of records, the records are gone, no one can ever access them. This bill, as I see it, and I think I'm accurate in this, does not, it is not about that. It is about sealing of records. It recognizes that there are certain stakeholders in the system that at times do need access to those records even though they're sealed. So I will always use the term sealing. I think the words are important and that message is important. What I'd like to do, though, just to put a little bit finer point on why I'm here today is I want to talk to you about how this bill will treat juveniles more fairly when they come in contact with the judicial system, primarily by eliminating collateral consequences. And these collateral consequences are very real. They result in juveniles, I want to say they're restrained and constricted and sometimes haunted by this for the rest of their lives. And these collateral consequences, which I'll get to in a moment, are primarily unintended by the system. I don't think anyone would

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

dispute that. But, nonetheless, they are unproductive to the juvenile, obviously, and I would submit to you they're very unproductive to our society at large. The whole concept of a person paying their debt to society, which is a criminal context, and I'm talking about juveniles, and juvenile court is a civil court, I just want to make that clear. Judge Crnkovich, if she's still here, would certainly echo that and make sure that I emphasize that we're talking about a civil action when you're in juvenile court. But this notion you've done what you're asked to do, I guess, is the more general way to put it, is one of the core values of our system. And, again, it benefits a juvenile as well as our society at large. Sometimes there are collateral consequences even with something...so that's how you feel when that yellow light goes on. (Laughter) [LB800 LB923]

SENATOR ASHFORD: Oh, there it is. (Laugh) [LB800 LB923]

LIZ CRNKOVICH: Makes you want to ignore it. (Laugh) [LB800 LB923]

SENATOR ASHFORD: You know, Judge, I don't know what I would do if you did actually. I'd have to think about it. [LB800 LB923]

LIZ CRNKOVICH: Well, I'm going to leave, so. [LB800 LB923]

JOHN IRWIN: Can I answer that question? No. The collateral consequences are these, the collateral consequences, and this isn't all of them, but the fact that a juvenile has gone through juvenile court, done everything satisfactorily. And, Senator Council, I totally agree with the concept that they should be successful before they're allowed to have their record sealed. But it results in very real inhibitors to them. It affects their ability to get scholarships, loans, school loans, the service, employment applications. Those are all very real consequences. And I think we've all either personally heard of those experiences or examples or we've read about them in the newspaper. They are real. Unfortunately, most teens and their parents are of the false impression that juvenile court records are sealed automatically, and they are not. And that is the primary thrust, I would say in my humble opinion, of this bill is it happens automatically when someone successfully completes what is asked for them. And because people assume that that's the case now, it's not until these collateral consequences come up that people realize, no that's not the case or that didn't happen automatically. Now I said I'd tie in the racial and ethnic fairness issue here. For a variety of reasons, it is a fact that minority youth are disproportionately, and I'm just talking proportions, disproportionately represented in the juvenile justice system, and therefore they disproportionately suffer these collateral consequences that I just mentioned. Now let me just say what the strengths of the bill are, if I could. First, a substantial portion of the public, as I mentioned before, is under this impression that this happens automatically, this sealing of the records. What this bill would do is it would require courts to provide juveniles with a written description of the sealing process, the process to have the record sealed, and what the effect is of having the record sealed. Secondly, there is substantial confusion. I

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

think certainly the lawyer members of this committee, and I would guess, too, the nonlawyer committees may have heard of situations where people do not understand how to answer a question that talks about have you ever been arrested, have you ever been...there's a variety of questions that come up. And they're very difficult. [LB800 LB923]

SENATOR ASHFORD: Judge, I'm going to have to just... [LB800 LB923]

JOHN IRWIN: Sure. [LB800 LB923]

SENATOR ASHFORD: And it's really good testimony because you like the bill. But just keep going then. (Laugh) [LB800 LB923]

JOHN IRWIN: Oh, the red light is on. Oh. (Laughter) Two other things I would say very quickly. One is that there is no mechanism when juveniles are filed on in adult court with misdemeanors, there is no mechanism for them to seal their record. And I think that there is, you know, noting that that's a very important aspect of the bill. I think all we're asking, the Minority Justice Committee, is to help us with this. And if there are any questions, I'd be happy to answer. And how far did I go over? [LB800 LB923]

SENATOR ASHFORD: We don't want to tell you. (Laughter) But the work of the committee is key to this bill. And without that work, this bill wouldn't be here. So thanks, Judge, very much for that. [LB800 LB923]

JOHN IRWIN: Okay. [LB800 LB923]

SENATOR ASHFORD: Any questions of Judge Irwin? Okay. [LB800 LB923]

JOHN IRWIN: Thank you very much. [LB800 LB923]

SENATOR ASHFORD: We're going to do...Justin Tolston has to get back to school. Justin, can you come up? And then we'll go over to Chris and Ben. So, Justin, can you have a seat and tell us what your name is, if you would? [LB800 LB923]

JUSTIN TOLSTON: Hello. My name is Justin Tolston, last name, T-o-l-s-t-o-n. I'm here today in reference to what the gentleman before me described as collateral consequences. I've never been arrested. I've never been put in jail or convicted of a crime. However, when I was 16 years old, I pled no contest to a misdemeanor shoplifting and served 90 days probation successfully. When I applied for an internship here at the Attorney General's Office in this very building, this came up as an issue. This happened three years ago. Since then I've had several jobs, I graduated from high school in three years instead of the traditional four with a 3.6 GPA. I've even received a legislative resolution from your colleague, Senator Tony Fulton. I'm currently at the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

University of Nebraska, a sophomore majoring in political science, but yet still this misdemeanor came up three years later. In the off-whim chance that it would, I contacted the Nebraska State Bar Association the day before I was to go in for my interview. They told me that it was adjudicated through juvenile court and because of that I wouldn't have to put that down on the application that went with the confusion, because I was uncertain. I didn't want to lie because lying is just as bad, lying is committing another crime. And so I called to get...I called to get it cleared up and they told me I didn't have to. But yet as I sat there in front of the woman interviewing me, she said, well, I would love to offer you the position, but something came up and you didn't tell us something would. And so can you please clarify that for me. And I'm looking at her like I've never even been ticketed, except for speeding besides when I was 16, what could she possibly be talking about? And then she went into further detail and asked me, is there anything that you could have possibly done? And I...the only thing that came to mind was this misdemeanor when I was 16. And so I told her about it, and she said, I would offer you the position but it's out of my hands. Only after I left the office and that's what I went off of, yes, you would get the internship at the Attorney General's Office but not because you have a misdemeanor. Only after speaking with Ms. Council and Senator Ashford, due to their intervention, did I get a call asking for a third interview where I did get the position. But it was made abundantly clear that I would not have if it wasn't for them. My question is, if LB923, which would have prevented this, even LB800 which if I would have received a civil citation it would have prevented the creation of a record in general. But if LB923 was enacted and would have sealed my juvenile record, this wouldn't have been a problem. And my question is, how many people will continue to pay for the mistakes of misdemeanors when they did things when they were juveniles? And how many people won't have that opportunity to get a second chance? There won't always be a Senator Council or a Senator Ashford to go to bat and give it a second look. [LB800 LB923]

SENATOR ASHFORD: Well, I think, Justin, to be honest, you got the job because of you, that's what really happened. [LB800 LB923]

JUSTIN TOLSTON: But I would have never even been able to sit... [LB800 LB923]

SENATOR ASHFORD: I understand what you're saying, but don't be under any misapprehension. You got the job because of your qualifications and so you should be congratulated for that. Any questions of Justin? Thank you for your story and good luck. [LB800 LB923]

JUSTIN TOLSTON: Thank you. [LB800 LB923]

SENATOR ASHFORD: Chris. Alex, we're going to...could you come on down too? [LB800 LB923]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

CHRIS RODGERS: Mr. Chair and senators of the committee, I want to thank you for this opportunity. My name is Chris Rodgers, spelled R-o-d-g-e-r-s, and I am speaking personally today. But I want to address things from the context of my position with the Douglas County Board, I'm speaking more so as a commissioner representing District 3 and in Douglas County and also as the role I played cochairing a study that you all sanctioned this summer. I want to thank the people in the audience that will come up following me with the state, community members, other people in the county who helped us give a lot of the recommendations that are in the bill that you have today. I'll be brief but I just want to touch on a couple of things. The members of this committee that put together some of those recommendations have been working together for some two years trying to address this issue. And I say that and because the initial point that got us to getting here, I think, one point was a study done by Douglas County. One of the comments made to me by somebody who was involved with that study is that Nebraska has the most complicated juvenile justice system on earth. And once things start going through there, it seemed like it was. And I say that as a layperson looking at it, not as a lawyer. I think a lot of comments that have been made, I respect all of them, but I think we've been cautious for a whole lot of years. Caution got us 212 kids in a facility that only holds 144 kids with no alternatives to detention. I'm not saying throw caution to the wind, but I think structural change is needed. And there will never be a right time. I think the political will has been shown by the Douglas County Board over the last two years. And to give you an idea of where we've been with this, we started in '07 with the study because we had an enormous amount of kids in the facility that shouldn't have been there over capacity. You all did work on a bill last year and then commissioned that study. The study, we pulled together a group of people to come together and try to solve the issue of detention. That group gave you recommendations from the study and caused a meeting between the Douglas County Board, the juvenile court, you all as a committee, and some members of Bright Futures. We also took liberty to bring in the director of the Dade County Juvenile Assessment Center, who has one of the best models in the country. From that, that's where we became high on the civil citation piece. As a result of that, we've been able to work with the Coalition for Juvenile Justice, which is the state advisory group for juvenile justice here, and we've gotten \$32,000 to try to begin the process with the Burns Institute to address DMC, disproportionate minority contact. Our goal is to put us on flight to be a model Annie E. Casey site. I say that because I think that we have recommitted to the effort, and the recommitment has got us here. And for the sake of time and those coming, what I want to point out to you all is that there is nothing in this bill, any concern, that I think is beyond correcting and making it right. I think there will never be a window like we have now. To get this done, the commitment will never be higher and the players will not be in any better position than they are now. I want to sincerely ask you all to really make this bill happen this year. And I want to say that the county will be taking up those portions that are relevant to us next week at the county board meeting, to act on. As I said, we've committed to this. And I think we will have favorable approval of this. And I can safely say that the county is in support of working with the state in any way

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

fashionable to make sure this happens. But I just want to emphasize that there is nothing in this bill that can be overcome and we stand ready to help you all as needed. [LB800 LB923]

SENATOR ASHFORD: Chris, thank you. And thanks for your leadership. I know in going to the meetings with the Models For Change, you're well known now in the juvenile system. Oh yeah, we know Chris. He's going to get it done. He's applying for this Annie E. Casey grant, he's a big deal. And you have great credibility and you should be applauded for your leadership. It's made a big difference. [LB800 LB923]

CHRIS RODGERS: And I want to say, again, I do...I owe whatever I know to a lot of people sitting back here. You know, we've had back and forth several times and I respect their opinion greatly. And I think we all want to get to the same thing. I just think that we need to be there a little faster. [LB800 LB923]

SENATOR ASHFORD: Thanks, Chris. Any questions? Yes, Senator Council. [LB800 LB923]

SENATOR COUNCIL: A couple of quick questions. And thank you, Commissioner Rodgers, for not only appearing here today but the work you've been doing with the task force. And that's one of the questions I have for you. There have been some remarks made in connection particularly with LB923 that it may not apply equally across the state, that there are counties in the western part of the state that may not be able to address the issues in the manner set forth in the bill, or are addressing them in a way now that doesn't create the kind of concerns that were brought through and reflected in the recommendations. In the study that was done, was there input from all the counties in the state of Nebraska or the potential for input from all of the counties? [LB800 LB923]

CHRIS RODGERS: The study, the sealed records bill did not come out of that study. That was not the focus of it, so that was not what we were entailed to do. [LB800 LB923]

SENATOR ASHFORD: I think that was more Judge Irwin's group. [LB800 LB923]

CHRIS RODGERS: Yeah. We're entailed to ask specifically what things were causing the tension levels to be as high as they were. Now, a separate committee that we have was the Juvenile Justice Coordinating Council. That comment has come up several times in there. It's been discussed at a couple of meetings. And the production of that bill was well received. So, no, the study did not...was not charged with looking at that. We didn't, it was not a by-product of it. So that wasn't our charge to do. [LB800 LB923]

SENATOR COUNCIL: Okay. Now correct me if I'm wrong. You are an officer in NACO?

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Transcriber's Office

Judiciary Committee
January 27, 2010

[LB800 LB923]

CHRIS RODGERS: I am an officer on the Justice and Public Safety Steering Committee of NACO. [LB800 LB923]

SENATOR COUNCIL: Okay. And so there's the Nebraska Association of County Attorneys and there's the...excuse me, County Officials and the National Association of County Officials, correct? [LB800 LB923]

CHRIS RODGERS: Yeah. Nebraska and the National Association. [LB800 LB923]

SENATOR COUNCIL: Okay. And it's my understanding that you've been working on this juvenile justice reform issue from both of those platforms. [LB800 LB923]

CHRIS RODGERS: I've been working on it from the national point of view, trying to acquire information, trying to get some information on best practices, trying to really understand the system compared to other people. I would think from the NACO Nebraska point of view, my involvement doesn't come directly from that position, but it comes from a newly appointed role that I have as a member of the Nebraska Coalition for Juvenile Justice, and the intent of the members to have that as a priority. [LB800 LB923]

SENATOR COUNCIL: Thank you. [LB800 LB923]

SENATOR ASHFORD: Thanks, Chris, very much, appreciate it. Go ahead...is Ben here, Ben Gray. And then actually Mark Young is here from Grand Island. Mark, could you come up? We're going to ask Chief Hayes and Nicole Goaley and then Mark Young. So go ahead. [LB800 LB923]

BEN GRAY: Thank you, Mr. Chairman, members of the committee. My name is Ben Gray. I'm a city councilman for the city of Omaha in the second district. But I'm here in my capacity as the emergency team director for our organization that used to be formally...that was...that is continually involved in working directly with gang members and significantly at-risk youth. And, you know, I'm here specifically to talk about the sealing of the records legislation and talking about how important it is and lending my support to that continued effort, hopefully to helping that effort get passed as legislation. We deal with gang members and significantly at-risk youth for the last two summers now, with the summer jobs program. And one of the barriers that we constantly run across...first of all, let me give you a background. A lot of these individuals, and we had 150 of them in each of our summer programs. And it was a little bit surprising to us that, you know, you hear stories about how bad these individuals are, how dangerous they are, and all that sort of thing. But when we started addressing them and started assessing their backgrounds, the majority of them had misdemeanor, if any, charges.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

There were very few that had any felonies despite what you might hear in the media. But even with the misdemeanor charges, it created significant barriers for us in placing them in employment opportunities, especially with private individuals and in some cases with nonprofit organizations because they were able to check backgrounds because they were able to see that a lot of these young men and women were involved in some sort of misdemeanor act. And so it was a barrier. And it has become a significant barrier in a lot of ways to getting them employed, even just for summer jobs. But let me tell you what that does psychologically. I mean when those sorts of things happen and when they meet with...and when they go out and apply for work or apply for a job and this misdemeanor comes up for something that happened when they were a child, five or six or seven years ago, because some of the young men and women we're talking about now are in their mid- and, in some cases, late-twenties. But they still have these misdemeanor records that occurred when they were 14, 15, and 16 years old. They still have those barriers. And what happens when individuals lose hope? And that's what I'm primarily concerned about. These young people, before coming to our summer jobs program, had literally no hope. And after the summer job program is over they, for the most part, have no hope because there's nobody that is going to intervene for them. We will to the extent that we keep them on...keep them as part of our records and as much as we can with the limited number of folks that we have, you know, we try to provide help for them and assistance for them. And we do get involved as much as we can. But there is...that barrier amounts almost to a death sentence for some of them, and so we've got to...I think this is the opportunity for them, as Commissioner Rodgers said, and I can't agree with him more wholeheartedly that this is the time, this is the place, we are the group that can get this done. We have made significant progress in a number of different areas to change the dynamic and give people in our community and various communities around this state hope, something that they have not had in a long time. And for us, we almost cannot drop the ball now. We have to move forward, we have to get some of this done. And we have to continually come back to make sure that if there are gaps that need to be filled, that we need to fill these gaps because right now we have a significant number of people who don't have hope. We're trying to give them hope. We're trying to help them learn how to be responsible. And the only way to do that is to clear up some of the language and eliminate some of the barriers that currently exist. [LB800 LB923]

SENATOR ASHFORD: Ben, thank you. And there is no question that your work is miraculous in north Omaha. We have talked about this before. This isn't the first time you've brought this issue up. Any questions of Ben? Thank you and keep...well, you will. [LB800 LB923]

BEN GRAY: Thank you. [LB800 LB923]

SENATOR ASHFORD: ...well, you will, you will. It doesn't take me to tell you. [LB800 LB923]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

BEN GRAY: Oh, no question, no question. Thank you. [LB800 LB923]

SENATOR ASHFORD: Okay. Chief Hayes. [LB800 LB923]

ALEX HAYES: Good afternoon. My name is Alex Hayes. I'm the chief of police for the city of Omaha. I'm here to support this bill. The...LB800 is the one that mainly concerns me. The one provision that I have a slight issue, it's not a strong issue, and it would be with the civil citation. I liked what you said earlier and I think it was very important, Senator Ashford, when you talked about nonviolent offenses being considered because, that is, my main concern would be the violent offenses that get covered in that bill. And I think the other thing I would suggest that you look at doing is maybe narrowing the focus on the civil citation to what types of offenses can be written or maybe should be excluded in that so we don't run into some kind of issue with a juvenile who is a violent offender, whether that be weapons charges, assault charges, that type of stuff, who slip between the cracks and we don't get a good opportunity to address those areas. And that's really about all I had. [LB800 LB923]

SENATOR ASHFORD: Chief, thanks. And congratulations. [LB800 LB923]

ALEX HAYES: Thank you. [LB800 LB923]

SENATOR ASHFORD: Questions? We're glad you're there and here. Thank you. Okay, Nicole Goaley. [LB800 LB923]

NICOLE GOALEY: Good afternoon. My name is Nicole Goaley. I'm a deputy Douglas County attorney, been practicing in the juvenile division for 15 years and I currently supervise the Juvenile Division for Don Kleine. Thank you for the opportunity to be here today. Many, many aspects of the bill we are fully supportive of, including all of the interventions on behalf of juvenile justice specifically with regards to parental accountability. I believe that that's extremely important, as Judge Crnkovich already spoke about, to be able to have parents ordered to comply with some rehabilitative efforts that will assist the juvenile in being successful and successfully completing the court orders. With regards to truancy, we are actively involved and participating in truancy. I would welcome any resources put in place in regards to dealing with the truancy issue that we are dealing with in our community and that our entire state is dealing with. And as far as moving up hearings, absolutely having immediacy. But the problem is, on occasion the hearings have been held, the judges have completed their orders, the youth are waiting for a placement, and I think sometimes we're not looking at that part of it. Everyone is looking up-front that we can't get into court, we can't get the evaluation done. But, in fact, there are regular groups that meet every week to go over who are the children in the youth center that are waiting to be moved out, and that becomes an issue, the ones that have gone through the whole system and are waiting

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

for that. With all that being said, I also feel strongly about cautioning, as Judge Crnkovich did, with some unintended consequences in terms of not being able to detain status offenders. I have often sat in court hearings on a child who might have come to the attention of the juvenile court by way of a truancy or a status offense, and it comes to the attention of everybody in the courtroom that: that child may be very heavily gang involved; that their parents may be afraid for who is going to come to their home that night; that that child is involved in a relationship with somebody of an older age; that that child has been reported missing several times over the past month; that there are drugs involved. And to sit there and participate in something like that and know about the safety concerns for that child at that very moment and not be able to recommend and have a judge for the community and child's safety at that moment to detain until the appropriate long-term placement can be found would be frightening. [LB800 LB923]

SENATOR ASHFORD: And I think we can...you've addressed that to us and you're absolutely right. And we need to address that in the bill. And you're absolutely right. [LB800 LB923]

NICOLE GOALEY: I really appreciate it, thank you. With regards to civil citations. I think that the idea is wonderful, but my concern is what are we trying to accomplish. I think what we're trying to accomplish is immediacy of services to youth. [LB800 LB923]

SENATOR ASHFORD: Or lack of a record. [LB800 LB923]

NICOLE GOALEY: Both...that was my second thing, okay. For the immediacy of services that is occurring on 15 years and younger because they're street released, they're immediately referred from OPD to the county attorney's office in Douglas County, immediately referred to the JAC. And within a seven-day period of time, for the most part, we have that. Our concerns and dilemma in Douglas County is the 16 and 17-year-olds who are going to...don't reach us in a timely manner. If they get to us, it could be three months before they waive their speedy trial and have intervention at the JAC from the time of offense. And certainly we have specific examples that we could share. But for the most part, we are reaching immediacy. The records, my understanding with regards to, again, anyone 15 or younger that is cited for...an example would be shoplifting, we're going to put on their record in the mainframe for law enforcement, juvenile diversion. That information is never disseminated to anybody. There is never a court file on that case. There's already a statutory provision in place, 43-249, which indicates that it's not an arrest. So to my knowledge there would be no way for any employer or educational facility to be able to know that that occurred on behalf of that child if they were 15 and younger. Our dilemma is coming with the 16 and 17-year-olds who are ticketed as adults. The information is inputted on JUSTICE. And when the recruiters come to our office, they are bringing printouts of JUSTICE on the 16 and 17-year-olds. It has not been disseminated by law enforcement. It has not been, again, disseminated by juvenile court because there's no file. And it has not been

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Transcriber's Office

Judiciary Committee
January 27, 2010

disseminated by any county attorneys offices. I can say with regards to the other county attorneys across the jurisdiction, some concerns about not being able to detain status offenders, as I said, some concerns with civil citations in terms of they don't have juvenile assessment centers or diversion offices in every city like Omaha does. And some concerns with regards to the records that we have that system in place in terms of the sealing of the records. But we want to assist in any way we can in this juvenile justice system improvement endeavor, wish to fully participate and be helpful in any input or any assistance that we can be. [LB800 LB923]

SENATOR ASHFORD: And you have been. [LB800 LB923]

NICOLE GOALEY: Thank you. [LB800 LB923]

SENATOR ASHFORD: And we do appreciate all the input you've given us. And we do get...throughout the year, we've talked to many, many people who have issues with the sealing of the records. And these records are getting out there clearly in the misdemeanor cases that are not in juvenile court. And we just need to clarify so everybody knows what the rules are, and you've been helpful in getting us there. [LB800 LB923]

NICOLE GOALEY: I appreciate that. [LB800 LB923]

SENATOR ASHFORD: Yeah, thanks. Any questions of Nicole? Yes, Senator Lathrop. [LB800 LB923]

SENATOR LATHROP: Can I just...kind of a background question because I don't know the answer to it. And that is, is there an alternative to detaining young people? If you think that their safety is a concern and they shouldn't be going back home for a lot of different reasons, is there an alternative to the Youth Center? [LB800 LB923]

NICOLE GOALEY: I believe that there are, yes. I think there's many levels of care from home to electronic monitors to placements where they are highly restricted, but it's not considered the level of the Douglas County Youth Detention Center. However,... [LB800 LB923]

SENATOR LATHROP: You suggested that there is reasons why you...if this...if we've gone too far in the bill with don't detain these guys, and you're saying there's some times when really detaining them is a good idea so they don't go and mix it up with a 23-year-old gang member. Is there an alternative to the Youth Center? [LB800 LB923]

NICOLE GOALEY: Not that would...on that occasion, on that day, at that moment for that child, I don't believe so. Now, it's case-by-case, but the youth in Douglas County at least are cutting off their electronic monitors. I can give examples, in the past two

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

weeks, of 12-year-olds who have run with, you know,... [LB800 LB923]

SENATOR LATHROP: Those are people that we would detain because we don't trust that they're going to be able to do what they're supposed to or they're not going to be back in court when they should be. But if we're waiting on some kind of an evaluation, the answer is, there's no place to put them other than the Youth Detention Center? [LB800 LB923]

NICOLE GOALEY: No, no, I don't agree with that. I think that the judges very often, and the prosecutors, recommend some evals, occur at home. The community-based evaluations occur at home. Some of the evaluations occur in a placement setting, for instance, a group home. Some of them, like a residential setting. Very few.... [LB800 LB923]

SENATOR LATHROP: Those aren't the circumstances that you've just expressed concern about though, right? [LB800 LB923]

NICOLE GOALEY: Right. [LB800 LB923]

SENATOR LATHROP: The concern you have is on some occasions you think, and I think the judge said this as well, that there might be a good reason to detain them because the situation at home isn't good or you're worried about them going on the street and mixing it up with older kids. I guess, I'm just...I've been to the Youth Detention Center. We've heard what happens at the Youth Detention Center. And kids mix it up with folks that are even worse than they are, and they're learning bad things and getting drawn into a bad crowd. I was just asking if there's...is there some other place they can go or is that it? We got to pick either the Detention Center or... [LB800 LB923]

NICOLE GOALEY: In Douglas County, to my knowledge, that the county would have and the judges have access to that would be this secure, in a dire situation of some of these youth that haven't committed a law violation, came to the attention by virtue of their running or their truancy, and the safety issue is put out on the record. I do believe that there are plenty of occasions where that is the only placement that would be available in Douglas County for that time being to keep that child safe and alive. I truly believe that the judges, when they order that on a 3B offender and when it's recommended by prosecutors, fear for the safety of that child if they walk out of the courtroom. But if they go with a deputy to the Youth Center until we can figure out what would be the right level of placement for intervention and safety and they move on... [LB800 LB923]

SENATOR LATHROP: But doesn't that mean then that they're headed to the Detention Center for weeks at a time? [LB800 LB923]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

NICOLE GOALEY: Not necessarily. It depends on...this probably signs like a line, but it is so case-by-case, and the needs of that child and what evaluations may have already been completed or that we're waiting on. The child may get picked up. And we hear that they're three-fourths done with the evaluation, they just need two more days of it. So no, I don't think that that necessarily means that they're going to be there for 60 days, not at all. Sometimes with these status offenders it means we just...it's going to take a day or two to figure out where there is a bed available and a placement that's going to be secure enough for this child that they don't run. But right at the moment, when you're in the courtroom, to let that child leave the courtroom, without going with a deputy to secure detention, when there's that grave a safety concern, and it does occur, I know for sure it occurs in Douglas County, I have to concur with the judge in terms of that that would be tying their hands in assisting with that child. [LB800 LB923]

SENATOR ASHFORD: We need another facility other than the Youth Center, wouldn't... [LB800 LB923]

NICOLE GOALEY: I agree. [LB800 LB923]

SENATOR ASHFORD: Okay. I think that's what Senator Lathrop was getting at. I mean we know there are cases where they're going to run. [LB800 LB923]

NICOLE GOALEY: Right. [LB800 LB923]

SENATOR ASHFORD: And we know there are cases where they could cause additional problems. We can't have that Youth Center be the only option anymore. [LB800 LB923]

NICOLE GOALEY: I don't disagree. [LB800 LB923]

SENATOR ASHFORD: Okay. And I...yeah, just a second. I just want to...and so...but you're right and each case is different. And in looking at aggregate numbers on a chart is very difficult to assess what we're talking about because you're the one dealing with it every day. And there are children that are going to run and cause additional problems at home. And we have to find...but we need something other than what we have. Nobody can go to that Youth Center and believe that that's a place for a kid to be, for a child to be for...the average is 30 days. That's not your fault, that's not Judge Crnkovich's fault, that's...at all. That's an issue of getting the assets deployed, the resources deployed in a way that we can find another place. [LB800 LB923]

NICOLE GOALEY: And actually, Senator, you described the exact situation that occurs before these runners get to the judge and violate court orders and then, in fact, can be detained. Before these children get to the judge, law enforcement, county attorneys, we're working on all the missing juveniles, all of the situations where their safety is in

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

danger, they are in danger if they haven't committed a law violation, and they're running, running, running. And who they're running with and what they're running with and then they can't be placed anywhere, even... [LB800 LB923]

SENATOR ASHFORD: Right. And... [LB800 LB923]

NICOLE GOALEY: ...and we don't have somewhere. [LB800 LB923]

SENATOR ASHFORD: Right. And I think we just need to sign the light on this fact that you guys can't...you have to do what you have to do. And you have to protect the safety of those children, their families and the public. And it's a very difficult task. But we do need other options, at least in Douglas County. Other counties have done more work. Lancaster has done some maybe better work on getting some facilities that are more options. [LB800 LB923]

NICOLE GOALEY: That would be wonderful. [LB800 LB923]

SENATOR ASHFORD: Yeah. Okay, Senator Council. [LB800 LB923]

SENATOR COUNCIL: And, Senator Ashford, all I wanted to do was make a comment that we're looking at the bill, LB800. And a lot of it is taken from the recommendations of the study group. But a lot of the recommendations of the study group aren't reflected in LB800. And one of them was that we need secure alternatives to detention. And the reason that that's not in the bill is because there are costs associated with developing, establishing, expanding those secure alternatives. I just wanted to point out that that's something that the study group absolutely included in their recommendations that we need...when we have these situations where that child needs to be secured either for his or her safety or the safety of others, our only option in many cases right now is detention. And that's something to look towards. But I just wanted to acknowledge and recognize that the study group did, in fact, recommend establishing, expanding a secure alternative to detention. [LB800 LB923]

SENATOR ASHFORD: Nicole, thank you very much for all your cooperation. [LB800 LB923]

NICOLE GOALEY: Thank you. [LB800 LB923]

SENATOR ASHFORD: Mark. I see Todd Reckling is here. Todd, I'm going to ask you, so think about this when you come up, is there some kind of restriction of 20-beds that's out there that HHS...is Todd here? He was here. There's some sort of restriction on the number of beds, some sort of Medicaid or some kind of restriction that limits to 20 beds the kind of facilities that can be built for some of these kids. It's an issue raised by Boys Town. So I might ask you that question, if that at all rings a bell, when you come up.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

Okay, Mark. [LB800 LB923]

MARK YOUNG: Thank you. Good afternoon, senators. My name is Mark Young, Y-o-u-n-g. I'm the Hall County attorney. I appear on behalf of the Hall County Attorneys Office and the Grand Island Public School System. I'm primarily going to be focusing my remarks on the truancy provisions of LB800, although I will discuss some other aspects of the law violations. In general, there are some very good things in LB800. I think it is a wonderful and long overdue thing to have the parents specifically required to participate on these status offenders, if for no other reason than finally, at long last it will reinforce that still it's the parents' primary responsibility to help the system get their family back together. Another great aspect of the bill is the clarification of the administrative sanctions and the responsibility of the probation officer. That's going to go a long way to help. Both the Grand Island schools and the Hall County Attorneys Office are very supportive of the concept of solving truancy problems inhouse, in the school system. We have what I'm very proud of is, I think, a pretty innovative program where the school has come forward and partnered with my office. And so far we've been able to cobble together the funding. And we're doing essentially a family court...truancy court in the school system. And one of my attorneys is in the school system from 8:00 to noon every day, and it has worked really well. It addresses some specific issues, I think, for Grand Island's community, but it can be perhaps a model for some other communities as well. That said, we have some concerns with LB800 because of the fact that there's reference throughout referring to mediation. And we're concerned that by referring everything to a mediator, we're not going to be able to use the program we've been working on. [LB800 LB923]

SENATOR ASHFORD: And that's a great point. [LB800 LB923]

MARK YOUNG: Other schools are starting to work on this. Michelle Oldham who helped set this up will be testifying later and may comment on that as well. We also are concerned with the removal of excused absences from the ability to count those on truancy. Here's why. We have a limited number of cases. But you'll see every year parents who either are enabling their child by finding a doctor excuse or something or who lack the resources or the tools to get their kid to school even if there's a medical issue. And one of the things we've been doing, and we've had a lot of success, I think, in our truancy court program on those cases in specific is we bring in the nurse, we bring in the social worker, we bring in the school and work with the parents to make them understand there are ways to keep their child safe and healthy. But we'd really appreciate being able to count the excused absences as well. We are also concerned with the way time is counted before truancy actions can get going. It looks like there could be probably 18 days out of the semester before you'd ever hit some sort of meaningful intervention. That's probably too long. We like the way it's drafted now. It might be a good idea to look at doing either a specific number or 10 percent of the out instructional hours. That way that would kind of help with schools that have different

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

setups. The criminal provision and the amendment to that changing some of that to an infraction, I believe it would be better to keep that the way it is. It's rare if ever, at least in Hall County it is, the parent has gone to jail for not getting their kid to school. But I got to tell you, it is a pretty good tool, both with the parents of young kids...and with grade school kids I think it's the parents' fault. If the kid is not in school, it's the parents' fault. Older kids it may very well be the child. Even before we started this program, we had situations where judges were saying, you know, do you want to see your mom go to jail just because you can't stay in school for seven hours? And that will work. And so I'd ask you to consider that. Turning to the other issues of the bill, on behalf of the rural or more rural county attorneys, we have a concern with some of the time limits. If you're in one of the counties where you have a judge, a county judge just a few days a month, maybe two in some counties, it's going to be really tough. And because of the distances involved, you know, probably from December 22 to about January 2 or 3, you couldn't have safely transported a child from Madison, Omaha, or Lincoln to Grand Island for a hearing. Thank you. I'd be happy to answer any of the questions. I did have some other comments, but. [LB800 LB923]

SENATOR ASHFORD: Senator Lathrop. [LB800 LB923]

SENATOR LATHROP: Can I ask a question? I'm looking at the sealing the record thing, and it looks like we would seal records if requested to or maybe in some cases automatically from county court for a conviction when they're minors. [LB800 LB923]

MARK YOUNG: Right. [LB800 LB923]

SENATOR LATHROP: And my...a lot of the incentive in county court to take somebody up to juvenile court arises out of what was perceived to be having your record sealed. And I'm wondering if a consequence of having this bill passed would be that more kids who come in on a shoplifting, for example, don't motion themselves up to county court but just deal with it right there knowing that they can get a probation and then have their record sealed. Do we lessen the traffic up to juvenile court and probably make it one less hearing by affording people an opportunity to take care of the issue right there in county court and then seal the record upon successful completion? [LB800 LB923]

MARK YOUNG: I'm not sure, Senator. I have seen an early, I think, draft of some of the language in that bill. I haven't seen the final, so I'm uncomfortable. I think in general I'm very supportive of the idea of being able to seal juvenile records. I have some concerns. I think in general if people were able to seal the juvenile court record, they're more likely to stay in juvenile court where they know that can happen. [LB800 LB923]

SENATOR LATHROP: And if they conceal a county court record, though, wouldn't we find maybe a benefit of this bill will also be that more people will come in on their arraignment for shoplifting, take care of it, get probation from the bench completed, seal

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

the record, and... [LB800 LB923]

MARK YOUNG: Potentially. [LB800 LB923]

SENATOR LATHROP: It just seems like we're streamlining the process and maybe taking care... [LB800 LB923]

MARK YOUNG: Yeah, yeah. [LB800 LB923]

SENATOR LATHROP: ...of some minor one-time offenses. [LB800 LB923]

MARK YOUNG: Yeah, potentially. I do think you have to look at maybe on some of these like driver's abstracts. When you're 17 and you're on a DUI, that ought to be on your driver's abstract and... [LB800 LB923]

SENATOR ASHFORD: Yeah, I think they're excluded aren't they, or maybe they're not. I think they are. [LB800 LB923]

MARK YOUNG: Okay. Good. [LB800 LB923]

SENATOR LATHROP: Right. Okay. [LB800 LB923]

SENATOR COUNCIL: I think so. [LB800 LB923]

SENATOR LATHROP: It just occurred to me when I was reading the bill that... [LB800 LB923]

MARK YOUNG: I think that anything that can be done like that as long as they have the knowledge ahead of time, that would potentially be a benefit as well. [LB800 LB923]

SENATOR ASHFORD: Thanks, Mark. [LB800 LB923]

MARK YOUNG: Thank you, sir. [LB800 LB923]

SENATOR ASHFORD: As always, great ideas. What we're going to do next is we're going to take testimony from John Cavanaugh, Kim Hawekotte, and Hank Robinson. So, John, would you? [LB800 LB923]

JOHN CAVANAUGH: Mr. Chairman, members of the committee, it's a pleasure to be here. John Cavanaugh of Building Bright Futures, Omaha, Nebraska, 1004 Farnam Street, 68102. It's a pleasure to be here. I want to, first of all, commend you, Mr. Chairman and this committee for really years of effort and focus on this critical issue. Building Bright Futures came into existence out of a recognition by the community of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

Omaha and particularly the financial leadership of that community that we were experiencing an extreme level of crisis among our youth in our community in the metropolitan area of Douglas and Sarpy County. And then what we have seen over certainly the last five years is a continuing increase in the number of children that we're losing from our educational system, first of all, and our social system as well. And that is reflected in growing and continuing use of our judicial system and our juvenile judicial system, excessive numbers of incarcerations certainly in Douglas County, and excessive numbers of school absences and excessive truancy cases, which has particularly been exploding in this current school year. And Bright Future's approach has been that there is not a single cause to these problems and there's not a single solution, that you have to be comprehensive, that you have to be coherent. And I think that the approach that this legislation takes, LB800 which we support, has that same perspective and is an effort to recognize the magnitude of the problem, the scope of the problem, the various elements and components of the problem of losing our youth. And while there are elements that can be refined and improved, we're here to support the overall structure, the perspective that this legislation comes from, and the basic structural changes that you have incorporated in the legislation. We think it is directed at many of those critical elements, including reduction of incarceration which is extremely important both from the perspective of the best interests of the child and the best use of financial resources, both local and state. We think that the time frames and the work that has been done with the leadership of Douglas County and Commissioner Chris Rodgers has worked tirelessly throughout the year I think on critical components of this legislation, critical elements of reducing incarceration levels, and as important or more important, providing alternatives to incarceration. So we want to thank you for the longstanding effort here. This has not been a one-year commitment I know from you, Mr. Chairman, and every member of this committee have been highly involved. We appreciate that effort. We want to continue to work with you on that effort. We think this legislation is a milestone and a major step forward. [LB800 LB923]

SENATOR ASHFORD: Thank you, John. And that's great praise coming from you and it means a lot, and thanks for all your leadership in our community and your many, many years of leadership in the state. Any questions of John? Thanks, John. [LB800 LB923]

JOHN CAVANAUGH: Thank you. [LB800 LB923]

SENATOR ASHFORD: Kim. [LB800 LB923]

KIM HAWEKOTTE: (Exhibits 3-5) Good afternoon, Chairman Ashford, Senators. Kim Hawekotte, K-i-m, last name, H-a-w-e-k-o-t-t-e. I am the director at the University of Nebraska-Omaha Building Bright Futures School Engagement and Truancy Initiatives. Coming around to you, I have three documents that we've prepared for testimony today that we feel will be of assistance with regards to all the issues involved in LB800. We are in support of LB800. I've divided our testimony into two parts, and so I won't go into

a lot of detail in it because I know there's a lot of people here. The first document is testimony with regards to specific provisions under LB800 that we are in support of. There are two in particular that I really do want to stress at this time, and then the rest you can read about some of the other concerns or changes you might look at. First, is with regards to the statutory change of the provision that would give the juvenile courts authority to court order parents to be involved in services with status and delinquency cases. It's imperative that that happen. Youth don't live in vacuums. We have to be able to service the entire family with regards to that. The second is, as you all know because I've testified before you before, that we are opposed to placing any type of status offender in a juvenile detention facility. I have quoted to you within my testimony the research that is definitely there, how harmful it is to youth. It's also our position that just because we don't have an alternative service available, that doesn't mean we don't need to still do what's in the best interest of kids, and the best interest of a status offender is not to be placed in detention, it's to create the alternatives. There's also going around to you testimony with regards to the truancy statute changes under LB800. I want to draw your attention just a second to the graph that we've prepared that's nice and pretty and colorful because I deal better in colors. But with regards to the student population, it's our position that you have to look at it at two ways: You have to look at what is needed for all kids no matter where they are within the student population, and that we have on this chart that all kids need to attend, need to attach, and need to achieve. They need to advance within it, and there are certain programmings that have to be done within a school in order to ensure that that happens. But when that doesn't happen, then you develop your at-risk students, and you need to develop criteria to determine what those at-risk students are, what the assessments are for those youth, and what then the proper intervention is. I believe as Pat Connell said, the key has to be determining the right service for the right youth at the right time. If you don't do that, you are very much wasting limited and valuable resources. And the reason I bring this up is, within the truancy bill, and it is given more detail within my testimony, written testimony, is that we feel very strongly about the resource and reengagement center that could be done within the learning community in Douglas and Sarpy County, the reason being, even when you look at this chart here, you have school-based responses as required by the statute. And currently what happens under our current system if the school isn't successful, they go immediately to the juvenile justice system. As a system, we have never created community-based responses to effectively deal with these youths. And so you have to have that intervention level done before they go to the juvenile justice system. And the resource and reengagement center would be a way to deal with youth that are missing the 10, the 15, 20 days of school to figure out what the needs are...of that individual youth are and what the interventions are. And so within the bill, there's an explanation and why the chart comes in handy. Also, within my testimony with regards to the truancy statutes, I've included a lot of the relevant research that's out there as to why we need to be concerned with youth attending school, why that has to become a priority. And then I also did give suggestions and recommendations on statutory changes that would

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

be needed to create the frame work in which to do it. And, Senator, some of them do reflect what is currently in the bill and some are some other suggestions that we could do to clarify and so that we're building the system and the frame work in order to deal with these youth. So I would gladly answer any questions, otherwise it is detailed within the testimony. [LB800 LB923]

SENATOR ASHFORD: Any questions? Kim, could you just very briefly--or I could has Hank or whatever, whichever you think is best--what happens when a status offender comes into the system or is that...I suppose technically arrested maybe or what happens to...what's the word when the police...? [LB800 LB923]

KIM HAWEKOTTE: Not necessarily arrested, usually there's a referral made to the county attorney's office. [LB800 LB923]

SENATOR ASHFORD: Or there's a contact with law enforcement, often, sometimes. [LB800 LB923]

KIM HAWEKOTTE: Sometimes yes, sometimes no. A lot of times no. A lot of times with regards to status offenders, it's a referral to the county attorney's office because the youth isn't attending school and they're running away. [LB800 LB923]

SENATOR ASHFORD: Okay. But when that happens, they're not in school, they're not in detention unless they've done something...unless they have run away. [LB800 LB923]

KIM HAWEKOTTE: Right. If there's a law violation, then they might be in detention along with whatever status offense. But if it's a status offender at the very beginning, at that time period they're not in detention. [LB800 LB923]

SENATOR ASHFORD: The truancy cases that are in the detention center...I mean, you've done the...you've did this for a long time, but the truancy cases that are in the detention center in Douglas County now, for example, the 100 or 200 or whatever it is per year, are they for the most part have combined with some other offense? Why are they there, I mean? [LB800 LB923]

KIM HAWEKOTTE: What has happened is they have been adjudicated as a status offender, and then they have been placed on a disposition with certain court orders. They have then violated those court orders and not done something, so then they are placed in detention for a violation of a court order. [LB800 LB923]

SENATOR ASHFORD: And isn't that nationally one of the big concerns about detention centers and truancy and status offenders is these court orders that are out there that there hasn't been any other offense other than a violation of a court order? [LB800 LB923]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

KIM HAWEKOTTE: That's correct. And currently the United States Senate, it just came out of committee under the reauthorization for all the OJJDP funding is to change at the federal level with regards to that funding, the states have three years in which to take that provision out of their statute that you can be placed in detention as a status offender for a violation of court order. The statutory recommendations on LB800 does put us ahead of the curve if that bill passes the United States Senate. [LB800 LB923]

SENATOR ASHFORD: Right. And the committee did...or the Legislature did pass a bill on evaluations prior to placement in the...what did we do? [LB800 LB923]

KIM HAWEKOTTE: That's with regards to the OJS population, yes. [LB800 LB923]

SENATOR ASHFORD: That's the OJS. I'm sorry. Okay. That's a different thing. Okay. Thanks. Thanks, Kim, and thanks also for all your work with our committee for so long. [LB800 LB923]

KIM HAWEKOTTE: No problem. Thank you. [LB800 LB923]

SENATOR ASHFORD: (Laugh) Hank. [LB800 LB923]

T. HANK ROBINSON: Good afternoon. Hank Robinson, I run the Consortium for Crime and Justice Research within the School of Criminology and Criminal Justice at the University of Nebraska-Omaha. I'm here today to testify neutrally with regard to LB800 and LB923. There are a number of laudable goals and aspirations in that and that's...there's a lot of very good things in the bill. I'm really here to talk about something that no one has brought up yet and that is the fiscal notes that are attached to these two bills. You know, Nebraskans are famous for their make-do-with-what-we-have attitude. In fact, some of the legislation contained within LB800 in some respects is our best attempt and our deliberate attempt to try to make do with what we have instead of addressing the core issue which is a lack of resources. I don't think there's anyone in the state of Nebraska, Judge Crnkovich, Nicole Goaley, anybody who thinks that status offenders ought to be detained in the Douglas County Youth Center or any other youth center. The problem is there's no alternative placement for it. So when you're taking a look at these two bills, the caution I would offer is that to pass the bills containing provisions that are going to punish the people who are doing the work trying to help these kids would make the situation worse, would not be helpful. And the example I would give you with regards to the sealing of the records, for example, the fiscal note on LB923 suggests there's a negligible impact. There were about 15,000 kids arrested last year in the state of Nebraska and some of those were nolle prosequi and some of them were prosecuted as adults, probably, and some of them were prosecuted as juveniles. But, I mean, if you just start doing the math. If it takes a county court office, county court's clerk about half an hour to seal up, you know, to go from the beginning to end to

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Judiciary Committee
January 27, 2010

start sealing up records, in the state of Nebraska you're looking at about \$5,800 of labor. And granted that's not going to break the bank, but if there are no provisions made to appropriate funding back to the court system to support this extra work, it is going to punish the people that are out there already doing this. Civil citation is another one that has some potential land mines in it from a fiscal standpoint. We received reports from around the state of Nebraska that under the No Child Left Behind and the Zero Tolerance Policies that school districts have been compelled to adopt, the districts are increasingly relying on law enforcement to sell what used to be a typical disciplinary event at the school. Right now, a law enforcement officer goes out there and maybe they can settle that incident without issuing a citation because it would be a criminal citation or maybe they can't. But the reality is, law enforcement is standing there on the front lawn with the principal with his hand around the scruff of some kid's neck, and to have a civil citation in the back pocket to pull out and go, well, this is no harm, no foul, what you're going to do is you're going to increase the number of kids that do impact the juvenile justice system. [LB800 LB923]

SENATOR ASHFORD: Well, we're not saying that. We're saying they can go to the assessment center. [LB800 LB923]

T. HANK ROBINSON: Well, that's what...that's the point I'm getting to. Except for three or four of the major counties in the state of Nebraska, the rest of these counties don't have assessment centers, and the mandatory diversion is absolutely what should happen, except that probably 85 percent of the diversion programs in the state of Nebraska have one program or they have two canned programs, and they may have a part-time employee making \$6,000 a year handling the diversion in those counties. And so if we end up increasing the level of mandatory diversion, that is absolutely what should happen in the state of Nebraska, but if these poor people that are out there working on budgets that are strung together from grants and crime commission money and a little bit of county aid money, if they see their caseloads double and triple, then they're the ones that are going to bear the brunt of this. And what we're going to end up with is people get out of those jobs just about as quick as they can find something else to do, and that's not going to increase the level of service and support on any of the juveniles. So like I said, there's a lot of very good things in here but we have got to pay for them, we have got to get resources underneath them or you'll only exasperate the situation, not improve it. [LB800 LB923]

SENATOR ASHFORD: Thanks. Obviously other states have experimented with redeploy programs that also...and I agree, obviously, you have to have the resources. If these programs work effectively as they have done in other states, those resources are redeployed in a diversion. I mean, you've got to start somewhere, as...we all keep wanting to call Chris Rodgers, "Congressman Rodgers." I don't know what that is, but what Chris was saying is, you know, we've got to start, we can't not start this or it will continue on and it'll be terrible. It is terrible. It can't be terrible anymore, (laugh) you

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Transcriber's Office

Judiciary Committee
January 27, 2010

know. So how do you...I mean, we've got to redeploy. Maybe we work into it over slow...
[LB800 LB923]

T. HANK ROBINSON: Well, but, Senator Ashford, you raised a really good question back to Commissioner Rodgers about the outstate counties. And I was in Valentine County (sic) two months ago or in Cherry County two months ago, and we were working up there and we were talking about their annual expenses for juvenile detention. Well, it varies. One year they don't have any; another year they may have \$60,000 worth. So if you go to a county board in Cherry County and say, look, this is a really noble, proper thing for you to do is to start a diversion program and you need to start putting some county money towards it, what they're looking at is why would we divert kids, and in some years we don't get dinged anything for kids, so why would we spend even \$5,000 a year? [LB800 LB923]

SENATOR ASHFORD: I get your point. [LB800 LB923]

T. HANK ROBINSON: And then with regard to Senator Lathrop's question on the seal of commitment thing, it actually raises a very good point. As defense attorneys, given the nature and intrusiveness that can happen from a juvenile court filing, I think there are a lot of kids that if faced with just pay the fine and get it over with or do the probation and get it over with, there's a lot of defense attorneys in this state, we have a lot lower chance of a probation officer catching you do something wrong on probation than we do if we send you to juvenile court and they do the assessments and stuff. [LB800 LB923]

SENATOR ASHFORD: Right. I think there's 1,600 filings, 1,600 filings in Douglas County of juveniles in the county court system, 1,600 last year. [LB800 LB923]

T. HANK ROBINSON: But Senator Lathrop's point is right. It will definitely change the incentive structure for pleading. [LB800 LB923]

SENATOR ASHFORD: Shift. Is that good or bad? [LB800 LB923]

T. HANK ROBINSON: It depends, I mean, the good thing is that when a juvenile gets in trouble, sometimes a shoplifting is shoplifting, and sometimes a shoplifting is the tip of the iceberg. The more those kids that go through an assessment process associated with juvenile court, the more likely we are to find out, you know, this wasn't a shoplifting, this kid has got some serious problems and lot of them stem back to his mom and dad. [LB800 LB923]

SENATOR ASHFORD: So how do we get prosecutors...I mean, well, okay. That's a long... [LB800 LB923]

SENATOR LATHROP: That is an interesting point because typically it's a defense

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

lawyer or the juvenile saying I want to go up to juvenile court. And now it may shift it to, wait a minute, let's take this kid and bump him upstairs to juvenile court so we can find out why he's got three shopliftings in the last six months. Interesting. [LB800 LB923]

SENATOR ASHFORD: Okay. Yes, Senator Council. [LB800 LB923]

SENATOR COUNCIL: Oh, just a comment. Thank you, Mr. Robinson, because you've addressed, and I think very thoroughly, some of the issues that I had mentioned that had been brought to my attention about support for the bill but, you know, whether it...whether we take into account the impact and the effect statewide and that that's something that we have to deal with. And it is a question of resources. It was just like when Ms. Goaley was testifying about there are these groups of youngsters who can't be sent home, may be a status offender, but there are other issues they just can't be sent home and we...and the study group recognized that. But because you've stated it better than I could have stated it, that we have this we-do-what-we-can-with-what-we've-got mentality, we can't do it. If, you know, if we're talking about keeping status offenders out of detention, we have to accept or recognize that there are going to be status offenders among that group who need a secure alternative and saying...just saying we're not going to send them to detention is not going to address it. We need to have that resource, a secure alternative, so. [LB800 LB923]

T. HANK ROBINSON: And, Senator Council, we have kids that are coming out of the YRTC-Geneva and YRTC-Kearney, for example. The OJS staff have done a fantastic job stabilizing those kids. They've been there. They are in good shape. But they don't have anywhere else to go but home either, and when they go home, the wheels come off because home is not a good place for them to be. [LB800 LB923]

SENATOR COUNCIL: Uh-huh. Right. Right. [LB800 LB923]

T. HANK ROBINSON: And so the very services you're talking about serve more than one population at more than one point in the system. [LB800 LB923]

SENATOR COUNCIL: Thank you. [LB800 LB923]

SENATOR ASHFORD: Yeah, that's...as usual, your candor is important. (Laugh) Thank you, Hank, and thanks for coming down. Those are great points. Let's hear about the Juvenile Assessment Center. Kim Culp and Todd and Corey, can you be the next testifiers, please, Todd Reckling and Corey Steel? Kim. [LB800 LB923]

KIM CULP: Hello. My name is Kim Culp, that's C-u-l-p, and I would like to thank you all for the opportunity to testify today. I have been the director of the Juvenile Assessment Center since it opened in 2003. Today, I am going to kind of limit what I talk about and I

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Transcriber's Office

Judiciary Committee
January 27, 2010

am going to talk about the idea of the civil citation and I wanted to talk a little bit about what we now do at the JAC and the impact that I believe that the civil citation would have. The JAC is a grant-funded department of Douglas County that is open 40 hours a week for the purpose of assessing the needs of juvenile law violators, referred to us by the county attorney, and status offenders, and then recommending a case plan that will provide opportunities for the youth to develop skills to hold them accountable for their actions and prevent them from reoffending. What we try to do, our goals at the assessment center, first of all, is to expedite the processing of juvenile cases. We want to do things as fast as we can, maintaining quality, of course. We want to assess the juvenile offender's risks, needs, and behavioral health concerns using standardized equipment; we want to recommend appropriate interventions to the county attorney; and we want to prevent the youth from entering the formal justice system. All referrals to the JAC are made by the county attorney's office. We see about 1,500 kids a year. This last year we had 1,589 youth referred to us. Most of the youth referred are first-time misdemeanor offenders, but the county attorney does refer youth more than once and for other than misdemeanor offenses. While the county board has not yet taken a formal position on the provisions in LB800, the county board established the JAC in 2003, in part to impact the length of time from arrest or citation to hold a youth accountable for their actions. We had a process evaluation completed on the JAC which showed that it's taking us an average of 24.6 days from the time the county attorney refers the case until the case plan is completed and approved by the county attorney and the youth is ready to begin services. While we feel that 24.6 days is moving in the right direction, the question is, can we do better? Okay? In November of 2009, the Douglas County justice elected officials and others had the opportunity to dialogue with Ms. Wansley Walters, director of the Miami-Dade Juvenile Assessment Center. One innovation that Ms. Walters discussed was the use of civil citations, which they've been doing in Miami-Dade for about three years now. This is a true systemic change which reforms the protocol on how police in the community address juvenile first-time offenders. The program allows law enforcement to immediately refer minor law violators to an assessment center, thereby shaving days off of the time between the offense and accountability and getting the youth to services much sooner. The county attorney will still have oversight of all diversion plans. I feel there are real benefits to the youth: first of all, no arrest record; secondly, their issues will be addressed through assessment and case management services and referrals to appropriate services. I think there are also real benefits to the system that we will be able to save time, screening and processing time, we'll be able to reduce some paperwork, and we'll be able to hold youth accountable in a more timely manner. Authorizing the implementation of civil citations in Nebraska will allow for the development of a pilot project to see if we can match some of the results in Miami-Dade program. A pilot project will allow us the opportunity also to look at the fiscal impact that this would have on our system. Are there any questions? [LB800 LB923]

SENATOR ASHFORD: Kim, what is the recidivism? You were in Miami-Dade and

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Transcriber's Office

Judiciary Committee
January 27, 2010

worked... [LB800 LB923]

KIM CULP: I was not in Miami-Dade. I did live in Florida but I was in Seminole County. [LB800 LB923]

SENATOR ASHFORD: Okay. But the Miami-Dade project has significantly decreased recidivism? [LB800 LB923]

KIM CULP: The recidivism on civil citations alone, and this was data that Ms. Wansley gave us, about a year and a half, it was 3 percent, so. [LB800 LB923]

SENATOR ASHFORD: Okay, 3 percent recidivism rate. [LB800 LB923]

KIM CULP: Recidivism rate. [LB800 LB923]

SENATOR ASHFORD: Do we know what it is in Douglas County? [LB800 LB923]

KIM CULP: I don't know exactly what the recidivism rate is but I can tell you that 85 percent of the youth who start, who go on a diversion plan, are completing that. [LB800 LB923]

SENATOR ASHFORD: Okay. [LB800 LB923]

KIM CULP: So not quite as good. [LB800 LB923]

SENATOR ASHFORD: Okay. [LB800 LB923]

KIM CULP: And it's true like, you know... [LB800 LB923]

SENATOR ASHFORD: But they bypass the filing. There's oversight but with civil citation the good thing is they're into the Assessment Center right away,... [LB800 LB923]

KIM CULP: Yes. [LB800 LB923]

SENATOR ASHFORD: ...within hours or a few days or... [LB800 LB923]

KIM CULP: In Miami-Dade, it's within hours. The way this legislation is written, which I support, is it would be within days and part of that is we don't have the infrastructure to...I'd love it to be within hours but the infrastructure... [LB800 LB923]

SENATOR ASHFORD: Well, it's amazing what you do. How many people work with you? Six? [LB800 LB923]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

KIM CULP: I have seven specialists who are doing 1,500 assessments a year. [LB800 LB923]

SENATOR ASHFORD: My gracious sakes! [LB800 LB923]

KIM CULP: They really work hard. [LB800 LB923]

SENATOR ASHFORD: Yeah, that's absolutely unbelievable. [LB800 LB923]

KIM CULP: Okay. [LB800 LB923]

SENATOR ASHFORD: Thanks, Kim. [LB800 LB923]

KIM CULP: Thank you. [LB800 LB923]

SENATOR ASHFORD: See, Todd or which one? Who's...Todd. Todd. [LB800 LB923]

TODD RECKLING: I'm going to go next. Thanks. [LB800 LB923]

SENATOR ASHFORD: (Laugh) Okay. [LB800 LB923]

TODD RECKLING: (Exhibits 6 and 7) Good afternoon, Senator Ashford, members of the Judiciary Committee. My name is Todd Reckling, T-o-d-d R-e-c-k-l-i-n-g, and I'm the director of the Division of Children and Family Services within the Department of Health and Human Services. I'd first like to thank you, Senator Ashford, for introducing LB800 and LB923. I'm going to be here today testifying in support of LB800 and in a neutral capacity in LB923. I'm going to limit my comments to LB800, and as you look at my testimony on LB923, if there's any questions I'd be happy to address those. Again, we'd like to support your efforts for bringing this legislation forward. The department appreciates the opportunity to continue to be involved in this discussion and we are willing to provide to the committee any assistance we can. We look forward to being that partner. One caveat, however, to our support of LB800 as it is currently written and drafted, is the fact that the department will incur General Fund fiscal impact due to provisions that would expand therapeutic services for certain parents whose children are involved in the juvenile justice system. While we are aware that treatment of the parents can significantly improve outcomes for a juvenile in the system, given the current economic climate and the fiscal challenge of the state, we do not believe it is prudent to expand these services at this time. As the committee knows, the juvenile justice system is very complex and involves a great number of professionals, agencies, political subdivisions, and other stakeholders. LB800 is reflective of the broad spectrum of juvenile justice. The department is involved in a number of those different areas. The department does support provisions in LB800 related to the issuance of civil citations and prohibitions on the placement of juvenile status offenders in detention centers. Both

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

provisions could lead to reductions in the number of youth in detention facilities. Placement of the youth inappropriately in a detention facility can adversely affect the outcome of their involvement in the juvenile justice system. Appropriate placement of the juvenile in an alternative to detention cannot only be appropriate but also have some cost savings to it. We also welcome the clarification by the Legislature on the Office of Juvenile Services' authority to perform court-ordered OJS evaluations on delinquent youth. In 1997, when OJS merged with the department pursuant to statute, it was our interpretation of current statute that still exists that OJS does have the authority to identify the appropriate evaluation to be completed after adjudication and prior to disposition. Therefore, clarification of our authority, as well as the establishment of new time frames for completing the evaluation, scheduling the disposition after the evaluation is received by the court, and limiting extensions of time to complete such evaluation may certainly assist in efforts to provide juveniles with a more timely and comprehensive evaluation that will meet their needs and also the needs of the court. Again, I want to thank you, Senator Ashford, for the thoughtfulness and the time you've put into this effort with your staff to address some of the very important juvenile justice issues. I look forward to the committee and, as you've heard multiple times today, the window of opportunity is here and we certainly appreciate moving forward on this effort in whatever ways we can as a department. [LB800 LB923]

SENATOR ASHFORD: Todd, thank you for all the time you've put in with the committee as well, and it's been very helpful. Any questions of Todd? Todd, what are the...I mean help us, in a general sense. When the detention center has 150 young people in it or whatever and we have...and they do the best they can with what they have, in fact they do work very hard with what they have, but to have an alternative out there that's realistic for some of the juveniles that we've discussed today where they have to go somewhere in a secure environment. Are there restrictions in Medicaid laws or whatever it is, regulations that restrict, for example, Boys Town wanting to develop a 40-bed alternative? Is there something...is there some 20-bed thing out there that I don't understand particularly that you're aware of or...? [LB800 LB923]

TODD RECKLING: I can elaborate just a little bit... [LB800 LB923]

SENATOR ASHFORD: Okay. Okay. [LB800 LB923]

TODD RECKLING: ...if you'd indulge me. I think there are a couple different issues in your question that are combined. [LB800 LB923]

SENATOR ASHFORD: Okay. [LB800 LB923]

TODD RECKLING: As far as Medicaid paying for services that are treatment related, in what we've discussed many times, medically necessary and authorized, there are limitations such as you cannot have more than two 20-bed facilities or the same level

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Transcriber's Office

Judiciary Committee
January 27, 2010

within the same campus. And I'm going to get out of my jurisdiction a little bit and I would default to Vivianne and know better not to talk about Medicaid when I don't know the right answer, but there are some restrictions on those treatment levels and, again, it's for the same type of level. So a facility could have, or an agency could have, different levels of care such as treatment group home level or residential treatment, but when you start getting into the same type of beds, there is a 40 capacity for Medicaid. [LB800 LB923]

SENATOR ASHFORD: 40. [LB800 LB923]

TODD RECKLING: Those are totally separate, however. I'd like to remind the committee that Medicaid does not pay for secure detention facilities. [LB800 LB923]

SENATOR ASHFORD: Well, if it's not detention but if it's a...well, I guess it's detention but what happens... [LB800 LB923]

TODD RECKLING: They pay...they pay... [LB800 LB923]

SENATOR ASHFORD: ...what about these other...what... [LB800 LB923]

TODD RECKLING: They pay for treatment. One of the things that I currently pay for out of my system is not a treatment setting but what we determine like an emergency shelter care. [LB800 LB923]

SENATOR ASHFORD: How does emergency shelter work? What do we need to do to have an emergency shelter in Douglas County, for example? [LB800 LB923]

TODD RECKLING: There are child caring licensing requirements, but I think the other issues you've heard today is resources. I'd just throw out to the committee, you know what you keep talking about and keep hearing is how to shift resources, and I'm only talking about state wards at this time. We have 6,239 kids that are state wards and, as you've heard me talk before, we want to move from having 70 percent of those kids in out-of-home care to in-home. What that means is the agencies that are working with us and trying to reform the system, both child welfare kids, status offender kids, and the delinquents are in this reform movement that is happening now. We are all collaborating to try to reduce the number of kids in out-of-home care. What that means in the future is we shouldn't have to build any additional beds. The question is, what do we do with those facilities that exist now as we move more toward in-home services with wraparound-type support services? [LB800 LB923]

SENATOR ASHFORD: So there are enough existing facilities as long as we move kids more into the... [LB800 LB923]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

TODD RECKLING: I think as we move into the future, the question would be the right timing at the right...Nicole talked today about is it happening today for the right youth in the right amount. I think as we move over the next couple of years that we will see those changes occur. Is it here today? We're not there yet. [LB800 LB923]

SENATOR ASHFORD: Okay. Okay, and I think for this bill we have to think about how to...first of all, the correct language on detention to make sure that we're not cutting our nose off on this thing. But then, secondarily, what sort of time frame is necessary to have this shift occur so that from status...to keep the status offenders out of the... [LB800 LB923]

TODD RECKLING: And keep in mind, it doesn't just have to be brick and mortar. You've heard testimony here today about some of those other services. Again, for the lesser offending kids, we have electronic monitoring, tracking services, what are some of those alternatives to detention. [LB800 LB923]

SENATOR ASHFORD: Right. Right. We have to get a better handle on that in the next couple weeks. But thanks, Todd. [LB800 LB923]

TODD RECKLING: Thank you. [LB800 LB923]

SENATOR ASHFORD: Corey. And then after that, Linda Cox. [LB800 LB923]

COREY STEEL: (Exhibit 8) Good afternoon, Senator Ashford and members of the Judiciary Committee. My name is Corey Steel, C-o-r-e-y S-t-e-e-l. I'm the juvenile justice specialist with the Office of Probation Administration. I'm here today to testify in a neutral capacity on behalf of both of the bills, LB800 and LB923. I'll specifically be talking about seven different issues that impact probation in LB800. First one I'll talk about is enacting graduated or administrative sanctions for violations of probation. Critical to working with juveniles on probation is to address their behavior problems as they occur. For example, there are many times where a juvenile may violate their probation by missing an appointment, testing positive for substance abuse, missing a curfew, but it just doesn't make sense to violate probation as the juvenile is basically doing well on probation and has not committed what is considered a new law violation. Rather than filing a violation of probation and bringing the juvenile back to the court, there is a means to hold the juvenile accountable by administering what is called a sanction. Of course, the judge and the county attorney are always notified about these sanctions and if they disagree they can bring that into the court. These sanctions, imposed immediately and in a graduated manner as soon as possible after the violation has occurred, are effective because imposing immediate consequences will greatly reduce the juvenile's potential of a repeat violation. A beneficial by-product of the sanction process is the savings of court time for not only the juvenile and the family but also the judges, county attorney, and stakeholders. Currently, there is no juvenile

sanction requirement specific to our juvenile population in law. Imposing graduated sanctions are permitted by adult statute and are written specifically to address probation violations as long as they are not new law violations. While probation officers do this routinely as a part of case management for adults on probation, the proposed sanctions will formalize this process and provide a graduated response specifically to juvenile probation violations. It is important for you to know that the National Council of Juvenile and Family Court Judges, "Juvenile Delinquency Guidelines: Improving Court Practices in Juvenile Delinquency Cases," recommends imposing administrative or graduated sanctions when working with juveniles as a best practice. A second piece of LB800 I'll address is evaluations, reducing the time frame and establishing time frames for the hearings. Probation's role in supervising juveniles includes reducing barriers that may contribute to the negative behavior problems and facilitate opportunities that will reduce high-risk behaviors. Research tells us that the probability of continued problems in the future increase the longer a juvenile remains in detention. Likewise, the quicker probation...the quicker probation can facilitate rehabilitative services to the juvenile, the probability of effectuating the behavior change increases. This works hand in hand with Probation's goal towards coordinated case management. The quicker we can have treatment recommendations, the quicker we can get services to the juvenile. The third is changing provisions related to temporary placement to emphasize the need to place juveniles in as less-restrictive environment as possible. By statute, Probation is responsible for deciding the temporary placement of law-violating juveniles in crisis who are delivered to them by law enforcement officers requesting assistance and possible detention. This is through juvenile intake. Through a structured decision-making process, probation officers are able to determine whether the juvenile requires detention and, if so, what level of detention is needed to assure both the safety of the juvenile and the safety of the community until the juvenile can appear for court. Nebraska Juvenile Code requires Probation to make juvenile detention decisions based on the least restrictive environment possible for juveniles, consistent with both the juvenile's and the community's safety. Probation's decision making in this process is severely impacted due to the limited number of less-restrictive alternatives available at that crucial time. We've heard that a couple times today. Due to the lack of less-restrictive and least-costly detention alternatives across Nebraska, juveniles are often placed in a more secured detention simply because that is what is available at the time. Number four I'm going to skip, videoconferencing. That just basically will help ensure timely manners in the rural areas of Nebraska where we have to travel several miles. We are in support of ending truancy. We know that that's an issue in the state of Nebraska and those juveniles that start in a truancy, they are at-risk for juvenile delinquency, so up-front services are better. Clarifying juvenile court jurisdictions: Probation's supervision of juveniles does not stop with the juvenile but also includes the parents. This coordinated approach to the juvenile delinquent behavior fosters optimum results in behavior change. One significant barrier we see is they need behavioral change, and when a juvenile receives treatment for their needs but the parents are not involved in that treatment, the juvenile has lack of support from their home environment. An example of

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Transcriber's Office

Judiciary Committee
January 27, 2010

this would be a juvenile ordered by the court to do family counseling for an issue in the home. If the parent does not cooperate with the treatment, the issue is not properly resolved. [LB800 LB923]

SENATOR ASHFORD: Corey, I think we're going to...we're going to stop there, and not because this is not important but just because we need to get through this effort. [LB800 LB923]

COREY STEEL: All right. Well, thank you, Senator Ashford, and I truly appreciate it. [LB800 LB923]

SENATOR ASHFORD: And thank you for your efforts. The one thing I would ask, the program you're doing with Douglas County, the diversion program, how many children have you successfully diverted? [LB800 LB923]

COREY STEEL: From going to the department, making state wards? [LB800 LB923]

SENATOR ASHFORD: Yeah. [LB800 LB923]

COREY STEEL: Currently, we're at 68 juveniles that have come to probation and we've diverted from becoming state wards. [LB800 LB923]

SENATOR ASHFORD: That's...and that's this year? [LB800 LB923]

COREY STEEL: That is since June of this past year, so the past six, seven months, correct. [LB800 LB923]

SENATOR ASHFORD: I mean that's really great work and thanks, Todd, and thank you for that and Douglas County. [LB800 LB923]

SENATOR COUNCIL: Senator Ashford, I'd just ask one question. [LB800 LB923]

SENATOR ASHFORD: Yeah, Senator Council. [LB800 LB923]

SENATOR COUNCIL: And I want to thank you, Mr. Steel, for your testimony. I was just going to ask if there was anything that's not set forth in your written testimony that you would want this committee to consider with regard to either LB800 or LB923? [LB800 LB923]

COREY STEEL: Well, I think that both bills, as I've told a lot of people, that even just the discussion of juvenile issues is very important. Last year LB253, this year these bills, it gets people talking about juvenile justice and that's real important to me. So that's why I really appreciate Senator Ashford and his leadership in this is just bringing forth. There's

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Transcriber's Office

Judiciary Committee
January 27, 2010

nothing in there that, you know... [LB800 LB923]

SENATOR ASHFORD: We don't need. [LB800 LB923]

COREY STEEL: True. Yeah. [LB800 LB923]

SENATOR COUNCIL: Okay. Okay. Thank you. [LB800 LB923]

SENATOR ASHFORD: Thanks, Corey. Thanks for everything that you've been doing. Kathy, and then let me...before...how many would like to testify? Okay, so we have...okay, come on up and what we're going to ask everybody, we're going to go three minutes instead of five because I just can't keep people here any longer than that, but...so why don't we start now and we'll do three minutes and proceed from there. Hello. [LB800 LB923]

LINDA COX: Hello, Senator Ashford and members of the committee. My name is Linda, L-i-n-d-a, M for Marie, Cox, C-o-x. I'm a special projects and data coordinator for the Foster Care Review Board. I want to take a moment to thank everyone for their work on ways to improve the juvenile justice system. And I just want to touch here today very briefly on a couple of the topics within LB800. First of all, I would like to express our support for the provision in LB800 that clarifies that the courts may require the parents, guardians, or custodians of a status offender to participate in therapeutic services necessary for the rehabilitation of the juvenile. The board has been on record recommending that a system be developed and put in place to provide services for these youth and their families. This recommendation was based on the findings from our reviews of the cases of many status offenders and law violators in out-of-home care whose behavior was the result of child abuse, neglect, or family situations. Of 182 status offenders recently reviewed, 82 of the youth, which is 45.1 percent, had experienced prior abuse or neglect in their lifetime and so it could be assumed that that was indeed at least one of the factors that led to these behaviors. Under the current statutes, these parents of youth cannot be compelled to address the root issues that led to the children's behaviors, and if they're uncooperative, the treatment received by the juveniles could be only partially effective, which impacts the children's ability to successfully reunify with their families and with their communities. It doesn't serve the needs of the youth, it doesn't serve the needs of the community at large. And so we are in favor of this clarification. And I'm also very grateful for the opportunity to talk about where the children are actually placed. Through the tracking of over 9,000 children who are in out-of-home for one or more days in a year, I know that during these past 18 years that I've been with the agency that there have been some children who were adjudicated 3A or 3B who have indeed been placed in detention centers. And I am grateful for the opportunity to discuss ways that we can focus on creating a broader, more accessible array of placement options so that the children and youth in these categories can be placed appropriately and have their needs met. Thank you. [LB800

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Transcriber's Office

Judiciary Committee
January 27, 2010

LB923]

SENATOR ASHFORD: Thanks, Linda. Any questions of Linda? Thanks, Linda. Why don't we start with Dave, go down...just go down the old line. I forgot to mention Sally Gordon is here. Sally, you've been here all afternoon. Thank you. Sally protects us in here so thanks. [LB800 LB923]

DAVE PANTOS: Thanks, Senator Ashford. Members of the Judiciary Committee, my name is Dave Pantos, D-a-v-e P-a-n-t-o-s. I'm the executive director of Legal Aid of Nebraska. We're a statewide, nonprofit law firm that represents low-income Nebraskans for free in civil legal problems. In 2007, Legal Aid recognized that there were more and more people calling us who had problems getting jobs because of things on the record, and part of our mission is helping folks resolve their civil legal problems so they can achieve self-sufficiency. You can't be self-sufficient if you can't work. And so we started what we call our set-aside project in our Omaha office where we have attorneys and paralegals working together to help folks who have something on the record, whether it's juvenile or adult, get those set aside so they can, you know, get something off the record so they can get jobs. So we have had every year scores and scores of folks applying for our services who have something on their juvenile record that is preventing them from getting a job. And just one clear example, we've been talking about shoplifting a lot today, we had a client, a woman who's a single mom with two kids who was trying to get a job. And, again, not the kind of situation where, you know, she's in college and going on to great things but has that barrier. It's someone who isn't in college, and needs to get something entry level to support her kids, who can't get a job. And we had to work pretty hard to get her shoplifting conviction from age 16 or age 17 off of her record so she could get a job as an entry level...as a nursing assistant, which is the typical kind of job for a lot of women who don't have college degrees, you know, as a CNA. And I think it would be really essential to keep in mind how there is an actual positive economic benefit to this. If someone can get a job, then they don't end up on ADC, welfare programs. They're working and making money means that they're not applying for our services so we can work on other cases. And, you know, just to conclude, since Legal Aid is facing probably one of its greatest budgetary crises since the early 1980s, be great to not have to worry about certain kinds of cases and focus on others. I think this bill, LB923, would help that along a lot. So I appreciate you for introducing that. [LB800 LB923]

SENATOR ASHFORD: Thanks, Dave, and that's a great message. Any questions of Dave? Good. Thank you. [LB800 LB923]

DAVE PANTOS: Thanks. [LB800 LB923]

SENATOR ASHFORD: Let's just go. Okay, you're next. I don't want to...I'm not going to...if you can all work it out yourselves, if you can work it out yourselves that's fine with

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

me. [LB800 LB923]

BRADLEY WHITE: (Exhibit 9) Yeah, I'm not cutting. She's with me. I'm Brad White. I'm a private practice attorney in Hastings. I'm also the chair of the house of delegates of the Nebraska State Bar Association this year, and it's my pleasure to be here this afternoon. I want to thank Senator Ashford for leading this committee and this effort to review some very important issues, perhaps there's no issue that the local courts deal with that's as complicated and time-consuming as dealing with the juvenile justice matters and we appreciate your comments. The Nebraska State Bar is in support of both LB800 and LB923. With respect to LB923 first, I will state that we echo the comments of Judge Irwin earlier. Judge Irwin is, as you know, a member of the Nebraska Minority and Justice Committee that was created as a joint committee in an initiative of the Nebraska Supreme Court and the Nebraska State Bar Association. We echo his comments and are very aware of the importance of the...clarifying the sealing process and what needs to be done in that regard. The student who testified earlier is a very good example of what can happen. There is confusion within the bar. I apologize to that student on the record, if any misinformation was given to him by our staff or any members of the bar, but I know I get...that's the one question I get from my friends of teens across the state the most. On LB800 I'm going to defer most of our comments here to Michelle Oldham, another member of our subcommittee that we put together. Just generally want to state that we are very supportive of the issue related to status offenders. The 2010 reauthorization of the Juvenile Justice and Delinquency Prevention Act mandates the courts to update these issues, and we expect that they will do so as long as...and that a time line be adopted for that purpose. We are supportive of restating the need for the least restrictive environment be used for juveniles. We are very supportive of the issue of videoconferencing in the courts in general and specifically with respect to this issue. We defer to the experts but are supportive of the issues of the learning community reintegration centers, the learning community grant situation, the reporting to the Department of Education, the Child At Risk Task Force, and the elimination of the three-judge panel. With respect to the other issues, I'll defer to other members of the bar who are here to address you and we all will be happy to answer any questions that you have. [LB800 LB923]

SENATOR ASHFORD: Thank you, Brad. Any questions? Thank you and thanks for the support from the bar. [LB800 LB923]

MICHELLE OLDHAM: Good afternoon. My name is Michelle Oldham, it's O-l-d-h-a-m, and I'm here speaking on behalf of LB800 on behalf of the Nebraska State Bar Association. I'm going to focus on two areas and then Ms. Madara-Campbell after me is going to focus on a couple. As Mr. White indicated, we are very supportive of LB800 as a whole. We have some suggestions regarding a couple of specific points. I was a part of the study group regarding this bill. We had about a dozen attorneys and four judges, I think, that participated in this and my comments are based upon the results of that. I'm

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

an attorney in...just a little bit of background, I'm an attorney in private practice. Prior to this, I was a county attorney for 17 years. Mr. Young was my boss and I was the attorney that actually partnered with the Grand Island Public Schools and started the program, the truancy program there, so truancy is an area that's very near and dear to my heart. I feel that we really need to work on it, but I do think that there are a lot of, I guess, sort of grass-roots programs that are springing up. I know Grand Island has that. I have since moved into private practice in Hastings and the Adams County Attorney's Office has partnered with the Hastings Public Schools and has implemented a program that they're working together, and I'm acting basically as a hearing officer on that program. And I would echo Mr. Young's comments that I'm a little concerned that the mediation would be a problem with that, but I am all in favor of alternative dispute resolution for truancy cases, particularly partnering with the schools. The other area I'm going to touch briefly on is the civil citations. I agree with the comments that have been made. Unfortunately, most of the counties do not have juvenile assessment centers. A lot of the counties do have diversion programs which would actually take care of this. When I was in the county attorney's office, we had a diversion program where it never showed up on the juvenile's record. I do have some concerns, with all due respect to law enforcement, with skipping the county attorney piece in this and having the law enforcement officer issue the citation and then having them go directly to diversion. I have to say, from my experience, when I was sorting the diversion people out, there were probably more times than not that I would find a case that in...I don't know if it's the heat of the moment or what but the officer would issue a citation and I would look at it and say, no, this isn't there, and weed that out before it even got to diversion. So I think having maybe cooler heads look at those before they go directly from the initial contact to the diversion is maybe a good idea. But I would be happy to answer any questions. [LB800 LB923]

SENATOR ASHFORD: Yeah, it's just amazing how many incredible people are here today. Any questions? It's just amazing. I mean...anyway, thanks. (Laugh) [LB800 LB923]

MICHELLE OLDHAM: Thank you. [LB800 LB923]

SENATOR ASHFORD: Let's have our next. [LB800 LB923]

JACKIE MADARA-CAMPBELL: Good afternoon. My name is Jackie Madara-Campbell, M-a-d-a-r-a , hyphen Campbell, C-a-m-p-b-e-l-l, and I'm here with the Nebraska Bar Association as well, part of that motley crew, I'm glad to be. My practice area is Omaha, Nebraska, and my firm is Family and Juvenile Law Omaha, Christensen and Madara-Campbell. We focus exclusively on family and juvenile law. This is our baby and we care about it a lot. And I thank Senator Ashford for his continued efforts. I'm here to comment on behalf of the bar association in support of the graduated sanctions concept of LB800. I am also part of that study group that met to discuss this legislation

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

and the consensus was that we are all aware that these kind of progressive sanctions have had success in other jurisdictions in reducing the detention populations and we think that that concept is consistent with the Juvenile Code's current emphasis on the least restrictive alternative as far as placements. The one suggestion that the bar association's legislative committee put together in our study group was that the language "impose a curfew" should be changed to "modify a curfew" since the court establishes a curfew as part of probation rules and several cities already themselves enforce a curfew. As far as the evaluations, the bar association supports the proposed time lines for evaluations and we would also recommend that the Judiciary Committee consider specifying that the time frames would only apply to detained youth because in rural courts it's rare that a juvenile is detained while being evaluated. Judicial travel to remote areas can complicate judges being able to meet the stated time lines. The bar association believes strongly that the extent of evaluations should be determined by the court. The department has the right to determine where and by whom the evaluations are conducted but we're concerned that if the department makes the determination of the extent/type of evaluation, and I believe this was stated earlier by Judge Crnkovich and several others, it will be determined on the basis of what they determine affordable rather than what the court deems necessary, i.e., those little evals that recommend the real evals. And I think I'm out of time. I have one more thing but we can... [LB800 LB923]

SENATOR ASHFORD: Go ahead. [LB800 LB923]

JACKIE MADARA-CAMPBELL: Oh, okay. The juvenile court jurisdiction over parents are...we're aware that the judiciary has expressed mixed reviews regarding the extent to which the juvenile court has jurisdiction to order and impose sanctions over parents. Judge Crnkovich expressed that as well. On the one hand, if the parental therapy is not in the order and the minor is a state ward, there will be no one to arrange or pay for the services. On the other hand, the juvenile court has no means to address failure to comply with these orders with the exception of removal of the child. We believe that this also raises due process issues which do need to be considered within the legislation, questions like are the parents or guardians entitled to a hearing, are they going to be appointed counsel, things like that. So those would be our concerns, but we are supportive of the legislation. [LB800 LB923]

SENATOR ASHFORD: Thank you. [LB800 LB923]

JACKIE MADARA-CAMPBELL: Thank you. [LB800 LB923]

SENATOR ASHFORD: And thanks for all your work. [LB800 LB923]

SENATOR COUNCIL: I have a question. [LB800 LB923]

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Transcriber's Office

Judiciary Committee
January 27, 2010

SENATOR ASHFORD: Yes, Senator Council. [LB800 LB923]

SENATOR COUNCIL: Yeah, thanks, Ms. Campbell. Do you have copies of your testimony? Did we get that? [LB800 LB923]

JACKIE MADARA-CAMPBELL: We do. [LB800 LB923]

SENATOR ASHFORD: Is it in this...is it in this list? [LB800 LB923]

_____ : (Inaudible) Mr. White (inaudible). [LB800 LB923]

SENATOR COUNCIL: It's the same. [LB800 LB923]

SENATOR ASHFORD: We have a list of all the issues. [LB800 LB923]

SENATOR COUNCIL: Okay. Okay. I just saw you reading and it was passed out while Mr. White was testifying. I didn't know whose testimony it was so we... [LB800 LB923]

JACKIE MADARA-CAMPBELL: Okay. [LB800 LB923]

SENATOR COUNCIL: ...what you were reading from is reflected in what was distributed. [LB800 LB923]

JACKIE MADARA-CAMPBELL: It's all...yes, yes, ma'am. [LB800 LB923]

SENATOR COUNCIL: Okay. Thank you. [LB800 LB923]

JACKIE MADARA-CAMPBELL: Okay. Thank you. [LB800 LB923]

SENATOR ASHFORD: Thanks, Jackie. Next, next person. (Laugh) Very good. [LB800 LB923]

ALICIA HENDERSON: (Exhibit 10) Good afternoon. My name is Alicia Henderson. I'm the chief of the juvenile division in the Lancaster County Attorney's Office and I am really testifying in a neutral manner today on this bill, and I guess what I would like this committee to think about is sort of how this bill got developed. It appears, especially from the testimony today, that it really is designed to address problems in one major metropolitan area in the state, and so I guess what I would like to do is to offer up some either assistance or some ideas or tweaks to make it perhaps more palatable or possibly to be done in the other places throughout the state. So I really...I mean I don't want to say that this is not a good thing that we're talking about but it may not be workable in other parts of the state and I think that we need to address that. I would like to first talk about the civil sanctions. I feel a little bit like a defense attorney when I say

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

that I oppose part of this which has to do with the parents do not comply with taking their child to...that the child would be taken into temporary custody. I see that there as a huge problem and that the best practice guidelines for delinquency prosecution is that a prosecutor must review the charge for sufficiency of the evidence before an intervention is done in a child's life. So no children should have to do any diversion program until a prosecutor says there's sufficient charge. So I think that needs to be tweaked as well. [LB800 LB923]

SENATOR ASHFORD: Where does that come from? [LB800 LB923]

ALICIA HENDERSON: The best practices for the delinquency guidelines. [LB800 LB923]

SENATOR ASHFORD: Because every place I've been says you got to go to civil citation. [LB800 LB923]

ALICIA HENDERSON: Yes, and what I am saying is that if you look at the Juvenile and Family Court Judges best practices, every... [LB800 LB923]

SENATOR ASHFORD: Oh, that best practice. I didn't read that one. No. (Laugh) [LB800 LB923]

ALICIA HENDERSON: Right, but that is...I mean that is the best practices of a prosecutor. [LB800 LB923]

SENATOR ASHFORD: Okay. [LB800 LB923]

ALICIA HENDERSON: Because otherwise children may have to do things, and maybe my defense counsel friend here will...would have to be doing things when there is not a sufficient charge and that... [LB800 LB923]

SENATOR ASHFORD: Fair enough. Okay. [LB800 LB923]

ALICIA HENDERSON: Yeah. The next one, the authority for secured detention, I think we've talked a lot about that so I will leave that one. The judicial control over where the disposition evaluations are done I think needs to stay in the judiciary. The truancy intervention ideas are good but, again, I don't want to limit experimentations being done in other counties such as Grand Island. Lincoln is looking to Grand Island for their practices. We are looking to change what we're doing because of a smaller town being able to do it. I'm not convinced that we need this particular intervention at this time. The juvenile probation violations, I'm very in support of that. We have been doing administrative or graduated sanctions in our programs anyway without authorization. And finally, the specific authority to order parents to do things, that's great. You do need

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

to amend another statute, which I have included here as well, if you're going to do that; 43-288 needs to be amended as well. As it relates to the idea of the ability to set aside convictions, that's already in both county court and in juvenile court. I think what we need to do is simply look at this, see if some of the automatic provisions would be...I don't want to automatically allow somebody who commits a third-degree sexual assault to have their conviction set aside. [LB800 LB923]

SENATOR LATHROP: Very good. [LB800 LB923]

ALICIA HENDERSON: Any questions? [LB800 LB923]

SENATOR LATHROP: I see none. Thank you. [LB800 LB923]

LIZ STANDISH: Good afternoon. My name is Liz Standish and I work in general administration for the Omaha Public School District. I'd like to provide just a little bit of insight and perspective on specifically one of the elements of the bill, the element of the bill being the movement towards unexcused absences for school. Just to give you a point of reference, the Omaha Public Schools, with the implementation of a new Student Information System this year, made the choice to go ahead and do all unexcused absences and also an additional element called period attendance, where every minute the child is in school is counted so that a student who has a skipping of a certain class period or a tardiness issue, those are accumulated into days and do accumulate into unexcused absences. With that, we found some challenges that you should be aware of since that is part of the bill that you're proposing. When you have a situation where a child, for example, a big one we dealt with this last fall would be H1N1, you have a mother who's actively engaged in the school setting, picking up homework, dropping off homework, doing everything she can to keep that child up to speed, and then the school is in a situation where they are making that referral to the county attorney. We need to be very thoughtful about that relationship between the school, the family and what can happen to that relationship when you're in that situation with that mother who's working so very hard to keep their child on track and then they feel as though maybe they've done something wrong in that case. And that's just a by-product that we've experienced. I could go on with many other examples, but that is a transition we made this year and I thought should bring to your attention. As far as the reengagement center, specifically within the metro area, we've had a great deal of success calling and reaching out to students and bringing them to a new program that all of you would be welcome to come see. It's called the Accelerate Program. It meets during three segmented blocks during the day for weeks, much like a college setup of an intercession so that students can acquire credits at a different fashion, a different pace either in morning, afternoon, or evening, an evening block. And I would just extend the invitation that if anyone on the committee would like to learn more about that program or see that program, it is something we started this year, have had a great deal of success. Lastly, I would like to offer OPS as a resource. We'd love to be involved in the refinement of this bill and offer

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

three suggestions today. One thing that is a frustration for school systems is the age 16 requirement. You know, we're really expecting students to stay in school until age 18, then let's go ahead and have that expectation be age 18. The other thing we find is maybe tying student attendance to driver's license or to employment. A number of our young people that miss school, it truly is because they're closing the restaurant at 1:00 in the morning and trying to get up and be at class at 7:30 the next day. We'd also like for police officers to be able to pick up juveniles during school hours who are not at school and take them to school. Currently, there are statutes that prohibit them from doing that, is my understanding. So those are just three ideas to bring to the table today but we'd like to offer, specifically for the school district portions, our assistance and invite you to come see that program that I discussed at any time and are happy to assist in any way. [LB800 LB923]

SENATOR LATHROP: Very good. And thank you for... [LB800 LB923]

LIZ STANDISH: Thank you. [LB800 LB923]

SENATOR LATHROP: ...OPS's input and cooperation. [LB800 LB923]

JANE MARTIN-HOFFMAN: (Exhibit 11) Good afternoon. My name is Jane Martin-Hoffman. I'm the executive director of the Nebraska Justice Center, and the Nebraska Justice Center is one of the six mediation centers in the state of Nebraska which were established under the Dispute Resolution Act in 1992. We've been doing a lot of...we've been doing truancy mediation from referrals from school personnel, from probation officers, and from the juvenile courts for many years now. We've had great success and we feel that mediation is truly one of the many ways to address the problems in the students' lives that cause habitual absences from the school system. One of the models I'd like to point out to you that Senator Ashford referenced was the mediation centers are currently facilitating prehearing conferences. These prehearing conferences in child abuse cases came out of the Eyes of a Child Initiative and they have proven to be greatly successful. You use these before a citation could be or even this...before a case would enter the juvenile court system, and they have decreased repeatedly the time in the juvenile court system as well as the time the child...children have been spending in foster care. We suggest that that would be the same model, collaborative model, that could be used to work with the families and the youth and the schools in the truancy issues. Father Boes made a comment about the cost to the community that truancy causes long-term. We think that by cutting this off in the beginning by addressing the real needs that need to be addressed you would spend a small cost on mediation-type cases. It takes two to five hours to maybe set a case up, maybe another two to five bringing all the stakeholders together, and this is a \$300 to maybe \$600 cost, depending on the complexity of the issue and upon the travel needs that would be required. We are concerned because of the cost of...in the bill it suggests parents and schools would take this, but it also would fall on the ODR centers who are,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

statutorily, are not ever to deny an indigent or a low-income family from mediation. So obviously we do have some concerns there. And very quickly, I have to talk very fast, we really feel that if you look at mediation as a whole as a marvelous tool to address conflict and the conflict that comes with truancy, you really need to address the needs that drive the emotions. And as Judge Crnkovich noted, it isn't just one thing that causes truancy; it's the psychological, the physical, the cultural. There are a lot of reasons why these kids aren't there. By bringing everyone together at one time to discuss them, you really do have an opportunity to address what services are needed, what is the problem, how can we make this work, and you can create options, that you're looking outside the box. One of the things that I say that we really have to think about is you...also that I really want to bring up is the...as an alternative to detention centers, the family group conference, which is a well-used tool by American Humane and it's been proven hugely successful. The family group conference brings those stakeholders together. They look at all the extended family as a place, a safe haven for these kids, where people do step up and provide an alternative for these children to resolve their issues and to go on into society. The current bill, in its implementation, I know we can work it out. I just want you to know that the mediation centers would be happy to help in any way they can. And thank you. Questions? [LB800 LB923]

SENATOR LATHROP: We appreciate their input and cooperation. I don't see any questions, so we'll let you go. Thank you. [LB800 LB923]

JANE MARTIN-HOFFMAN: Thank you. [LB800 LB923]

SENATOR LATHROP: We appreciate your patience today. [LB800 LB923]

MILFORD SMITH: I don't know whether my wife will or not. She is sitting out in the car waiting for me. (Laughter) [LB800 LB923]

SENATOR COASH: Should have told us. We would have bumped you up. [LB800 LB923]

SENATOR LATHROP: Well,... [LB800 LB923]

MILFORD SMITH: My name is Milford Smith, M-i-l-f-o-r-d S-m-i-t-h. I'm representing only myself here today. I support both bills. I'm somewhat surprised that I don't see anyone here from NSEA, School Boards Association, Council of School Administration for these bills affect schools. [LB800 LB923]

JAY SEARS: (Inaudible). [LB800 LB923]

MILFORD SMITH: Are you here? [LB800 LB923]

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Transcriber's Office

Judiciary Committee
January 27, 2010

JAY SEARS: I'm right behind you when you finish. [LB800 LB923]

MILFORD SMITH: Oh, good. I've been a school administrator for about 42 years before I retired 10 years ago. I don't have the problems that were referred here today because I've been in a small school. Parents pretty well know where their kids are at. When the kids get in a fight they see me. They don't want to see me very often. We have good parental support. But I understand the problems in larger schools and I do support that bill. The second one I have some concerns with. Part of it is because I'm not quite sure, after reading the bill, whether it applies retroactively or not. I have a grandson who is 18 years old and a senior in a school at Milford, Nebraska, lived with his mother and her second husband who had been convicted, a felon, for selling drugs, drug abuse, and alcoholism. He was beating up on my daughter one night down in the basement. My grandson went to the basement door, told him to knock it off. He said, I don't have to, you don't have anything to say in this house, this is yours and my mother's house, you don't have anything to say; I hear any more out of you I'll come up the steps and beat the blank out of you. Grandson said, you won't have to come up; I'll come down. About that time the stepfather ran up the steps, started fighting him. He was a senior in high school. He's about 6'1", an athlete. He was getting the best of the stepfather. The mother ran up the steps, tried to break them up, finally got them broke up, took the grandson out, got him in the car, said get out of the way, let's get out of here before something escalates. To make a long story short, the neighbors called the police, the police arrived, he was flagged down by the highway patrol, he and his mother were put on the ground, handcuffed, brought back; he was charged with terroristic threats, went to court in Seward County. The county attorney recommended that the charges be dismissed and he be placed on pretrial diversion, which he was. And he kept his nose clean for about six months and then he...by the way, he spent his graduation day in jail in Seward County because he couldn't get out. This was on a Friday night and he spent Saturday and Sunday in there until he could get out on Monday. Graduation was on Saturday and he missed awards banquet and graduation, which was punishment to him too. But anyway he was later, about six months, got in with some of his buddies, went out drinking, got caught. They pleaded not guilty; he pleaded guilty and received some more pretrial diversion things. He is just about done with pretrial diversion. He went to enlist in the SEALs last week. Was told he could not enlist in the Navy SEALs or any other branch because he had a felony on his record. That's all. [LB800 LB923]

SENATOR ASHFORD: Okay. Thank you, Mr. Smith. [LB800 LB923]

SENATOR LATHROP: Thank you for your patience too. [LB800 LB923]

SENATOR ASHFORD: And thank you, yeah, thank you for staying so long today. Well, wait a second. Come ahead. [LB800 LB923]

SARAH NEWELL: Actually, Senator Lathrop, I was going to address one of your

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Transcriber's Office

Judiciary Committee
January 27, 2010

questions if you want to stick around for two more minutes. [LB800 LB923]

SENATOR LATHROP: All right. [LB800 LB923]

SARAH NEWELL: Sorry. [LB800 LB923]

SENATOR LATHROP: The guy I'm supposed to meet is here, so. [LB800 LB923]

SARAH NEWELL: Okay. I'll be quick. Ladies and gentlemen of the committee, my name is Sarah Newell. I am a deputy public defender here in Lancaster County. I'm testifying on behalf of myself, as an attorney that has practiced in both juvenile court and the county courts, and also as a member of the Minority and Justice Task Force subcommittee that helped draft LB923. I'll address that first so that Senator Lathrop can get on his way. We obviously support the bill for all the reasons that all the folks before us, especially Judge Irwin, had testified to. Specifically, Senator Lathrop, you had asked about whether there is an incentive for youth at this point to plead maybe in county court as opposed to juvenile court. As a defense attorney, I would still advise them that it's probably better to still try to transfer to juvenile court. Because even though this bill would allow the records to be sealed and remain nonpublic, on a county court level that only applies to misdemeanors and infractions, and things like shoplifting are still enhanceable. So in that situation, you know, they get a first-offense shoplifting, they come back and even though the record is sealed, this bill doesn't eliminate or preclude them from being, you know, using that for enhancement. So there's still an incentive to treating things in juvenile court because juvenile court adjudications have a different legal significance in almost every realm than a conviction, which is kind of the problem that led our young student here who got in trouble because the bar association, I think rightfully, told him that's a juvenile court adjudication, it has a different significance, and so he went in giving that information. I can give you countless stories, though, of youth who have had that same situation come up because the employers who are not attorneys run the records, records that they may or may not be rightfully entitled to or may or may not be gaining access in a legitimate way. In any event, they have that access and they're looking that up and they're finding these records and they're saying, well, you were deceitful with me. And so part of what this bill does is to try to clarify that language. I know Ms. Henderson, who is our counterpart in Lancaster County, indicated that there are provisions in county court and also in juvenile court provisions now that allow you to set aside a record. We are using this language "sealing" because it's a clear statement of exactly what that means. We're providing a definition to try to clarify some of those issues. And I can address any other questions that might be had there. I guess Senator Council is not here but she also had a question about a straight discharge, which is what we call when you've completed probation but not necessarily successfully. Our office would suggest perhaps as a specific amendment to LB923 that we consider maybe after a youth turns 20 or 25, after they've aged out of the juvenile system, maybe just sealing their records automatically without them going through any

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Judiciary Committee
January 27, 2010

kind of procedure, one, because that kind of comports with what everyone thinks happens anyway and, two, because at that age, you know, they've moved on to bigger and better things. Hopefully they've been law-abiding, but if they haven't, then you probably have enough of a record in another regard that you don't need to rely on things that are this old. Just briefly with regard with LB800, we're generally in support of those provisions. Specifically the public defender's office is always in favor of creative thinking that helps divert kids out of the system and does not encumber them in the legal system, bringing them, you know, kind of widening the net issues. All the best practices that you've heard so much about indicate that it is better to get kids out of the system, one, because you get them used to it. They're...you know, once they're in the system, it's no longer...you don't fear the system anymore. When all your friends are on probation, you're not scared, you're not...you know, it doesn't have that same impact. And so we want to divert kids out of the system and address those problems in other ways, hopefully through community efforts. We would obviously have the same concerns that Ms. Henderson voiced with the civil citations, about temporary custody, and also with regard to parents. Obviously, you do need to correct the problem and if the parents are part of that problem, you need to be able to order them to do some things. However, it may be appropriate to give them legal representation and other due process rights. Those are things to just be considering as you're working on your committee amendments. [LB800 LB923]

SENATOR ASHFORD: Thank you. Any questions? Thanks. [LB800 LB923]

SARAH NEWELL: Thank you. [LB800 LB923]

SENATOR ASHFORD: Thank you very much for staying all afternoon. [LB800 LB923]

JAY SEARS: Good afternoon. For the record, I am Jay Sears. I work for the Nebraska State Education Association. Senator Ashford and members of the committee, we come here before you to let you know that we are in support of LB800. As an educator and representing the 28,000 educators in the public schools of Nebraska, we stand ready to work with you as you develop and do all those fun amendments to the bills. As an educator also, I've taken 8-10 pages of notes. I've learned more about the juvenile justice system than I knew that was possible today, but everybody that's come up here has talked about making sure that we have kids in school so they learn and so they can go on to bigger and better things for us here in Nebraska, and that's what we stand for as NSEA. We're here to support in that process. And so as you work on the legislation, I guess I'm your contact because I sat through eight hours of testimony. So thank you for the opportunity to testify for you today. [LB800 LB923]

SENATOR ASHFORD: Yeah, it was incredible, it has been incredible testimony. Thanks, Jay. [LB800 LB923]

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Transcriber's Office

Judiciary Committee
January 27, 2010

JAY SEARS: Thank you. [LB800 LB923]

SENATOR ASHFORD: Next testifier. [LB800 LB923]

TIFFANY SEIBERT: (Exhibits 12 and 13) My name is Tiffany Seibert, S-e-i-b-e-r-t. I'm the policy coordinator with Voices for Children in Nebraska. Was going to spend several minutes gushing about the bills, so since our time is cut down I'll get right to the good stuff. [LB800 LB923]

SENATOR ASHFORD: No, that's all right, we can give you...that rule on that three minutes, that's gone now. [LB800 LB923]

TIFFANY SEIBERT: (Laugh) I thought that might be a little flexible. Right. [LB800 LB923]

SENATOR ASHFORD: Take whatever time you need. No, go ahead. [LB800 LB923]

TIFFANY SEIBERT: Well, we're here today in support of LB800 and LB923. We've submitted written testimony on both bills. I'd just like to highlight a couple of our concerns that no one else has brought up at this point. I think one thing, we are very supportive of increasing tools available to Probation, the administrative sanctions piece and making them kid-focused. We would like to see more clarity as to when those administrative sanctions should be utilized. When you look at any research on disproportionate minority confinement, the greater discretion we allow in the system and in the statute, we can often see really disparate courses for kids maybe committing the same violation. So the more clarity we could bring as to when administrative sanctions shall be used would be helpful. We also bring that same concern to the civil citations piece. The way the bill reads is that peace officers may give civil citations. That's, with all due respect to police officers, that's really wide discretion. We may have this youth committing the same offense and one youth takes one path and another takes another. So we would mirror Chief Hayes's concern and recommendation that perhaps we specify what offenses would receive civil citations. And then, thirdly, I guess one thing that we would like to see included in the bill are some specific data requirements. I know there's some regarding the at-risk piece and that's important, but also as we're implementing these administrative sanctions, we want to make sure that they're achieving our stated aim. So are we reducing the number of kids that are entering detention through probation? And same way with civil citations, are they having the impact that we want them to have? When we take kids to the JAC or diversion, sometimes those services come with costs and so if families with greater resources are able to pay those costs to get the kid successfully through diversion, that's great. But what about those kids who aren't able to afford those services? And then are we creating some income disparities? So in that vein, I guess I would second Hank's concern expressed earlier that we...some of these changes are great and can be done

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

on the cheap, but to really get some real reform we're going to have to invest some money in this in the long run. So we thank the committee and Senator Ashford for your commitment to this issue, for your staff. And I'd be happy to continue to work with you and answer any questions that you may have. [LB800 LB923]

SENATOR ASHFORD: Thank you. [LB800 LB923]

TIFFANY SEIBERT: Sure. And thank you for your patience in staying so long. [LB800 LB923]

SENATOR ASHFORD: Thanks. Well, thank you for your patience and being here all day. Yes. Yes, ma'am. Hi. [LB800 LB923]

MARY BAHNEY: (Exhibit 14) I am Mary Bahney, M-a-r-y B-a-h-n-e-y. I'm a licensed clinical social worker in Nebraska and, until I retired in June of 2008, I was a school social worker employed by the Millard Public Schools for 12 years. I'm a member of the Nebraska Chapter of the National Association of Social Workers, NASW, and I'm here today testifying for that organization, and I'll be speaking specifically about the portion of LB800 that addresses school attendance. NASW supports the goals of LB800 related to school attendance. We're pleased to see that the profession of social work and the skills and knowledge that school social workers bring to the educational setting are recognized in LB800. The attempt to prescribe a uniform school attendance policy across all school districts will be helpful to families who can be confused as they move from one school district to another. Removing the reference to excused and unexcused absences from written policy is positive, as the decision of what is or is not an unexcused absence may not be applied equally among the schools in the same district, much less across various school districts. With that said, NASW would like for the committee to think about some aspects of the bill that might need to be reconsidered. In rewriting the current statute, we do not want to create a process that will slow down the eventual goal of a student attending school on a regular basis. Oftentimes the school knows the reasons that a student is absent--out of town for a funeral, legitimate lengthy illness and, yes, unfortunately, sometimes a wintertime getaway. With that information reported to the school, would it really be necessary for a school social worker to contact the family to confirm that information? School social workers do a variety of things in addition to addressing school attendance issues. Requiring a contact just because a certain number of days of school have been missed rather than a more strategic analysis of why the student has been absent could take time away from other duties assigned to the school social worker. Limiting the number of days a student is absent to a semester rather than the entire school year could be problematic. If the clock for the absences begins ticking again at the beginning of the second semester and the process described in the bill is begun again, have we reached the goal of getting the student back in school as quickly as possible? The bill is written for all levels of students covered by mandatory attendance laws and I think we just need to make sure that it fits

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Judiciary Committee
January 27, 2010

the needs of all ages of children. I'll just skip over that part. And the bill also should be considered across what can be applied across the state. School districts that employ school social workers know their knowledge, skills, and abilities in working with families on a variety of matters, including school attendance issues. NASW envisions that any changes to the statutes related to school attendance would include and allow for the professional expertise that school social workers demonstrate as they work with individual family situations, rather than a one-size-fits-all process that may or may not reach the goal of the student who is attending school regularly. And we would just be...NASW would be glad to be involved in any parts of restructuring this and the role of the school social worker in that process. [LB800 LB923]

SENATOR ASHFORD: Thank you, Mary. Any questions of Mary? I think you make a great point about the two semesters because that's been brought to our attention numerous times,... [LB800 LB923]

MARY BAHNEY: Yeah. [LB800 LB923]

SENATOR ASHFORD: ...is it starts over and then you start the whole thing over again... [LB800 LB923]

MARY BAHNEY: Right. [LB800 LB923]

SENATOR ASHFORD: ...and pretty soon the child is 70 days truant and what's happened? [LB800 LB923]

MARY BAHNEY: And families know that. [LB800 LB923]

SENATOR ASHFORD: Yeah. [LB800 LB923]

MARY BAHNEY: They will know when the clock starts ticking. [LB800 LB923]

SENATOR ASHFORD: Yeah. No, that's a great issue. It's a great issue. [LB800 LB923]

MARY BAHNEY: Good. I'm glad. [LB800 LB923]

SENATOR ASHFORD: We need to address that. [LB800 LB923]

MARY BAHNEY: And I just...again, I kind of left...and I know we've all been talking about adolescents here, but I want you to know that some of these problems do start very, very young and I... [LB800 LB923]

SENATOR ASHFORD: If we did...if we...you're right. (Laugh) I think we just can't bite off any more. We've already... [LB800 LB923]

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Transcriber's Office

Judiciary Committee
January 27, 2010

MARY BAHNEY: I know. But...and I know in Douglas County they were always treated as educational neglect,... [LB800 LB923]

SENATOR ASHFORD: Right. [LB800 LB923]

MARY BAHNEY: ...and if that's the way it's going to be, fine and dandy. I just don't know if across the board, across the state... [LB800 LB923]

SENATOR ASHFORD: Okay. [LB800 LB923]

MARY BAHNEY: ...I just don't want to see a second grader hauled into court, thinking that they are a truant because it is the family issue there that needs to be addressed. [LB800 LB923]

SENATOR ASHFORD: I get it. [LB800 LB923]

MARY BAHNEY: Good. [LB800 LB923]

SENATOR ASHFORD: Thanks, Mary. That was very good. [LB800 LB923]

MARY BAHNEY: Thank you. [LB800 LB923]

SENATOR ASHFORD: Well, I don't get everything but I get a little of that. But thank you. Anyone else? Deb, you've been here all day. Do you want to say something? [LB800 LB923]

DEB ____: I'm available. (Laughter) You can call me knowing I'm... [LB800 LB923]

SENATOR ASHFORD: Hey, listen, all of you, thank you all. What? [LB800 LB923]

DEB ____: (Inaudible) she testified. Yes. [LB800 LB923]

SENATOR ASHFORD: Thank you. I can't tell you how pleased I am with everybody's participation and thank you for staying. We're going to, I promise you that we're going to work very hard to getting a comprehensive bill out. This committee has been wonderful in its support of juvenile issues and we'll get something done thanks to you. Thank you. (See also Exhibits 15-25) [LB800 LB923]