

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 7, 2025

BOSN: Welcome to the Judiciary Committee. I am Senator Carolyn Bosn from Lincoln, representing the 25th Legislative District. And I serve as chair of this committee. The committee will take up bills in the order posted. This public hearing is your opportunity to be part of the legislative process and to express your position on the proposed legislation before us. If you are planning to testify today, please fill out one of the green testifier sheets that are on the table at the back of the room. Be sure to print clearly and fill it out completely. When it is your turn to come forward to testify, give the testifier sheet to the page or to the committee clerk. If you do not wish to testify but would like to indicate your position on a bill, there are also yellow sign-in sheets back on the table for each bill. These sheets will be included as an exhibit in the official hearing record. When you come up to testify, please speak clearly into the microphone, telling us your first and last name and spelling to ensure we get an accurate record. We will begin each hearing today with the introducer's opening statement, followed by proponents of the bill, then opponents, and finally by anyone wishing to speak in the neutral capacity. We will finish with a closing statement by the introducer if they wish to give one. We will be using a three-minute light system for all testifiers. When you begin your testimony, the light on the table will be green. When the yellow light comes on, you have one minute remaining. And the red light indicates you need to wrap up your final thought and stop. Questions from the committee may follow. Also, committee members may be coming and going during the hearing, but this has nothing to do with the importance of the bills being heard. It is just part of the process, as senators have bills in other committees to introduce. A few final items to facilitate today's hearing. If you do have handouts or copies of your testimony, please bring up at least 12 copies and give them to the page. Please silence or turn off your cell phones. Verbal outbursts or applause are not permitted in the hearing room, and such behavior will-- may be cause for you to be asked to leave. Finally, committee procedures for all committees state that written position comments on a bill to be included in the record must be submitted by 8 a.m. the day of the hearing. The only acceptable method of submission is via the Legislature's website at nebraskalegislature.gov. Written position letters will be included in the official hearing record, but only those testifying in person before the committee will be included on the committee statement. Also, you may submit a position comment for the record or you may testify in person, but not both. I will now have the committee members with us today introduce themselves, starting on my far left.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 7, 2025

ROUNTREE: Good afternoon. I'm Victor Rountree, in District 3, representing Bellevue and Papillion.

McKINNEY: Good afternoon. I'm Terrell McKinney, representing District 11: north Omaha.

DeBOER: Good afternoon, everyone. My name is Wendy DeBoer. I represent District 10 in beautiful northwest Omaha.

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

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

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

HALLSTROM: Bob Hallstrom, Legislative District 1: Otoe, Johnson, Nemaha, Pawnee, and Richardson Counties in southeast Nebraska.

BOSN: Also assisting the committee today: to my right is our legal counsel, Denny Vaggalis; and to my far ri-- left is our committee clerk, Laurie Vollertsen. Our pages for the committee today are Ruby Kinzie, Alberto Donis, and Ayden Topping, all from UNL. With that, we will begin today's hearing with LB368 from Senator Hunt's office. Welcome. Not Senator Hunt, but welcome.

HANNA MURDOCH: Hello. Good afternoon, Chair Bosn, members of the Judiciary Committee. I'm Hanna Murdoch, H-a-n-n-a M-u-r-d-o-c-h. I'm Senator Megan Hunt's legislative aide. And I'm here today to present LB368 on her behalf. Senator Hunt wanted to relay to the testifiers that took the time to be here today because they care about this bill or our next bill up on the agenda that she is grateful for your time and advocacy and that her absence is not a reflection of lack of commitment to these bills. This is a rare occasion in which she's opted to remain in the Government Committee, on which she serves, so that she can participate in the hearing for a very high-stakes bill that's being heard there this afternoon. So just know that, under other circumstances, she'd be here presenting and listening to your testimony today because there-- these are some very great bills worthy of consideration by this Legislature. And now I will read her opening statement for LB368 into the record. And I'll note that I'm going to read her statement in her voice. So when I say "I" from here on out, I'm speaking on behalf of Senator Hunt and not myself. LB368 would create a, a bill of rights for Nebraska youth in the foster care

system. This is a bill that I brought a few times before in 2020, 2021, and 2023 in response to an interim study resolution I brought in 2019. The most recent effort in 2023 didn't get a chance to see an executive session, and I didn't get a priority for it, so it just didn't move. But I think it had the votes. In 2021, I had LB357, which got to General File but sat on the worksheet because it didn't have a priority and we just didn't get to it. Now, in my final biennium, I wanted to take a final swing at this because this is a bill which is noncontroversial, which has been really fine-tuned through extensive stakeholder input, and which stands to really make a difference for some of, of-- some of our most vulnerable kids at no cost to us. I brought this again this year at the urging of the Nebraska Children and Families Foundation, who tells me that they continue to hear from current and former foster youth about a real need and desire to see this passed. So I believe you'll hear from some of them after me. As background, in 2019, I introduced LR127 at the request of youth advocates and former foster youth to explore opportunities to clarify rights for Nebraska youth in state custody. After three listening sessions with over 50 current and former foster youth in Fremont, Lincoln, and Omaha, it became clear that youth involved in the welfare system did not know about the rights they had while in foster care. That study informed my LB941 in 2020, which was drafted based on input from youth advocates. This year's bill is the product of further input and collaboration among stakeholders to improve upon the work we did on previous iterations of the bill to remove opposition and incorporates the committee amendment from the last time it was advanced. That amendment was a hard-fought compromise we worked diligently on with DHHS, the Nebraska Court Improvement Project, county attorneys, and foster youth advocates in order to bring all agency opposition to neutral. Over 20 advocates with experience in Nebraska's foster care systems shared their input in the creation of this Youth in Care Bill of Rights. So it's been thoroughly vetted. LB368 also incorporates an amendment requested last time by Douglas County Sheriff Aaron Hanson. Previously, we had included YRTC youth in the bill. However, through discussions with the sheriff, we came to understand that many of the rights in the bill couldn't be implemented in the same way for YRTC youth. For example, guaranteeing youths in these facilities the rights to access religious services, equal opportunity for recreation, and family interaction cannot reasonably be guaranteed or put into practice in the same way as for children in foster care placements. We felt this was a reasonable concern and as such removed them from the bill. I'm grateful for the sheriff's input and I'm happy to work to get the bill to a place where it can earn his support. LB368 would create a detailed list of rights as it pertains to youth in child welfare placements.

That inc-- includes youth in foster family homes and in child caring institutions. The rights enumer-- enumerated in the bill include things like their right to remain connected to family members, to live in an environment that accepts their culture and allows them to practice their own religious beliefs, to receive support for their basic needs, to file a grievance if they feel their rights are being violated, and to be informed about and participate in any court proceedings related to their case. The bill specifies that youth age 14 and up will be provided this information about their rights in a developmentally appropriate manner by their caseworker at initial placement and at regular intal-- intervals thereafter. I've had some questions about some specific pieces of the bill, like, will this allow the youth to decline to participate in, say, a court-ordered drug or mental health treatment program? And the answer to that is no. We enumerate a list of rights in the bill with the caveat that the youth may exercise these rights if it would not be in violation of any court order or deemed contrary to the best interests of the child's health, safety, and well-being. So it is not a free-for-all for-- to give these youth unfettered decision-making power. The court, the department, and their guardians still maintain ultimate authority here. It's just meant to give them a better understanding of the basic things they should be entitled to and have the freedom to do if it is reasonably within the bounds of what the court has determined is in their best interest. Currently, DHHS is federally required to provide youth with notice of certain rights by the Federal Strengthening Families Act, and this is codified in the state statute. However, foster youth have indicated to me and their advocates that the notice given and the rights listed therein are inadequate. None of the youth-- none of the youth in our listening sessions indicated that they remembered having received notice of their rights when they entered the system. Current statute states that youth are informed of their rights by DHHS during their first 72 hours in care. Youth we spoke to indicated that, that if they are only informed of their rights during that initial removal period from their family home, the trauma of that moment prevents them from retaining and processing the information. Young people want these conversations to occur both initially and consistently afterward so that they are periodically reminded of their rights as they move through the foster system. 15 states have enacted similar bills of rights for youth in their welfare systems, which is a pretty good indicator that the federal requirement doesn't go far enough. As an overview, the bill does three key things. One, it ensures that youth in care are given notice of their rights. Two, it requires that youth are informed when they first enter the foster system and at regular intervals after that by their caseworker. And three, that they are made

aware of how to file a complaint through a grievance process if they believe their rights have been violated. I have an amendment-- if we can distribute that-- AM210, that was requested by the Sarpy County Attorney's Office this morning. It's just a small technical cleanup change to clarify our intent in terms of the population that the bill refers to. So we were happy to accommodate and appreciate them pointing this out. In Section 1(a), where we lay out which youths the bill of rights would apply to, they let us know that there are actually some juvenile delinquency cases in which probation actually places kids in foster homes for a short-term respite to allow parents and kids to calm down and take a breather while more permanent therapeutic arrangements are being made. So as written, the introduced copy would technically include that small group as well, which wasn't our intention because they are not under DHHS jurisdiction. So AM210 simply adds the proper language to clarify that we're narrowly addressing the child welfare population when it comes to foster placements. I'll let you read through the specifics of the rights enume-- enumerated in the bill and wrap it up here to let our testifiers speak more about the details. In summary, LB368 incorporates feedback from the Nebraska Children's Commission, Nebraska Appleseed's child welfare attorneys, DHHS, the Nebraska Court Improvement Project, the county attorneys, and current and former foster system-involved youth. You will see that supportive testimony was submitted for the record by the State Foster Care Review Board, the Nebraska Association for Behavioral Health Organizations, the Nebraska Psychological Association, the Nebraska Alliance of Child Advocacy Centers, the Nebraska chapter of the National Association of Social Workers, and lived experience advocates. The purpose of this bill is to make sure that youth are aware of what their rights are and how they can advocate for themselves while navigating an unfamiliar system in an often difficult time of their lives. For a vulnerable young person, there is an inherent distrust of a system that removes them from their home and puts them in an unfamiliar place. It is the state's responsibility to do everything we can to ease these types of transitions for children in our care. The least we can do is make sure that these young people know that they do have rights and encourage them that they can speak up and have recourse if something feels wrong. Please advance LB368 with AM210. Thank you.

BOSN: Thank you. Typically, we don't ask questions of introducers when it's not the senator themselves, so we'll just begin with our first proponent. Unless you're wanting to elaborate. Do you close? Are you--

HANNA MURDOCH: I will stick around because I'm going to do the next one too.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 7, 2025

BOSN: Oh, that's right. OK. Thank you. First proponent. Anyone wishing to testify in support? Welcome.

PAYNE ACKERMAN: I thought this was five minutes, so I might have done a little extra. So if I'm not done--

BOSN: We'll see where we get. Yep.

PAYNE ACKERMAN: Are you ready? OK. Good afternoon, Chairperson and members of the committee. My name is Payne Ackerman, spelled P-a-y-n-e A-c-k-e-r-m-a-n. And I'm here today not just as an advocate, but a former foster youth. For the past 16 years, I have worked tirelessly-- tirelessly to improve child welfare policies, ensuring that youth in care have the rights, respect, and opportunities they deserve. I currently serve as the co-chair of the Nebraska Strengthening Families Act Committee under the Nebraska Children's Commission, where I work to strengthen policies that protect and empower youth in foster care. My advocacy is deeply personal. As a former foster youth with lived experience in the system, I know firsthand what it feels like to navigate a system that often makes decisions about young people without including them in the conversation. I know what it's like to feel unheard, to lack stability, and to be unprepared for adulthood. I also know what it feels like to age out of care without the necessary support, guidance, or access to critical documents that other young adults take for granted. These experiences have fueled my passion for change, and they are why I'm here today. While Nebraska has made progress in reforming foster care policies, we still have significant gaps that need to be addressed. Today, I want to highlight four key areas that are essential for improving our foster care system and ensuring better outcomes for the youth we serve. Number one, transparency and youth involvement in decision-making. Too often, young people in care are left out of the conversations that directly impact their lives. They are shuffled through multiple placements, handed case plans, and expected to comply with decisions that were made without their input. This is not how we create stability nor is it how we empower youth to take control of their future. Transparency is key. Foster youth should be informed of their rights, included in discussions about their placement and case plan, and given a meaningful voice in shaping their future. This is more than just best practice. It is a necessity. Decisions about a young person's education, medical care, and living situation should not happen behind closed doors without their knowledge or input. Every youth in care should have access to information about their case and should be encouraged to participate in decisions about their life. A system that operates without youth involvement does more harm than good. It leaves young

people feeling powerless and unprepared for the realities of adulthood. If we want foster youth to succeed, we must include them in the decision-making process. Number two, the right to permanency and preparation for adulthood. Permanency is more than just finding a home. It is about providing lasting connections, guidance, and preparation for the future. Every child deserves to grow up in a stable, loving environment, and every foster youth deserves a plan for what happens when they leave care. However, far too many young people age out of the system without the resources, life skills, or support they need to thrive. Aging out of foster care should not be a cliff. We must ensure that youth have access to resources, life skills, opportunities, and support. Without these, we are setting them up to fail rather than equipping them to succeed. Number three, access to vital records and resources. When I left care, I did not have access to my medical and mental health records. This created barriers and denials when trying to access necessary services as an adult. Unfortunately, my experience is not unique. Many foster youth struggle to obtain the basic documents that are essential for daily life, like ID, birth certificate, and Social Security card. This is the grim reality for many foster youths who age out of care. The system must do a better job of ensuring that young people receive their essential documents before they exit foster care, not after. This is not just a policy issue. It is a fundamental right. Every young person leaving foster care should have full access to their mental health, medical records, and identification documents. The lack of these resources creates unnecessary obstacles that can severely impact a young person's future. Number four, protecting youth from discrimination and ensure their well-being. All youth in foster care deserve to feel safe, respected, and supported, yet many young people experience discrimination based on their race, culture, gender identity, sexual orientation, or religious beliefs. No child should ever be placed in an environment that rejects or devalues who they are. The trauma of being removed from one's own home is already significant. We should not compound that trauma by placing youth in settings where they do not feel accepted or supported. Policies must be in play to per-- to prevent discrimination and to ensure that all youth in foster care have the opportunity to grow up in environments where they could feel valued. Conclusion. This is why I urge you to support policies that prioritize transparency, youth involvement, permanency, access to records, and protection from discrimination. These are not just bureaucratic changes. These are changes that will directly impact the lives of Nebraska's most vulnerable children. For the past 16 years, I have worked alongside youth, policymakers, and advocates to ensure that Nebraska's foster care system puts youth at the center of decision-making. Now I ask you to stand with us, to stand with the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 7, 2025

youth who depend on us to do better. When we fail foster youth, we are failing our entire community. But when we empower them, support them, and provide them with the resources they need, we are investing in a stronger, healthier future for everyone. Thank you for your time. And I'm happy to answer any questions.

BOSN: Thank you very much for your testimony--

PAYNE ACKERMAN: You're welcome.

BOSN: --and sharing your story. Any questions from the committee? Thank you for being here. Oh, did you have a question? I didn't see your hand. I'm sorry.

HALLSTROM: Thank-- I was hiding. Can you clarify child care institution? Is that a 24/7 placement?

PAYNE ACKERMAN: So the way I understand it, a child care institution is any kind of, like, group home, foster home, like-- such-- or any place such as CEDARS that hold foster youth that are currently under DHHS. So, yeah. And-- yeah. 24/7 institution [INAUDIBLE].

HALLSTROM: OK. And are, and are these grievances with regard to the home setting or through the court system?

PAYNE ACKERMAN: These grievances are anything that these youth feel like either the placement is doing or the staff are doing, that they are allowed to grieve that if they feel like their rights are being violated.

HALLSTROM: OK. And with regard to some of the basic rights, one of them is with regard to the unreasonable search and seizure. Is there some indication that they've given up that right because they're in that setting? Or do they inherently have that right anyway and we're just clarifying what existing law and constitutional protections are?

PAYNE ACKERMAN: So some of the youth that I've talked to said that they feel like because they are in these institutions, they seem like once they enter, they lose that right. And that is not a right that they should lose at all--

HALLSTROM: And don't they--

PAYNE ACKERMAN: --in my belief.

HALLSTROM: --don't they legally have that right without this statute?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 7, 2025

PAYNE ACKERMAN: I cannot answer that one, actually, because I'm, I'm not that well-involved in the law.

HALLSTROM: OK. Thank you.

PAYNE ACKERMAN: You're welcome.

BOSN: Senator Rountree.

ROUNTREE: Thank you, Chairwoman Bosn. I appreciate your testimony today, sir, and especially being a product of-- on the foster care system. So on our current processes, what does one go through to ensure that we do have a kind of likeness of-- let's say if I'm going to be placed into a foster home, you know my background, what are the screening processes for making sure that we can get into a type of home that's going to provide and meet for my needs?

PAYNE ACKERMAN: I don't know. I've never dealt with the screening process. As a foster youth prior, at least in my time-- I mean, I, I, I felt like the process was really strict. But we know that even then things fall through the gaps. For example, we know, like, Catholic priests, for example, they-- I'm not-- and I don't want to be mean, but, like, things have happened in the Catholic Church. And so, legally, I don't know if that process has become more stringent and more strict, but I would hope that it has in order to protect our most vulnerable youth in Nebraska. So I cannot answer that, honestly, but I can only tell from my experience.

ROUNTREE: No, that's very good.

PAYNE ACKERMAN: Yeah.

ROUNTREE: I appreciate that response.

PAYNE ACKERMAN: You're welcome.

ROUNTREE: Mm-hmm. Thank you.

BOSN: Thank you very much for sharing your experiences. I appreciate you being here.

PAYNE ACKERMAN: You're welcome. Thank you.

BOSN: Next proponent. Good afternoon.

SARAH MITCHELL: Good afternoon. Again, good afternoon. My name is Sarah Mitchell. That is S-a-r-a-h M-i-t-c-h-e-l-l. I am testifying today on

behalf of Nebraska Appleseed as the Child Welfare Community Organizer. Excuse me. We believe that all youth deserve to be treated with dignity and respect, have their voice heard, and have honest communication and information provided to them to help them understand their rights within the system in which they are involved. In 2016, the Nebraska Legislature passed the Nebraska Strengthening Families Act, which required youth in foster care to be notified of their rights. Through a number of surveys and focus groups with young people formerly in the foster care system, we learned in practice youth in the system have not always received this information or do not feel they understand all of their rights. These surveys and focus groups are consistent with what I have heard working closely with young people over the past 12 years. Not only do young people often not understand their rights, but they are unsure of their options when they feel their rights have been violated. They often do not know how to advocate for themselves or access the resources that they need. The Youth in Care Bill of Rights was created with input of over 50 advocates with lived experience in Nebraska's foster care and would help empower youth in care. Specifically, the Youth in Care Bill of Rights is a list of rights that apply to youth in out-of-home placements in the foster care system. Importantly, LB368 would provide regular opportunities for young people to discuss their rights with their GAL and caseworkers. It would also let them know how to file a grievance. I, I believe this would empower young people and also improve their experiences in the system. We also want to thank Senator Hunt for introducing LB368 and believe the rights of the system-involved young people should be upheld. And we strongly support the advancement of the Youth in Care Bill of Rights. Thank you all for your time and consideration today.

BOSN: Thank you very much for being here. Any questions from the committee? I had one just for clarification. So--

SARAH MITCHELL: Yeah.

BOSN: The study-- was the study done 12 years ago that resulted in the Strengthening Families Act?

SARAH MITCHELL: No, no, no. I've been, I've been advocating-- I-- so I come from lived experience.

BOSN: OK.

SARAH MITCHELL: And then-- so I've been advocating for many, many years with young people all across Nebraska. And it's just something that I've noticed over my years of experience.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 7, 2025

BOSN: Do you know-- have things improved since 2016 when this act passed? I mean-- I actually sat on a panel with Mr. Ackerman that just came up and testified, and I know that that was something a lot of groups were addressing, was making sure kids know these things are their rights. Have you seen-- in your experience, have you seen an improvement?

SARAH MITCHELL: So what I'm hearing from young people, no. It's not improving much. It's, it's honestly sad what I'm hearing. We could go into depth all day long about that and their rights and being violated, but. Yeah. No. It hasn't improved.

BOSN: OK. Thank you. I appreciate that.

SARAH MITCHELL: Yeah.

BOSN: I mean, I don't appreciate that. I appreciate your answer.

SARAH MITCHELL: Absolutely.

BOSN: Sorry.

SARAH MITCHELL: No.

BOSN: Any other questions? Senator Rountree.

ROUNTREE: Thank you, Chairwoman Bosn. Yes. Thank you so much for the testimony. Just a general question. In the, in the foster care system and you have a caseworker, kids can get back-- get information to them. What is the check-in time frame? Is it every 30 days we have a check-in--

SARAH MITCHELL: Yeah. I think that you would have to make sure that they're touching base. I mean, in general, when I was even in the foster care system, it was every 30 days they were supposed to be touching base with us at the group home, meeting face-to-face, making sure that young person is safe and secure in the space that they are.

ROUNTREE: OK. Very good. Thanks so much.

SARAH MITCHELL: Absolutely.

BOSN: Thank you very much.

SARAH MITCHELL: Thank you.

SARAH MITCHELL: Next proponent. Any other proponents? Welcome. Hello.

BAILEY HERMAN: Hi. Good afternoon, guys. Good afternoon, senators. Thank you for taking the time to hear all of us speak today. My name is Bailey Herman. That is spelled B-a-i-l-e-y H-e-r-m-a-n. I live in Fairbury, Nebraska. And I am a young adult with lived experience in the foster care system. Today, I am speaking in support of LB368, the Youth Care Bill of Rights. I believe youth in these systems deserve to know what these rights mean, know what they are, and what they can do to ensure that their rights are protected. As a former foster youth myself, I had no idea what my rights were or if I even had any because I was a child. Many times in my young life, I had constant confusion over not knowing what was happening, anger over not getting answers that I yearned to have, and being so scared because I didn't understand why these things were happening. Every time we were removed from the home, we were never informed of why we were being removed or what our rights were after being removed. And after briefly speaking with my mother, I was informed that she too was also never made aware of mine and my siblings' rights as youth in the foster care system, which is a problem within itself. With bill LB368, I would have known my rights and that there were support services to help with the ongoing trauma of the situations not only in my home, but also while in the care of other families. One home I was placed in as a young child did not feed me and my siblings for weeks. Another, I was sexually assaulted. Another family, my two younger siblings were stopped after being removed from the fo-- foster home by the parents of that home for almost a year. And in each of these situations and many others that are experienced by other young individuals in these systems, we deserved to know what our rights were and what we could do to protect ourselves and ensure that we were safe. Finally, the Youth Care Bill of Rights would greatly impact the youth by making knowledge of their rights accessible to them and hopefully just improve the overall experience of their time in these systems. I want to say thank you to Senator Hunt for introducing this bill and thank you all for taking the time to listen to me today.

BOSN: Thank you for sharing your story.

BAILEY HERMAN: Thank you.

BOSN: Any questions for this testifier? Thank you very much for being here.

BAILEY HERMAN: Thank you.

BOSN: Next proponent. Good afternoon. Welcome.

ROBERT WAY: Good afternoon. My name is Robert Way, R-o-b-e-r-t W-a-y. Thank you, Chairman and senators. I came to speak on this bill because I was in the building and I saw it and I learned more about it from some of the advocates here. I-- we have heard great stories of personal advoca-- personal experience, and I do not have that bring. One thing that did jump out at me was the provision that people who are in foster care be allowed to engage in extracurricular activities. And what jumped to me about that bill is I thought about prag-- pyrag-- the theorem of the squa-- triangle, A squared plus B squared plus C squared. We all learn that in school. But nobody's ever going to pay us to do that formula. What we get paid to do and what is a workable job skill are the things we find in extracurriculum. And unfortunately, people in this situation, they're going to come out of the foster care system, they got to make money because they don't have what I had, which is a little cushion. And maybe they do. But they immediately have to have a job skill. And if they just get taught things like the pyragothe-- whatever it's called-- the triangle theorem and then be put them in the job pool, there's, there's no marketable skill. But if they go to engineering club, if they go to computer club, if they go to these other clubs, then they can find something that they both enjoy and they're good at and people will pay them to do. So that was just another aspect of this bill I thought deserved mentioning. And I thank you all for your time.

BOSN: Thank you very much. Any questions of this testifier? Thank you for being here. Any other proponents? Good afternoon.

BEATRIZ GARCIA: Good afternoon. Good afternoon. My name is Beatriz Garcia, B-e-a-t-r-i-z G-a-r-c-i-a. I am testifying on my own behalf today as someone with lived experience. I resided in Omahane-- Omaha, Nebraska. And I am in support of LB368. If youth were more aware of their rights, they would know that they have more of an input on their decisions based in their life involving their cases. The passing of the Youth in Care Bill of Rights is important to me because when I was in the system, I was what you would call a problem child. With that being said, I bounced around from home to home often because I wasn't wanted at a placement or it wasn't seen as a good fit. If they had nowhere for me to go, I would end up at the youth detention center for days, if not weeks. I was not made aware of my rights, so I chose to go on run and in hopes for a better life. While on run, I ended up pregnant with my oldest daughter and I felt like my back was against the wall and all the odds were against me. I eventually aged out and never got the support I really needed at the time from my workers. Had LB368 been around while I was in care, I would have had the chance to have known more about the next steps I could have had a chance to take. I feel

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 7, 2025

like I had known-- if I had known my rights, my life would be completely different today. Thank you, senators, for your time today. And thank you, Senator Hunt, for introducing the bill, LB368.

BOSN: Thank you very much for sharing your story. Let's see if there's any questions from the committee. Seeing none. Thank you for being here.

BEATRIZ GARCIA: Thank you.

BOSN: Next proponent.

DESTINY OGDEN: Unfortunately, I do not have papers for you. Just the little green sheet. Yeah. Just that.

BOSN: Come on down. That's OK. You don't have to have something to pass out.

DESTINY OGDEN: Just that.

BOSN: Sometimes it's better on the fly. That's OK.

DESTINY OGDEN: OK. My name is Destiny Ogden, D-e-s-t-i-n-y O-g-d-e-n. And I am a former foster youth. I was in the foster care system for ten years. And in my opinion, I should not have been placed in foster care at all. My mother was a good mother and we-- but we were poor and living in a trailer park and she was disabled, and this was regarded as neglect by the D-- by DHHS and the court system. And because I was placed in foster care, I experienced much more trauma than I would have just staying home in the trailer park. And then, and then-- I have a, a great-aunt, my grandmother's half-sister, who is, like, half-Native American, and she wanted to take me on. She, she-- I should have been placed with that family if I was placed with a different family at all. But because I'm white passing-- I am, like, 1/8 Apache-- because I'm white passing, the, the-- and I quote, they didn't want to place a little white girl with a, with a native woman. And that is racist. And I lost my-- I, I lost access to a large part of my heritage being shuffled through the foster care system. And I had 17 different caseworkers in ten years. I don't remember any of their names because I stopped bothering to learn them. I-- they didn't know anything about me. And I was-- I'd-- most of the time I didn't feel like a person. I felt like a piece of baggage to be shuffled along, which, funnily enough, half the time I wasn't allowed to pack up all my stuff and move it because I wasn't told when I would be moving except for maybe, like, the day before. And so I would get-- put some clothes in a trash bag. And that was very traumatic. And I wouldn't be told when I was moving

doctors or why I was going to the doctor. I, I wasn't really told anything. And that's very scary for a child. I got adopted 15 days after I turned 18 to a very nice home. But they-- the-- they're a Catholic family and I was not Catholic. And I would-- I tried to advocate to not have to go to church with them and to choose a-- the church that I wanted to go to because at this point I was 17 years old. I could have-- I could have gone to whatever establishment I wanted to. And it was held over my head that if I, I-- if I wanted to be adopted, I had to convert to Catholicism. And that's-- the religious freedoms part in there is very important to me in the-- in this bill. Thank you.

BOSN: Thank you for sharing your story. Did you get a-- did-- was that the gist of what you were trying to say or--

DESTINY OGDEN: Yeah.

BOSN: --did the red light cut you off? OK. I just wanted to make sure. Are there any questions for this testifier? Thank you very much for being here. Next proponent. Welcome.

LINCOLN ARNEAL: Welcome. Greetings, Chairperson Bosn and members of the Judiciary Committee. My name is Lincoln Arneal, L-i-n-c-o-l-n A-r-n-e-a-l. I am the Assistant Vice President of Leadership and Policy for Nebraska Children and Families Foundation. I'm here to testify in support of LB368. I also serve as the adult supporter for the Nebraska Children and Families Foundation Youth Advisory Board. This group serves as a citizen review panel. So they work with DHHS to provide-- to improve its child welfare policies and practices. One of their priorities over the past decade-- actually, Sarah Mitchell, who you heard from earlier, was a member of that group several years ago. And one of their priorities is to advocate for change, to make the foster care system better, and, and a better path for oth-- others may follow. So our Youth Advisory Board identified this bill of rights for youth and foster care as a priority several times over the last decade, whether it be improvements or implementation or other tweaks that could be added to it. They still would like to see a more detailed expansion of these rights available to young people to improve their awareness of these rights when available when they are placed in foster care. You heard for-- the history from Senator Hunt's introduction, but this bill actually-- this issue predates that all the way back to 2003, when none of the youth that were in the foster care system currently were even-- were, were alive for the most part. Back then, the governor's Youth Advisory Council helped with the adoption of LR76 in 2005, which lays out 11 rights that young people in foster care should have. Only seven of those rights are guaranteed by law. They are listed in the testimony

provided, including the right to be protected from physical, sexual, verbal, and emotional abuse, to-- services to help their youth and family, to live in a safe, healthy home with adequate food and clothing, and to have a placement plan that is in their best interest that will help them get to a permanent place as soon as possible, to receive notice about hearings for their case, to receive medical, dental, vision treatment and services when necessary, and to attend school. You will notice that many of those are still covered by the proposed bills. Those are also curr-- currently covered by DHHS policy. And you heard from previous testifiers that a lot of those are still not being met. One issue we have with the current system is, as you heard in the introduction, is that 72-hour notice for entering the foster care system. It's a good concept to, to give them the rights up front, but given the trauma that happens when being placed in foster care, the young people are not able to fully digest the information and be aware of their rights. By enshrining these rights into law, it will ensure that they are better accessible by the young people and receive the support that is best for them. There's a list of other states that have passed us, including Kansas, Missouri, Alabama, Kentucky, and Minnesota. By passing this bill, Nebraska would establish the rights of young people in foster care to help ensure they remain on the path to normalcy and not subject to more trauma while the wards of the state. Both myself and members of the Nebraska Children's Youth Advisory Board hope you advance this bill to protect the most vulnerable youth in the state of Nebraska. Thank you for your consideration.

BOSN: Thank you. Any questions for this testifier? Senator Hallstrom.

HALLSTROM: Perhaps you're better suited. The bill provides both for notice and rights and duties. Are some of these rights that are constitutionally protected already clearly in place without having to put them in the statute?

LINCOLN ARNEAL: Yes, but I think restating them, it says that just because you're a ward of the state doesn't mean it doesn't apply to you. I think there's-- they may think that they are giving up those rights when they become a ward of the state by, by even restating them that you have search and seizure, like-- use these as an example-- it still says that even though they are a ward of the state, you still have the right to that. So I think even restating them is an important part of this.

HALLSTROM: And, and one aspect is disclosing and notifying to the foster children that they have that right.

LINCOLN ARNEAL: Yes.

HALLSTROM: The other one is putting in the statute that the right already exists.

LINCOLN ARNEAL: Yes. Yeah. So that way, you know, they-- here's all my rights. But then I have these ones that are protected by the Constitution, I have to go elsewhere to look. They're all housed in one single document that's available for them.

HALLSTROM: And they would apply whether we notify-- I, I think it's a good idea to notify them, but they would apply whether we notify them of that or not.

LINCOLN ARNEAL: Yes. Yes.

HALLSTROM: Thank you.

BOSN: Any other questions? Thank you for being here.

ROUNTREE: Yes, ma'am.

BOSN: Oh, I'm sorry. I didn't see your hand.

ROUNTREE: It's OK. This-- thank you, Chairwoman Bosn. So just very quickly. In Section 2 of the bill, it said it's the policy of the Legislature to ensure that the quality of care provided to a child placed in a foster family, home, or child care institution is as close as possible to the care of a child we receive in a family setting. So with that in mind, in your current process-- I don't know if there's a shortage of foster homes available, but when there are-- a need arises for a placement, what is your first process?

LINCOLN ARNEAL: I don't think that I-- I, I don't work with the placement of that. I work with the young people outside of that. So I don't know if I can fully answer that question, unfortunately.

ROUNTREE: It's OK. It may come later as we go. OK.

LINCOLN ARNEAL: Thank you.

ROUNTREE: All right. Thank you.

LINCOLN ARNEAL: Mm-hmm.

BOSN: Now any other questions? Sorry about that.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 7, 2025

ROUNTREE: That's OK. I don't have any more.

BOSN: Thank you for being here.

LINCOLN ARNEAL: Thank you.

BOSN: Next proponent. Good afternoon.

SPIKE EICKHOLT: Good afternoon, Chair Bosn and members of the committee. My name is Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t. I'm appearing on behalf of Voices for Children in Nebraska as their registered lobbyist. You're receiving our testimony, so I don't need to restate anything that's been said earlier or I-- and I certainly don't need to read that to you. But we have supported this bill before in earlier sessions. We support it again. And we urge the committee to advance it. I think, as Ms. Murdoch indicated earlier when she introduced this bill, the earlier version was advanced, I believe, unanimously by the committee. And we would encourage this committee to do the same as well. I'll answer any questions if anyone has any.

BOSN: Any questions? Thank you for being here. Next proponent. Anyone else? Otherwise, we'll move on to opponents. Are there any opponents for LB368? Anyone wishing to testify in neutral capacity? All right. Well, then I will note for the record that we had 68 proponent comments submitted, 4 opponent comments, and 2 neutral comments submitted for the record. And that will end LB368. And we will then take up LB369. Welcome back. Before we get started, could I see a show of hands of how many individuals plan to testify on LB369? One? All right. Just so we can get ready for the next bill, so. Oh, I guess it's-- Senator McKinney. So never mind. Maybe it didn't matter. I apologize. You may begin.

HANNA MURDOCH: Good afternoon again, Chair Bosn, members of the Judiciary Committee. I'm Hanna Murdoch, H-a-n-n-a M-u-r-d-o-c-h. I'm the legislative aide to Senator Hunt. And I'm here today to introduce LB369 on her behalf. I already gave a little spiel about that at the beginning of the last bill, but if you're just tuning in, she sends her regrets that she is not here today while she's serving on the Government Committee for a very significant hearing today. And she thanks you all for being here. LB369 is a bill to change the age of medical consent in Nebraska from 19 to 18. A couple of years ago, I heard from a Lincoln doctor of physical therapy who told me about seeing many 18-year-old patients who have had to get parental consent for treatment. Some of those, she explained, are estranged from their parents or not in frequent contact with, contact with them for whatever

reason. Most often they're college kids living away from home or maybe the parent is traveling or busy at work in meetings during a time-sensitive situation and those patients are just unable to get the medical care they need without parental consent. I'm glad that this medical professional reached out to me because it is something I've heard about anecdotally. I know other legislators have tried changing this in the past. And I know that we're an outlier as a state with having our age of majority or legal adulthood set at 19, which causes problems in lots of areas of personal liberties for 18-year-olds when they're legally considered adults for a lot of federal purposes and in neighboring jurisdictions. I know there was what lawmakers at the time thought good reasoning for setting it at 19 in Nebraska, but now it's really outdated and unfair. The crux of the bill LB369 is that it adds an exception to that 19-year-old age of majority law to say that when you're 18, you can make health care decisions for yourself, along with a growing list of other things lawmakers over the years have decided are acceptable things for 18-year-olds to do. Senator Morfeld started working on this concept before me in response to University of Nebraska students who contacted him to talk about the difficulties they experienced in receiving needed health care in a timely manner while living on campus. In almost all cases except life-- life-threatening emergencies, when providers have a duty to save a patient's life, parents or legal guardians have to be contacted or sign off on consent forms for providers to have permission to treat an 18-year-old patient. I looked through some of the history on past bills around this issue, and there were all kinds of stories about broken limbs, infections, and various illnesses that went untreated for too long while students attempted to get consent from their parents. There was one case where a student's parents lived in Japan and they had to suffer for hours until parental consent could be obtained and they could be treated. That's a more extreme example, but what would be a much more common case would be that you have a student come to UNL or UNO from Scottsbluff or elsewhere in the Panhandle or somewhere in the western part of the state and they're here for college, but suddenly they get a really bad case of strep throat or something and they can't get the antibiotics they need in order to function well enough to study and pass their exams without Mom or Dad signing off. This is especially egregious in cases of moderate or severe illness or injury because we don't want young people to unnecessarily suffer or get worse, causing them to need more invasive or expensive treatments. But it's not just a barrier in these more serious situations. 18-year-olds living away from home can't even get basic preventive care like their flu shot or an annual exam without a parent providing consent. While it was students that led the charge on advocacy for this issue, I want to note that not everyone

that is 18 goes to college. Many get jobs right out of high school or go to trade or tech school and move away from home. And there's just as much dignity, autonomy, and independence in any of those choices. It doesn't really matter, honestly, if they live at home or not. If they're 18 and they can sign a lease, register in the Selective Service, vote, file a lawsuit, take out a loan or a mortgage, get a tattoo, apply for a credit card, change their legal name, serve on a jury, why in the world do they need Mom's permission to get a flu shot or antibiotics for an infection? It's a ridiculous nanny state thing that any young person that is verging on adulthood, whether our law sets that at 18 or 19, needs to have their access to health care gatekept by the government. In 2018, the Legislature passed an exception to our age of majority law that allows for 18-year-olds to consent to mental health services. This was also largely driven by student advocacy efforts. If 18-year-olds can make their own decisions about mental health treatment, it's absurd that we would require them to get parental consent for physical health treatments. We in Nebraska are one of three states whose age of majority is older than 18, but the only state which does not allow 18-year-olds to make health care decisions. 18-year-olds in each of our surrounding states have been able to consent to medical treatment for some time, and the sky hasn't fallen. In fact, Lincoln or Omaha students can just drive across the border to Council Bluffs to get care right now if they want, though they shouldn't have to do that. Even Alabama, which is one of the others with a higher age of majority at 19, has a law that allows 14-year-olds to consent to health care. And I'll take a moment to explain the second component of the bill. Section 48-285 provides that DHHS has the authority to determine appropriate medical and psychiatric services for youth in its care. However, there is no corresponding statutory authority for youth in custody of the Department of Corrections. The Department of Corrections operates one facility for minors in Nebraska, and that is the Nebraska Correctional Youth Facility in Omaha. For this population, there is no statutory, statutory authority for the department or this narrow population of youths to consent to their medical or mental health treatment. And their unique circumstances can really limit them from being able to obtain parental consent. This is important because there are times that a minor in custody will need somewhat urgent medical care. And if a parent or guardian cannot be easily or quickly located, important medical care might be delayed. They could have some serious injury or illness. And for the youths in this system, there is varying levels of parental involvement. Some may maintain contact with parents, but some may not at all. And so those that aren't able to get parental consent just have to go without treatment, and that can make them sicker or

more hurt than they need to be the longer they wait for care. We also added an exception for-- to the bill for use in DHH custody-- DHHS custody after some extensive discussion with the department about this the last time I brought the bill in 2023. That bill was LB87. That bill was advanced by the committee but just didn't get a priority that year. Initially, I had hoped for and fought to include all youth or as many youth as possible because it seemed unfair to ex-- exclude system-involved youth. However, through more conversation with the department, I learned more about how including this population in the bill opens up much larger issues. And so for the sake of progress rather than perfection, I have agreed to exclude youth in the department's custody as a result of a juvenile court order. The major problem would be causing conflicts and potential major changes in the role and jurisdictions of the juvenile courts over this population. Allowing to-- allowing them to make their own decisions at 18 deprives the juvenile court of its authority over their cases, which jeopardizes their eligibility for foster care system involvement, DHHS-funded health care, and participation in things like the Bridge to In-- Independence program. So it's quite complex and in effect could trigger some much more substantial changes across our courts and social services offered that I wasn't trying to get at-- this bill with this time-- get at with this bill at this time, though I'm certainly open to further discussions on that front. In looking at the legislative history around why we are one of the only states whose age of majority is not 18, it seems that way back in the early '70s when there was a wave of states all lowering their ages of majority from 20 or 21 down to 18, Nebraska actually tried to lower ours from 18 to 20, but a compromise was made in that Legislature to lower it to 19 instead, instead of 18 because of concerns at that time about 18-year-olds being able to drink and being potentially vulnerable to financial predation. And since that time, we know the drinking age was federally raised to 21. And in Nebraska, we've added exceptions to our age of majority law to allow for 18-year-olds to engage in adult financial decisions like obtaining financing, mortgages, to own property, and various other things like that and we haven't had a problem. So last time we got a question about costs. Who is responsible to pay for the services that the youth is consenting to? Normally, parents as the legal adults are considered the responsible party when a teen is on a parent's insurance. When young adults consent for medical services or check themselves into a hospital, they sign their own paperwork and agree to pay any amounts their insurance doesn't cover. Generally, parents would be responsible for their adult child's medical expenses only if they had signed an agreement with the medical provider to cover them. In other states, when a child reaches the age of majority and is no longer

a minor, parents can no longer be held legally responsible for the young adult's bills. With LB369, if it is the young adult that is solely consenting to their medical care, they are also the party consenting to pay the costs associated with that care, not the parent. Of course, parents are free to work it out with their child if they want to assist with costs. And parents would have the option to remove a child from their insurance plan if they wish. To close, at age 18 in Nebraska, you can vote, go to war, consent to mental health care, consent to STD, STD testing and treatment, own property, drive, own a firearm. LB369 is a bill that students have been asking us for for years, and due to a quirky legislative history Nebraska is way behind the times on this. 18-year-olds in every other state have this right, and there's nothing special or different about us and our young people that says we can't allow Nebraskans to do the same. LB369 will improve access to health care for young adults and improve, improve health outcomes by ensuring they can receive the care they need when they need it rather than waiting until things become more painful and costly. No young person should have to suffer with illness or injury or even lack access to the preventive services they want because they can't reach their parent to obtain consent. Thank you.

BOSN: Thank you. All right. We will take our first proponent. Mr. Hruza, we asked how many testifiers there were and you didn't raise your hand, so. That's OK. Welcome.

JESSE BARONDEAU: Thank you. So my name's Jesse Barondeau. That's J-e-s-s-e B-a-r-o-n-d-e-a-u. And I'm-- so I'm a adolescent medicine board-certified physician in Omaha. I work along with a few other colleagues in-- with Children's Nebraska, although I'm, I'm here representing myself and-- put my colleagues too. So this is a-- there's only a few specialists in the state that do adolescent medicine. I've been here since '21. Before that, there was no adolescent specialty. In most children's hospitals around the country, there is, is, is a well-established adolescent medicine clinic. And so we're-- I'm, I'm the one that come to start that since '21. And, you know, I was born and raised in South Dakota. I worked for years in South Dakota as a physician. I was in the Army for 11 years. And I worked as-- with adolescents in different Army bases in Washington and Texas states. And just so adolescent medicine, these age of consent things for different medical things was like a bread and butter topic for us all the time. We are always discussing this. These-- states are different for different things, but one thing that's not different-- or at least I didn't think was different till I moved to Nebraska was this 18-, 19-year-old thing. So I moved here in '21. And I was kind of very surprised that that was a little silly when I learned that this was the

way because I didn't know there was the state that had it this way. It's just kind of weird because-- trying not to repeat everything that was just repeated. Like, 18-year-olds are bas-- that's the time you're going to graduate from high school. If you dropped out of high school and you're not even-- don't have a high school degree, you're still 18 and you probably are working somewhere by then. Or you're in college or whatever you're doing. It's just unusual that you can't seek health care for basic things. Learning that Nebraska was that way, I looked into it. I found the same thing. Alabama and Mississippi are the only other two states that don't have 18 as the majority. Although, as I called colleagues in Alabama just to ask how they do this-- again, there's a age-- they go-- they let down to age 14 decide medical consent if they need to. And Mississippi is-- it's 18. And there's other states that dis-- they do carve-outs for different things, whether that be mental health care, [INAUDIBLE] set as 18-- brought it down to 18 a few years ago here. Most states probably [INAUDIBLE] about 16 for that kind of thing. Some states do different age groups for, like, contraceptive services and different things. But we're not talking about that here. We're just talking about 18. So. And again, as was said, all the surrounding states do, but also all the states do. And about 90% of Canada, as I learned. And Europe. Europe is all 18 or younger even. So-- and as was said, this-- basic health care needs, whether you're coming for strep throat or ankle sprain or any other things, you need your parents to help you out with that. If you're, you're here from Minnesota and going to college in Lincoln or Omaha, they have to call mommy to see you. They can't get a hold of them. If you do get a hold of them, I guarantee you mommy's saying, what are you talking about? Yeah. See my kid. This is weird. Because none of those states have this. It creates a lot of awkward-- we were talking about the, the DCY-- we, we help out with the juvenile detention center, me and a couple of my colleagues. We are-- we're the ones that go there and do medical care at DCYC in Douglas County. And I can tell you that 18-year-old group is always a weird group because, again, you need parental consent. But a lot of times that-- if we're talking about the-- just the foster care, there is no parent or there may not be a parent that's readily available to be able to talk to. And-- or the kids do not get along with the parents. The parents are-- have alcohol or drug problems or other things that they're not involved. And then you're, like, stuck with an 18-year-old that you either just break the law and just see them and do it anyways, or you don't. So anyhow, I just-- and again, the whole history of this was already talked about, the '70s. Every other state did this in-- 50 years ago. I can think of cons for these things too, but they do not weigh-- outweigh the pros. And I just-- I guess I'd ask, try not to overthink this. This

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 7, 2025

apparently has been done the last 50 years. I would just go for it. And if there's other, other set of questions like the juvenile detention-- again, every other state in the country has done this, so it's not that impossible. So. If there are any other questions, I'm happy to answer them. Otherwise, that's it.

BOSN: Any questions for this testifier? Senator Storm.

STORM: Yeah. Thank you, Bosn. Yeah, I have a question. You just said that you could think of some cons of this--

JESSE BARONDEAU: Mm-hmm.

STORM: --but the pros outweigh them. What are the cons?

JESSE BARONDEAU: One thing I'm-- sometimes-- when it's 18, there may be some situations where you're wanting your kid to get help with something. I can think-- eating disorder would be a common one. In fact, they-- usually the things that the kid doesn't want to get help with. This was-- substance abuse would be another one. The problem with that is so you could kind of force them a little bit at 18 to get those things, but not really, because you can drag them in, you could talk to them, but they-- you can't force them to do it that age. But sometimes that-- you can kind of hold that against them a little bit for a, for a year. But in those kind of things, it's very comp-- and then they hit 19 and you can't anymore anyways. Those are the, the con-- some of the cons I can think of.

STORM: Got one more question. So you said Alabama's 14.

JESSE BARONDEAU: Mm-hmm.

STORM: So in Alabama, a 14-year-old can decide their health--

JESSE BARONDEAU: Apparently. Yeah. I didn't know that till I called there. So some of the things about those-- they may seem weird. Like, I know contraceptive is always a awkward topic too, but, again, I-- it's not for the general kid that you think of that has Mom and Dad and they're living at home. That kind of stuff gets put in there for the kids that-- and again, this-- people don't always think of this, especially when we're talking, like, in politics, kids don't have-- some kids don't have parents or the parents are, like, away-- are worthless or not there. In reality. So that's-- so those kids can get help. They-- or they can seek out-- it probably doesn't happen very often at 14. But that's why they do that.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 7, 2025

STORM: OK. Yeah. OK. Thank you.

BOSN: Senator Hallstrom.

HALLSTROM: Yeah. And this-- I apologize if this isn't a question for you, but maybe more importantly, I'll make sure that Ms. Murdoch and Senator Hunt are aware of my question. I'll do that separately as well. But we're making different terminology here with regard to 18-year-olds. We talk about health care decisions broadly and generally with regard to individuals in the Department of Correctional Services. We're talking about medical care, mental health services and related services. Do you know why those-- that terminology wouldn't be consistent across the board?

JESSE BARONDEAU: I-- trying to understand the confusion of before. I think there's something about the-- because if-- age of majority's still 19 [INAUDIBLE] juvenile detentions still go up to age 19, Nebraska. So there's that 18-year-old. I don't think they want to reverse that.

HALLSTROM: Not the age differential. The different use of terms. One says health care very broadly. The other one talks about medical care, mental health services, which I understand's already covered for 18-year-olds and related services. It would seem to me that the, the terminology ought to be consistent in terms of whether you're 18 or 19 and you're going to be given that freedom without parental consent, that you ought to have the same litany of, of issues that you can address on your own.

JESSE BARONDEAU: I, I guess-- I, I would agree with that. I don't really quite understand it either. That's why it's pretty confusing. I don't know why 19 is the thing.

HALLSTROM: And then the second question is, with regard to the age of 19 and Department of Correctional Services, there's an exception for consent with regard to the requirement for consent in Section 71-6902 that doesn't similarly appear with regard to the health care discretion that we're giving to 18-year-olds. Any reason why that isn't included in both provisions?

JESSE BARONDEAU: I'm not-- I, I don't know why that's not. That's a good question. I don't know. I just-- I [INAUDIBLE] that-- I think-- it probably has something to do with they want to be able to-- I think most kids in those situations probably don't have a parent to consent or not very well, so. I'm not sure why it is either.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 7, 2025

HALLSTROM: Thank you.

JESSE BARONDEAU: Again, most states probably wouldn't, wouldn't have this problem because they don't--

HALLSTROM: Thank you.

JESSE BARONDEAU: [INAUDIBLE].

BOSN: Senator Holdcroft.

HOLDCROFT: Thank you, Chairwoman Bosn. Thank you for testifying today. And you may not know the answer to this, but have you worked at the University Health Center at all?

JESSE BARONDEAU: Not directly, no.

HOLDCROFT: So my, my thought is and my experience way back was that my parents signed a form essentially provided by the university that said that the health center could take certain acts up to a certain point so that, you know, they didn't have to necessarily contact me to be able to give them a flu shot and do that type of thing. And, and maybe we can check that out. But aren't, aren't you obligated-- I mean, in general, if the life of the individual is at risk, are you not obligated to take action to save that person's life? So if it's really serious, you're going to take care with even-- with or without the parent's permission, your-- if the life is at risk, you're going to take action.

JESSE BARONDEAU: Yeah. I think it's a-- there's law-- there's always a-- there's-- I think there's a law for that, like [INAUDIBLE] there's like emergency or-- kind of carve-out for that kind of thing.

HOLDCROFT: OK.

JESSE BARONDEAU: Yeah. Yeah. [INAUDIBLE] five then you would do it even if they're, like, unconscious [INAUDIBLE] there.

HOLDCROFT: Thank you.

JESSE BARONDEAU: Yep.

BOSN: Thank you for being here. Next proponent.

TIM HRUZA: Good afternoon, Chair Bosn, members of the Judiciary Committee. My name is Tim Hruza. Last name's spelled H-r-u-z-a. Appearing today on behalf of the Nebraska State Bar Association in

support of LB369. Thanks, Senator Hunt, for reintroducing this piece of legislation, which has in various forms been circulating for several years under conversation. And I may be able hopefully to answer some of the questions that have been asked with some history of how this conversation's developed. Let me first say by-- start, start by saying that I think the Bar Association appears in support of the legislation surrounding the conversation over what 18- and 19-year-olds can and can't do in terms of making their own decisions. This is a bill that we didn't necessarily support for a lot of years. I think last year we had-- Chair Bosn introduced LB1220, which had several pieces in it that dealt with estate planning decisions-- and particularly maybe to your question, Senator Holdcroft, things like powers of attorney and the execution of trusts and those sorts of things. So we did decrease the age of majority or the decision to allow 18-year-olds to issue those powers of attorney so that their parents can make decisions for them and do those sorts of things or to, to settle a trust or to-- because you can, you can create a will at 18 under our current law. So we, we fixed some of those in-- inconsistencies. Let me say that this particular conversation has arisen after some attorneys have seen candidly really bad stories of kids who come into Nebraska, who are here for college, who are trying to get services-- and not necessarily-- it might not start life-threatening initially-- but then are not able to-- you know, they come in because they're sick or they don't feel well. They're trying to get ahold of parents to treat them. And then a few year-- days go by or something bad happens in the course of that treatment. And so there are certain instances like this where we feel like reducing it from 19 to 18 makes a lot of sense so that kids who may not have direct access to their parents have the ability to do that. That's-- that is why I appear in support of the bill, at least specifically as it starts with Section 1 and sub (c) that's added. Maybe to the second piece and only because I have followed the history of this as it's played out over, over several years. And to answer Senator Hallstrom's question, on subdivision (d)-- and I don't know for cer-- there, there is some dis-- difference in the, the way that the language is used. Subdivision (d) was first introduced probably back before we passed Senator Morfeld's legislation relating to mental health, which you'll see codified as subdivision (3)(b) that deals with mental health. So (c) then adds the health care decisions in addition to the mental health that you see in sub (b). (d) is a conversation that got started several years ago, I think out of the conversation surrounding physician, physician malpractice insurance and treating children in the care of the correctional facility up there in Omaha. You break a leg playing basketball while you're in custody and you're 15 years old and because you're serving a life sentence for a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 7, 2025

really bad crime, they're in the care and custody of the Department of Corrections who's being asked to sign off on treatment. And there may not be adults there or they may not have a parent that even has the ability to sign that paperwork. And so sub (d) was sort of drafted in that context, which is why you have the end-related services, which you don't see in subs (b) and (c). I mean, I think that's probably just the-- (d) was carried over. I assume Senator Hunt picked that up from-- I think it was a Morfeld bill years ago, and carried that in. Sub (c) then adds the health care services coming out of the mental health, which you have up in sub (b). And then I would also-- I'm sorry. I see that my light is up, but.

BOSN: You may finish.

TIM HRUZA: Just the one other answer to your question on 71-6902, I believe that that was added during negotiations about the, the bill that Senator Morfeld introduced years ago with regard to 71-6902, which deals with abortion care. That particular statute actually allows it at 18 years of age. And so the-- after the conversation and concerns about it, my understanding is that the reference there was simply added to clarify that you wouldn't have someone 15 years old at DCYF or-- I think that's what it's called, Department of Corrections Youth Facility-- that would be seeking a, a board of services, so to speak, and using-- having an exception basically to 71-60902 [SIC], which says 18, you wouldn't have the same situation or potential conflict between (c) and (d)-- or-- sorry-- (c) and 71-6902 because 71-6902 says 18. Does that make sense?

HALLSTROM: Yeah. I just wanted to make sure that this isn't an exception to it because you don't cross reference 71-6902 of--

TIM HRUZA: Yeah. And I, I don't think it should be because, like I said, the, the exception would have occurred under (d) where you go anything under 18 if they're in DCYF. Under 18 is not an option under sub (c), so I don't know that you need that reference because the statute still says 18 on that-- with that portion of services as well.

HALLSTROM: Thank you.

TIM HRUZA: They'd be inconsistent. So.

BOSN: Thank you for being here.

TIM HRUZA: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 7, 2025

BOSN: Next proponents. Any opponents? Anyone wishing to testify in neutral capacity? All right. I will for the record note that we received 11 proponent comments, 1 opponent, and 1 neutral comment for LB369. Next, we will move on to LB462 with our very own Senator McKinney.

McKINNEY: Good afternoon.

BOSN: Good afternoon. Welcome.

McKINNEY: Chair Bosn and members of the Judiciary Committee. My name is Terrell McKinney, T-e-r-r-e-l-l M-c-K-i-n-n-e-y. I represent District 11 in the Legislature, which is in north Omaha. And today, I'm presenting LB462. LB462 amends standards related to entry into Nebraska child welfare system in response to overwhelming community feedback and data showing our current system is overbroad, involving too many families and using child welfare resources where they are not needed. For background, in 2022, my office introduced LR404 to study racial dis-- racial disproportionality in Nebraska's child welfare system, conducting extensive data policy and legal research and community conversations. We confirmed that low-income, low-income families of color are especially represented in our child welfare system more so than the national average despite research showing these families are not more likely to cau-- cause harm to children. In looking for reasons and solutions for these imbalances, community members, child welfare experts, and data-- and, and data repeatedly point to the same thing: the front door of Nebraska child welfare system is too big. More specifically, the standards determining how people come into the system are too broad, providing room for interpretation, bias, confusion, and overreaching, leading to tens of thousands of families touching the system a year unnecessarily. In fact, Nebraska's in the top ten states with the highest rates of overreporting or reports-- or, or reports to the child welfare system that don't actually involve maltreatment. Over the past five years, an average of almost 37,000 reports were made into our child welfare system each year. Of those, only an average of 1,900, or 5.2%, actually involve maltreatment. And of that 5.2%, 85% involved physical neglect or lack-- lacking food, shelter, or clothing. In other words, poverty rather than abuse. This means almost all families coming in contact with our child welfare system are not ex-- experiencing intentional physical abuse as you assume. Instead, most families touching our system are low income or not actually experiencing harm at all. And to be very clear, legitimate child abuse should absolutely be reported to and res-- be reported and responded to. But Nebraska data shows those cases are very low-- are, are very low percentage of what our system is actually using its resources for. Moving forward, I

believe this Legislature wants our child welfare re-- resources to support children legitimately needing intervention rather than unnecessarily and inequitably invading families who don't. To achieve this, LB462 carefully narrows Nebraska's child welfare system, changing who has to report families into or are mandatory reporting requirements and, two, for what clarify-- what clarifying our child neglect definitions. Focusing on these two standards is not random. Broad mandatory reporting and child neglect statutes are repeatedly, repeatedly cited causes of overreporting and, and inconsistently came up during my LR404 work. Advocates in other states are engaging in a similar work, including passing, passing related bills in Utah, Oklahoma, Texas, and Colorado. Starting with the mandatory reporting changes. 32 of the majority of states only require certain people to report child maltreatment, focusing on trained professionals who regularly interact with children. Right now, Nebraska takes a different approach and requires every person, regardless of training or education, to report suspected child maltreatment or be subject to criminal charges after err on the side of caution. But child welfare experts report this better safe than sorry approach is not on-- not only fails to improve child safety, it actually creates problems. One, it leads to high amounts of overreporting, as evidenced in Nebraska being in, in ten states with the highest rates of overreporting, along with several other universal mandat-- mandatory reporting states. This is because reports err on the-- re-- re-- report-- reporters err on the side of, of reporting even for small amounts of suspicion out of fear they'll get in trouble if they don't. And since you can't train everyone, not all reporters will be educated in child maltreatment, causing inaccurate assumptions about child safety and more reports. Two, and assessing so many reports consumes child welfare resources and capacity, leading to high case loads and less time, resources, and attention for truly emergent situations. Three, then increased reports mean increased investigations, which harms families due to their invasive and traumatic nature-- assessing the family's entire life, home, children, school, and more. Four, and finally, it prevents family from accessing help they need for fear of being reported. Families needing domestic violence, food, or housing support report not accessing them because the providers are mandatory reporters who may report them for needing help. They then avoid getting help, causing their circumstances to get worse. So to help mitigate those issues, LB462 focuses on three things. First, it matches the majority of states and only requires certain trained professionals to report suspected child maltreatment. This includes a long list of trained professionals that regularly interact with children, like doctors, teachers, nurses, and many, many others. Second, it makes clear that everyone else can

still report. They just won't be subjected to criminal charges if they choose not to. Third, it requires all mandatory reporters to be trained in child maltreatment, cultural competency, and implicit bias. To ensure this training is, is accessible and accurate, it requires DHHS to develop a free online version with help with experts. The second piece of this bill narrows our definition of child neglect, which is broad, outdated, and includes circumstances that don't need child welfare intervention. Primarily, current-- our, our current definition includes a lack of food, clothing, shelter, care, which typically means just being in poverty. As sai-- as said before, this accounts for 85% of child welfare cases, or almost all Nebraska families in the system. Being low income does not equal harm. The current definition also includes other broad circumstances like lacking proper parental care or danger to child's morals, which are subject to a variety of interpretations and judgments. So many factors influences a family's lifestyle and what proper parental care or morals look like to them. So LB462 updates these phrases, including requiring will-- willful deprivation of necessary resources and care to consider neglect to, to avoid punishing poverty and, and parenting style differences. Lastly, a strict reading of our current neglect definition could include children walking to school, playing outside, or being home alone. LB462 clarifies that allowing children to engage in these independent activities in an age-appropriate manner is not child abuse or neglect. Parents know their children's best and should have the freedom to give their children gradual independence without fear of being reported. Before closing, I want to acknowledge that you may recognize, as, as-- if you're being on this committee-- Senator Bosn, Holdcroft, and DeBoer-- I want to acknowledge that you may recognize LB462 from last session. I introduced LB271 on mandatory reporting and Senator Ben Hanson introduced LB42 on child neglect, both of which were before this committee and worked on by diverse bipartisan group of national and local child welfare stakeholders. LB462 combines those bills to, to, to, to more holistically narrow the child welfare system with updates to address concerns expressed during, during those hearings. Lastly, I wanted to quickly note that I introduced an amendment ahead of this hearing. It is mostly the same as the intro-- as the introduced version, except a fall few-- small few words and formatting changes that were not included in the original introduction just with drafting, and it just didn't get in at the time that I introduced it. And we ha-- we have a ten-day limit, so I had to get the bill introduced. In conclusion, LB462 is the result of a lot of hard work from my staff, national and local stakeholders, and generous input from community members. I believe it is thoughtful, responsive, research supported, and will improve our child welfare system for the better, ensuring its

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 7, 2025

resources are devoted to families to truly-- who truly need it and allow our deep network of community resources to do the rest. Thank you. And I'm open to any questions.

BOSN: Questions from the committee? Seeing none. Thank-- oh. Did you have a question?

HALLSTROM: Yeah. Senator McKinney-- and I'll, and I'll talk more off-mic with you. But it seems to me that, that-- as well-intentioned as you might be, that any time that you put enhanced standards, that you're going to have some instances of neglect that fall through the cracks because people are going to have an expanded ability to use a defense. Is that of concern to you?

McKINNEY: No, it's not a concern of mine because the, the data doesn't show it, especially with the amount of overreporting. I don't-- I mean, I guess-- we can-- yes, you could say that. It's not a big concern of mine that something won't get reported. I, I trust people. I trust if somebody sees a kid being harmed or mis-- mistreated, I think most reasonable adults would, you know, step in and speak up. So I, I don't have that concern primarily because the amount of overreporting and the amount of unsubstantiated cases that we have already.

HALLSTROM: And, and I appreciate that. And seems like it's a two-edged sword because if you've got reporters, whether they're required or through observation or knowledge, you're now enhancing the standard that triggers the need for reporting. So in an effort to address overreporting, you may have some people who turn a blind eye to reporting something because if they happen to know, well, now I must have a reasonable cause, I must be a reasonable, prudent person, things of that nature. So I'm just, I'm just concerned that it may take it too far the other direction.

McKINNEY: I understand. And it, it's a fair concern. So I'm not, I'm not disagreeing with you there. I think this-- I, I think this strikes a, a delicate balance because of what you just stated. Because I don't want to shift it another way where kids that are being mistreated-- and-- are-- and it's not being reported. But I feel like what we currently have on the books is out of whack as well. And I think this strikes that.

HALLSTROM: Some parents may get reported when they shouldn't be.

McKINNEY: Yeah.

HALLSTROM: OK. And just a couple more quick ones. One thing I noticed is we're changing the standard from deprived of food and necessities and it's going to become willfully. Isn't the real impact that if, if a child's deprived of food, whether it's willful or not, the end result is that the child's been deprived of food. Do, do you see any distinction between why willfully is necessary--

McKINNEY: I think will--

HALLSTROM: --in that context?

McKINNEY: I think willful is necessary because just-- as somebody that has, like, that experience of, like, knowing people that grew up in poverty and-- I had close friends that-- their parents didn't willfully not put food in the refrigerator. They just didn't have it. They were trying and they were struggling. And they could've got reported and they did get reported. But I know my friend's mom loved her kids and was doing her best to make sure they had food in the house. But for whatever reason, she didn't-- they, they didn't have it. But she wasn't deliberately not making sure they wasn't eating.

HALLSTROM: Yeah. And I, and I appreciate your concern on that basis. But on the same token, we may have somebody that's not in that position that may have a defense when, when those conditions aren't leaving-- leading to not providing the food for the children. And the-- and the back-end result is that the children still aren't being fed properly. So-- and, and I'll talk more with you about that. The, the final question is with regard to the training requirements. I'm a little bit puzzled as to what purpose the training requirements-- what purpose do they serve?

McKINNEY: I think training is necessary, especially with the ever-changing demographics of our state and the need to understand-- especially where we're getting just the influx of refugee populations and the cultural dynamics of those populations. Somebody working at the Department of Health and Human Services might not understand or a mandatory reporter might not understand those cultural differences. So the needing for training is what you and your culture might deem acceptable is probably different from mines. And-- so just-- primarily just getting people to understand maybe what you're seeing isn't what you think it is and, and, and kind of looking at it from a-- trying to look-- looking at it from a more empathetic lens. Not to say that you shouldn't look at it and say, OK. Is something going on here? But should you always make that call? Just--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 7, 2025

HALLSTROM: And, and I appreciate-- we, we both have the same goal, which is the best interest of the children. So thank, thank you, Senator.

McKINNEY: No problem.

BOSN: Any other questions? Thank you.

McKINNEY: Thank you.

BOSN: First proponent.

SARAH HELVEY: Good afternoon, Chair Bosn and members of the Judiciary Committee. My name is Sarah Helvey. That's S-a-r-a-h; last name, H-e-l-v-e-y. And I'm a staff attorney and Director of the Child Welfare Program at Nebraska Appleseed. Nebraska is in the minority of states that has chosen to be a universal mandatory reporting state, meaning every person is required to report suspected child abuse or neglect or be subject to criminal prosecution. Most other states, on the other hand, choose to only require certain trained professionals to report. As a result of this, of Nebraska being in the minority, Nebraska receives, receives an abnormally high rate of unnecessary reports, with an average of only 5.5% of all reports to the hotline being substantiated or found to be true. This puts Nebraska in the top ten states with the highest rate of overreporting. While it's sensible to assume that this better safe than sorry approach is better policy, research demonstrates the exact opposite, showing that it, it does not improve child safety outcomes and instead drains child welfare resources, actually creating safety risks with an overloaded and thinly spread system. Legitimate child abuse and neglect is an emergency and needs effective intervention, but the ability to do that is reduced when time, resources, and caseload capacity is spent having to sift through unnecessary reports, which risks delays in responding to true maltreatment or, even worse, missing it altogether. For perspective, over the past five years, an average of 35,000 hotline calls per year were found not to involve child maltreatment compared to 2,000 that did. And this overreporting wrongfully subjects thousands of families to unnecessary, invasive, and traumatic child welfare investigations. Moreover, Nebraska's outdated and overbroad statutory definition of neglect exasperates the situation, contributing to this large number of families being investigated for actions that don't constitute maltreatment and should not involve state intervention. For example, a strict reading of the existing statute requires reporting of and criminalizes a very broad range of situations for which parents should not be found negligent, including certain

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 7, 2025

reasonable childhood independence activities like walking home from school, being low income, or cultural practices like extended, extended family home sharing. This can be seen clearly in the data, with only 6% of the total reports to substant-- of the 6% of total reports to the hotline that are substantiated, 85% of the 6% involve neglect. So that's the vast majority of cases that are substantiated are neglect in Nebraska, in part because of this broad definition, which, as others-- as Senator McKinney said, is often an economic issue for families. LB462 would help address this by adding to the ability of HHS to screen out cases where there is not evidence of willful neglect, allowing families to access services outside the child welfare system and conserve resources for more pressing types of cases. We want to thank Senator McKinney for introducing the bill and the Judiciary Committee for your attention to this important issue and ask you respectfully to advance the bill.

BOSN: Thank you. Any questions from the committee? Am I remembering that you're retiring soon?

SARAH HELVEY: I am retiring.

BOSN: Congratulations.

SARAH HELVEY: Thank you. I've been at Nebraska Appleseed for 18 years. This might be my last testimony on behalf of Appleseed. So thanks for making it easy.

BOSN: Yes. You bet. Thanks for being here. Next proponent. Welcome.

ANAHI SALAZAR: Hi. Thank you, Chairperson Bosn and members of the Judiciary Committee. My name is Anahi Salazar, A-n-a-h-i S-a-l-a-z-a-r. And I am one of the policy coordinators for Voices for Children in Nebraska. I'm here in support of LB462. The child welfare system should prioritize family preservation whenever possible. Young people in Nebraska should be able to be independent in a reasonable manner, and families should, should not have to worry about needless punitive action against them. Simultaneously, our child protective system should be structured to ensure a timely and appropriate response when abuse or neglect is suspected. Voices for Children supports LB462 because it clarifies the definition of child neglect to help prevent-- to help prevent safe and loving families from being unnecessarily involved in the child welfare sys-- welfare system and modifies the current system of universal mandatory reporting because it is inefficient and leads to erroneous reporting, which needlessly overwhelms our child protective hotline and can be particularly harmful to children and communities in

poverty. As of 2019, 47 states designate certain professions whose members are required by law to report suspected child abuse or neglect. However, only 18 states and Puerto Rico mandate all persons to report. The rationale for having all people be mandated reporters is to cast a wide net, ideally protecting every child. Unfortunately, what occurs instead is that our child abuse and neglect hotline is inundated with calls, many or most of which need to be screened out in order to find the reports where children are actually at risk. There's data here of-- from 2022, which is the, the most current I could find, but there were over 38,000 calls to the hotline reporting suspected child abuse or neglect. Of these, only-- a little over 15,000 were screened out for not meeting the threshold. 8,100 contained no allegation of abuse or neglect. And of those 1,500-- 15,000, only 1,700 ended up being substantiated. And then an additional 4,300 were referred to alternative response or voluntary services. The data tells us the story that our current structure both risks cases being missed in the massive volume of calls and putting families through investigations that may not necessary-- be necessary to ensuring child safety. Because of alleg-- allegations of physical neglect represent the majority of the reports, it is crucial our statute distinguishes neglect from poverty. These are frequently intertwined, but a family's lack of economic security is not in itself a reason for a child welfare system response. In most cases, issues can be better addressed by providing resources and concrete support to families through other channels. This is especially important for rural Nebraskans and Nebraskans of color who, who are statistically more likely to experience poverty in our state. In fact, families of color are disproportionately brought into the court system and face greater likelihood of removal of their children. Skip down to-- LB462 articulates a better approach: professionals in positions likely to encounter child abuse or neglect remain mandated reporters and must undergo training to understand what to look for, what to report, and how to respond. Nothing in the bill prevents other concerned citizens from continuing to call the hotline if they see something. But by removing statutory penalties for failure to do so, our department intake teams should receive fewer erroneous calls to screen out. Using this pressure on the front end of our system can allow for timie-- timelier investigations of accepted reports and reduce disparities by ra-- rurality and race and ethnicity in intake. For all these reasons, we thank Senator McKinney for bringing this bill and the committee for considering this important matter. I'm available for any questions.

BOSN: Thank you. Any questions for this testifier? Thank you for being here.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 7, 2025

ANAHI SALAZAR: Thank you.

BOSN: Next proponent. Anyone else wishing to testify in support of this bill? Welcome.

MONIKA GROSS: Thank you. Chairperson Bosn and members of the Judiciary Committee. My name is Monika Gross, M-o-n-i-k-a G-r-o-s-s. And I am the Executive Director of the Foster Care Review Office. I offer this testimony in support of LB462. The Foster Care Review Office is the independent state agency created by the Legislature in 1982 to track children in out-of-home care in Nebraska. To review children's cases, utilizing local volunteer citiz-- volunteer citizen review boards to collect and analyze data related to the children, and to make recommendations on conditions and outcomes for Nebraska's children in out-of-home care. Among the data-- excuse me-- among the data that our office collects are the reasons children are removed from their family homes. During state fiscal year '23-24, 2,000-- excuse me-- 2,143 children, or 64.1%, were removed for neglect, which is a broad category of factors often associated with poverty, including the failure or inability to provide a child with necessary food, clothing, shelter, medical care, education, or supervision. According to the Children's Bureau, 3/4 of children-- of child welfare cases involve reports of neglect, including thousands that result in family separation each year. We know that family separation has serious consequences for children and for parents, so it is imperative that we do everything we can to reduce the risk of child maltreatment and family separation. Additional data that our office includes in our annual and quarterly reports includes race and ethnicity data for children in out-of-home care in Nebraska. On September 30, 2024, there were 3,426 children and youth in out-of-home care under the custody of DHHS. Of those, 45% were white, 22.2% were Hispanic or Latino, 16.2% were black, 11% were multiracial or mul-- multiethnic, and 3.4% were American Indian or Alaska Native. White children were underrepresented compared with the general population of children in Nebraska, while children of color were overrepresented compared with the general population. And those population percentages are 65.8% white, 6.1% black, and 1% American Indian, Alaska Native. So why is this significant? According to the Children's Bureau, black and American Indian, Alaska Native families are reported to CPS and subjected to investigations at higher rates than other families, are more likely to be removed from their homes, and are less likely to reunify. The FCRO has repeatedly called on multiple agencies and child welfare system partners to do more to address racial and ethnic disparities in child welfare. While this bill will not resolve disparities, it is a step in the right direction. We believe with the required training for mandatory reporters this bill

will reduce the number of children and families of color reported for allegations of neglect and subjected to investigations and potential removal of the children from their family home. We have two minor suggestions to improve the bill. First would be to add chiropractors to the list of mandatory reporters. And second would be to add employees of mosques, synagogues, temples, and gurdwaras in addition to church employees. Thank you, Senator McKinney, for introducing this important piece of legislation. I urge the committee to advance the bill. And I'm happy to answer any questions.

BOSN: Any questions from the committee? I have just a few.

MONIKA GROSS: Sure.

BOSN: In reading this, certainly I can agree that the statistics are startling and alarming. But I, I think-- all of the cases where these kids are removed, they have to be proved to a court, who serves as a guardrail, right?

MONIKA GROSS: Correct.

BOSN: And so by saying that we fix the problem by reducing the number of investigations we do ignores that these are validated concerns when they are proven to a court by a preponderance of the evidence when those chi-- children are removed. I, I guess I just have a real concern that fixing the problem by narrowing how we can address the problem will exacerbate those children's circumstances later in life. And in a couple of weeks, we're going to hear bills that deal with kids who are at the teenage age and we're saying we need to start doing more when they're younger. And now we're cutting ourselves off at the knees and saying we shouldn't do this when they're younger. Can you see where I'm coming from and the conundrum that this presents?

MONIKA GROSS: I think if you look at it in the context of some of the data that was presented by the previous testifiers, it's that overreporting piece. So families may be subjected to investigations that never get-- that never get referred to the county attorney's office, never get filed on. And that experience in and of itself causes traumatic harm to the children and families. I think-- I have read that half of black children in America will experience a child welfare investigation in their lifetime. And for white children, it's nowhere near that high. So I think we are-- as a system, we're causing harm. I don't disagree that we are preventing further harms by the interventions that we do, but I think we do need to look at the number of reports that come in, what they're being reported for, and-- you

know, 2/3 of the children in Nebraska in out-of-home care were, were reported for neglect. Now, I, I don't know specifically what those-- what constituted those neglects, but could have-- could those families have been treated in their own homes? Could the children have been kept in those homes? Would concrete supports help? There is-- there are a number of studies that show that concrete supports and direct cash assistance does prevent maltreatment and does prevent entry into the child welfare system. So that's where I'm coming from.

BOSN: And, and I don't disagree with that, but I don't think that's what this bill fixes. Because these are kids that have already-- the court has to be shown-- and there's a high threshold that this can't be mediated or resolved with the child in the home. I mean, we've done a ton of work over the last 15 years to say we should not be removing kids where we could put safety, you know, features in the home and have-- even if it means having a caseworker in the home quite a bit to keep the children in the home. Because I agree. Children do best when they're in their own home. And, and removal from the home is a very traumatic situation. But these are kids where the court has already said this child cannot be maintained safely in the home. And now what, what I think-- this-- the concern I have with this bill is, is we're saying we shouldn't even do that. And, and I guess that those kids' safety isn't important enough. I-- that's the concern I have that this will-- the message that this will send to those kids.

MONIKA GROSS: I think that the, the training aspect of it is important as well. And I think that that, that goes to Senator Hallstrom's question too earlier, was that if professionals and those who work with children understand what they need to report and that is consistently trained across the state, then the reports that do come in I think will be, will be better reports, so to speak, will be more valid. And the hotline staff won't have to go through reports that end up being unfounded or that get screened out.

BOSN: Right, but they're-- you're-- we're-- you can't conflate two things. There's-- someone can report child abuse and neglect. That doesn't automatically result in a removal pending an investigation, right?

MONIKA GROSS: Right.

BOSN: So if I see something that alerts-- that I find concerning and I make that report, it goes through HHS. An initial assessment worker is assigned to do an investigation. Then they have their own internal checklists of, does it rise to this level, this level, this level, this

level? And then they have to ask this-- the county attorney's office to make that filing if their stuff has been-- so what, what this bill seeks to do is only say fewer cases even get reported for investigation. And if your concern is the overreporting of children who are in homes of, of people of color, I-- that's one thing. But we've-- that-- this is step two. These are kids-- you're referring to kids who are in foster care. Because that's where you come in, right? I mean, you're not working with kids who are still in their family home.

MONIKA GROSS: Correct. Correct.

BOSN: I don't-- I think we've got to make sure we're not conflating investigations with the concerns we have for kids who are in foster care who have gone through those checklists and have those things proving that those children were the victim of neglect or abuse.

MONIKA GROSS: And, and I'm not trying to conflate those. I just want the committee to be aware of the current state of things for children in out-of-home care in Nebraska, that 2/3 of them-- nearly 2/3 of them are there due to neglect, which is, as I said, a broad category, and that there's an overrepresentation of children of color.

BOSN: Fair enough. And then I-- is unfortunate. And I can't argue with that. Any other questions?

HALLSTROM: Were you saying an overrepresentation of those reported or those that are taken from the home or both?

MONIKA GROSS: Those that are taken from the home. I don't have any data on hotline calls on those that are reported, but someone else might.

HALLSTROM: OK. And, and I appreciate Senator McKinney's example that he gave about parents that truly love their children, but-- due to financial considerations, but. Poverty-- if, if children are being neglected and abused, poverty or financial conditions isn't a justification or excuse. If the ultimate protections that Senator Bosn noted are hopefully built into the system to try and ensure that those kids, if they need to be taken from the home, they are. But if there's other means to keep them in the home to address the poverty situation, that's what we hopefully can be looking for.

MONIKA GROSS: Yeah. That, that's correct. And, and many of the children who are in out-of-home care are there for multiple reasons and not, not just neglect. So they could be there for, for other reasons as well. And, and we collect all those reasons and they're reported in our annual reports.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 7, 2025

HALLSTROM: And, and you suggested the data that there's a disproportionate amount of children of color that, that are reported. How does that compare to those that are taken out of the home or placed in alternative--

MONIKA GROSS: Again, I don't have the data on reports, but there is, there is--

HALLSTROM: So you-- so your, your comments earlier were to-- not to the overreporting, but to the taken from the home situation.

MONIKA GROSS: Correct. Correct.

HALLSTROM: OK. Thank you.

BOSN: Any other questions? Thank you very much for being here.

MONIKA GROSS: You're welcome.

BOSN: Next proponent.

LINCOLN ARNEAL: Hello again. My name is Lincoln Arneal, L-i-n-c-o-l-n A-r-n-e-a-l. Good afternoon, committee again. I'm still with Nebraska Children. As an organization, Nebraska Children works with community collaborators and state and national partner-- partners to empower those local community partnerships develop long-term plans using the latest strategies and data to help prevent life's challenges from becoming crises that many Nebraska families are-- and children. We're here to support LB462. We heard some stats as well that put those in a national scope. According to the National Child Abuse and Neglect Data System, in 2023, Nebraska had the eighth highest rate of national children screened in to report of maltreatment at 57.4 cases per 1,000 children of the general population. However, it also has the fourth lowest rate of substantiated reports at just 8%. So again, Nebraska ranks above the national average and, and the, the rate of children entering care and overall number of children in care. To me, that's a disconnect with the number of reported incidents and actual cases of abuse and neglect, indicating the reporting system and the definition of abuse and neglect is not working effectively. To answer Senator Bosn's questions from earlier, the issue is those cases are being adjudicated on current law. The current law definition is overbroad. I think this, this bill narrows that to allow more independent parenting activities and also addresses poverty as an issue as well too. So it's being adjudicated under that narrow definition. So our viewpoint is that definition should be narrowed, allowing more independent parental activities as well as not having-- providing more supports and resources for those

that are experiencing poverty. Because poverty is not abuse or neglect. The organization I work for, Nebraska Children, works a lot with community response. This includes a lot of cases of inadequate winter clothing, unwashed clothing, addressing truancy, transportation issues. So once the immidi-- immediate issue has been solved, people in the communities that those peo-- that those people live in continue to coach and work them through-- the family to ensure that they achieve their additional goals. So eliminating the requirement that everyone is a mandatory reporter enhances the state's ability to protect children from abuse and neglect more effectively. This bill includes a long list of people who are professionals, who are trained to recognize the signs of abuse and neglect. They're bet-- better able and positioned [INAUDIBLE] everyone else to report. Still, the number one, number one group of people reporting abuse to the hotline are teachers, and they're still covered under this. So it would allow-- I mean, the concern with universal mandatory reporting is the tendency to overreport and to conflate poverty with instances of actual child abuse and neglect. So that go-- it goes a lot into the reasonal-- reasonable person standards. It might seem vague, but I-- we think that that's a fairly clear legal term and we all consider actions-- the, the people that I work with understand what that term means and hopefully they can replicate that in their lives. So we think this bill is a solid step forward to improving how we report child abuse and neglect in the state. If we can clearly define child abuse and neglect, we can more effectively serve young people and keep them out of the system. So thank you for your time and consideration.

BOSN: Any questions from the committee? Can you tell me what independent parental activity means?

LINCOLN ARNEAL: It means that you live across from the park and, and you allow your children to go across the park too. I mean, if they're appropriate age to be able to do that, they can conduct those activities too. I mean, you, you trust them to go to the park and play on their own if they're appropriate age to do that. You don't have to monitor tha-- their activities constantly.

BOSN: So that's the example that was given last year as well. It wasn't characterized as independent parental activity. So that's what I was wondering, since the independent goes to parent.

LINCOLN ARNEAL: Yes, it's the independent--

BOSN: You can understand my confusion.

LINCOLN ARNEAL: Yeah.

BOSN: Are there cases where kids have been removed from the home for going across the street to the park at a reasonable age in the state of Nebraska?

LINCOLN ARNEAL: I don't know if it's-- they've been removed, but it's being reported. And that goes back to what earlier people said. The more chances of reporting, the more touchpoints they have with investigations, the more that also leads them down to more less positive outcome, negative outcomes in their lives too. So it's-- even just going to the reporting side of things. I'm not-- I-- I'm unaware either way, yes or no, whether there have been any instances of removal, but it's another touchpoint with the system and an investigation that happens.

BOSN: And your testimony is that we're the highest reporting. And then you pointed out that the largest percentage of reporters come from teachers. So we take this chip away at the apple and remove mandatory. We're still going to be in the highest, as you pointed out, because it's teachers that are doing the majority of the reporting. But to circumvent that, we're also going to cut off some of the things that they can report.

LINCOLN ARNEAL: Yeah. That's one of the statistics, though. I mean, you could-- they, they may be the highest, but-- I don't know the exact numbers, but they're the highest group. I mean, it, it could be-- it could be 40%. And we're still-- the 60% are coming from other groups. It's still the highest group percentage that is coming from them too. And I think teachers go training-- get enough training to recognize signs of child abuse and neglect. So I don't, I don't-- I can give those to you of what-- each of the make-ups of where those calls come from. But we're not removing-- 90% of those calls aren't coming-- are, are for that. We're slicing off 10%. They're-- it's the highest group from the large swath of people reporting.

BOSN: If you have a list of where reporting comes from, that would be very helpful.

LINCOLN ARNEAL: Yeah. I can provide that to you.

BOSN: Any other questions? Senator Hallstrom.

HALLSTROM: I guess one of my concerns is that, you know, we see on TV all the time and in real life: a child can be unattended and be lost in the blink of an eye. If that child's lost, neglect or reporting is the

least of our worries and concerns. And so I, I think there's been children that have been saved because people are being good public citizens and keeping an eye out, you know, taking that a step further and having overreporting and putting somebody through the grinder, through a neglect and abuse type of thing. But I, I think we have to balance those, those types of situations.

LINCOLN ARNEAL: I would agree too, but I would-- do those calls need to go to the hotline? Are there other avenues to address that too? Are there-- it's-- their foo-- they're, they're needing food. Can we report them to the food-- or, refer them to the food pantry, and stuff like that. So is, is calling the hotline the first-- is, is that the correct step to take is my question. Yeah.

HALLSTROM: Thank you.

BOSN: Thank you for being here.

LINCOLN ARNEAL: Thank you.

BOSN: Next proponent.

SPIKE EICKHOLT: Good afternoon, Chair Bosn and members of the committee. My name is Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t. I'm appearing on behalf of the Nebraska Criminal Defense Attorneys Association in support of LB462. We're supportive of the bill for a couple of reasons. First, the changes to the standard of child neglect that are on pages 2 and 3. On page 2, lines 28 through 30 of the bill, provide for a reasonable person standard, if you will, for proving neglect. And then I think Senator Hallstrom brought this attention-- to the-- highlight of this earlier on page 3, line 1, the requirement that deprivation of necessary food, clothing, shelter, or care be done willfully. Admittedly, our association really only gets involved in these cases when they are court filed, when they're court adjudicated. But sitting here listening, if the statute is changed, if you will, to require a slightly heightened standard of proof, we could imagine that the protocols regarding reporting and investigating would follow. And perhaps that would address some of the overreporting, the overinvestigating. Admittedly, our association really can't comment on that, but I think the numbers are problematic, if you will, for the number of reports, the high numbers of incidents that were found-- unfounded. And what you have and what we see really in various parts of the criminal law is kind of an overinteraction, if you will, between the poor and people of color with law enforcement. The second part of the bill that we would like is more of a, an interest of us as an

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 7, 2025

association, is that under 28-711, under current law, everyone is a mandatory reporter. Every person is. And this comes up fairly regularly in defense attorney practice when you sort of know that your client might be committing the crime of child neglect. It's a Class III misdemeanor for failing to report. That's at 28-7-- 28-717. It's not in the-- it's not amended in the bill. But any person who willfully fails to report could, in theory, be prosecuted as a Class III misdemeanor. Most of the defense attorneys I know sort of take the position that our ethical obligations to not disclose a confidence that a-- that you learn from a client or client tells you sort of covers you for that. But I don't know that there's any case or any authority that assures that that's accurate. The bill does at least not include us because it doesn't include every person as a mandatory reporter. And that's one part of the bill that we like. I'll answer any questions if anyone has any.

BOSN: Senator Holdcroft.

HOLDCROFT: Thank you, Chairwoman DeBoer.

BOSN: Bosn.

HOLDCROFT: Bosn. DeBoer. I'm so confused.

BOSN: It's OK.

HOLDCROFT: I mean, how many cases have we had of willful nonreporting that you're aware?

SPIKE EICKHOLT: As, as against attorneys? I don't know of any. And I'm not sure how many have been filed against other people. I under-- I understand-- I think I understand your question. I'm not sure how many are actually filed. But what you have is you-- there's no crime for-- as long as you don't knowingly make a false report. There's no crime for, for reporting unless you know that what you're reporting is not accurate.

HOLDCROFT: I just-- to me, it seems like it's rarely, if ever, applied, willful nonreporting.

SPIKE EICKHOLT: Right. And I think willful means that you make a deliberate decision not to. I'll just tell you, when I do tenant assistance and I'm representing a family-- they got the kids there in court-- they're going to live in the car. At the end of the hearing when we negotiate a move-out date, they're going to live in a car. They

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 7, 2025

don't have the ability go and live in a house with heat and TV and things like that. Now, do I, do I call them in? I don't know.

HOLDCROFT: Thank you. Thank you, Chairwoman Bosn. Appreciate it.

BOSN: You're welcome, Senator Holdcroft. Senator Hallstrom.

HALLSTROM: Thank you. And I appreciate you coming up and testifying on the basis that you did. But I earlier suggested I was concerned that the change in language was going to provide more defenses for situations in cases-- and there may be cases that aren't justified and that-- and that's something that maybe this tries to take a, a, a look at. But it also provides a greater defense for someone that may actually have a close case of-- or an actual case of neglect. So I, I think we have to balance that, that desire.

SPIKE EICKHOLT: I think you're right-- if I could just answer. I think what this statute would provide would be a defense to-- one that, frankly, [INAUDIBLE] by the time it gets filed. I think the state can easily prove their case under current law.

HALLSTROM: And, and the other question that I'd asked-- and, and I know there's other ways-- I've already indicated that-- that we need to address the poverty situation. But the end result, if, if somebody that's wealthy deprives or willfully deprives their children of food, the difference that-- the result for that child is no different whether the deprivation is caused by a parent that has the resources to do so and chooses not or someone's in financial condition that they just can't no matter how much they love their kids. And, and that's-- a dilemma to me is the result on the child is what, is what drives what we need to be addressing in any, in any individual case.

SPIKE EICKHOLT: I, I think you're right. I mean, that's, that's a fair point. But what we have now is just the Chapter 28 criminal investigation sort of looking into that situation. You can imagine a-- Dad goes to jail. He shouldn't have gone-- to go to jail. He's gone to jail. He's not working. So Mom's now got CPS because the heat's been shut off. I mean, it's just-- it's another layer to it.

HALLSTROM: Thank you.

BOSN: Thank you for being here. Any other proponents? Last call for proponents. We'll move to opponents. Opponents of LB462. Welcome.

DARA DELEHANT: Good afternoon. My name is Dara Delehant, D-a-r-a D-e-l-e-h-a-n-t. I'm a deputy county attorney with the Douglas County

Attorney's Office. And I'm testifying on behalf of the Nebraska County Attorneys Association. As a prosecutor, I specialize in crimes involving child victims, including abuse that is both physical and sexual in nature. It is my role to hold those who harm children accountable in the criminal justice system. I have several significant concerns with LB462 and the effects it would have on not only the criminal justice system and my ability to prosecute offenders, but also on Nebraska's ability to protect all children from abuse and neglect. Precise language and well-defined terms are imperative in criminal law. Much of the language in this bill is undefined and imprecise. While Section 2 does create a definition for maturity, it doesn't specify who is to make the determination of whether a child engaging in the outlined independent activities is of sufficient maturity, whether it's the parent, DHHS, law enforcement, county attorney. Each of those entities could come to a different conclusion about the same child. So who is right? Likewise, with adding language to the elements required to prove child abuse to include that the danger is sufficiently obvious, it is unclear what that means. Those terms are not defined in the statute. Juries can get hung up on every single word in a statute. Even if jurors agree that a danger is obvious, they could disagree on whether it was sufficiently obvious, and that could be enough to cause a mistrial. This additional language raises the burden that the state must meet to hold accountable those who harm children, and that should not be Nebraska's priority. Bigger picture: from a criminal justice perspective, it's unclear why this aspect of the bill is a problem that needs to be solved. At least in Douglas County, the most populous county with the most criminal cases, we're not seeing prosecutions for the typical situations outlined in the independent activities listed. Even if some of those activities could in theory be charged as child abuse, we always retain prosecutorial discretion in charging decisions. And for the cases where there is abuse or neglect, the simple fact that a DHHS report is marked as unfounded or unsubstantiated doesn't mean the abuse did not happen. My job in the criminal justice process cannot begin until a report is made. Those reports are often made by mandatory reporters. In the interest of protecting children, Nebraska should impel anyone with such information to report abuse and neglect whenever they become aware of it. This bill has puzzling omissions of individuals who often discover abuse, such as volunteers at schools and churches or extracurricular coaches, as well as confounding discrepancies between those who shall report and those who may report. Raising the level of certainty a mandatory reporter must have before reporting from reasonable cause to believe to knowledge of child abuse or neglect is also problematic. Once again, this is imprecise language. What constitutes knowledge? Knowledge from whom? Is a child's statement

enough? Does a reporter have to see or hear the abuse? By its very nature, child abuse is often done in the secrecy of that child's home with no outside witnesses. The majority of children who experience abuse or neglect do not disclose it until adulthood, if ever, for myriad reasons. By requiring knowledge or observation of abuse or neglect, this bill is taking away an invaluable lifeline to children who may not be ready to disclose but who are exhibiting signs of abuse or neglect. This is making it more difficult to protect children and hold accountable those who harm them. The children of Nebraska deserve better than that. Thank you.

BOSN: Thank you. Are there questions for this testifier? I have just a few. So you've been here and heard some of my questions leading up. Are you in criminal division or--

DARA DELEHANT: Yes.

BOSN: Have you ever practiced in juvenile court?

DARA DELEHANT: I have not.

BOSN: OK. Are you, in your experience as a criminal attorney, prosecutor, familiar with how cases get substantiated versus unsubstantiated?

DARA DELEHANT: In-- I guess in which aspect are you--

BOSN: In juvenile court. For purpose-- well, for purposes of an HHS investigation. We've heard some testimony about how reports come in. Then they're investigated. They're either founded or unfounded, I think is the term they used to use.

DARA DELEHANT: Sure.

BOSN: And then if they're founded based on the criteria they meet, then an initial assessment worker goes out and does an investigation.

DARA DELEHANT: Correct.

BOSN: Are there cases where they are unsubstantiated?

DARA DELEHANT: Yes.

BOSN: Tell me about those.

DARA DELEHANT: So in my division, I specialize, like I said, in child cases, both physical and sexual in nature. So I repo-- review a lot of

the DHHS reports for cases. And a lot of the ones that we see on cases that we have filed-- so we have found enough and law enforcement has found enough to report-- or, refer the case to us, then we find that there's enough to actually file criminal charges. When we then receive those reports from DHHS, it's not uncommon for us to see that DHHS closed this report out at some point as unfounded or unsubstantiated even though we then find, hey, there's enough to file a criminal charge. And sometimes we go on and even have a trial and they're found guilty at trial or there's a plea and they're convicted of it. There's a lot of different reasons why a case can be unfounded or unsubstantiated. For example, the perpetrator could be a cousin or an uncle who doesn't live in the home with the child. So there's nothing for DHHS to do in that respect because that person is not-- there's nothing for DHHS to mediate, for lack of a better term. Or is a historic report. It's not something that's happening currently that the child discloses to a friend at school or a counselor and says, this is something that happened to me three or four years ago and it was Mom's boyfriend, but they've since broken up. So this person no longer has access to me. So again, there's nothing for DHHS to do with that report. But somebody still said, I have this knowledge. I have to report it. Or children report. They recant at some point because it's Dad and they love Dad. So they get scared after they make the initial disclosure and say, no, I want to walk this back. I, I-- you know, there's people involved and I, I don't want to do this. Or there, there's just simply not enough for DHHS's standards. And I can't speak to exactly what their standards are since I'm not employed by them. But just because a case is unfounded or unsubstantiated, that doesn't mean it didn't happen. That just means that for whatever that entity's checklist is, they didn't find enough for them to get involved. That doesn't mean that nothing happened at all.

BOSN: Thank you. Senator DeBoer.

DeBOER: Have you talked to Senator McKinney about some of these concerns with the bill?

DARA DELEHANT: I have not personally, no.

DeBOER: Do you know if anyone else has talked to Senator McKinney about these kind of changes that you think should be in place?

DARA DELEHANT: I don't know if anyone from my office or from our organization has. We would certainly be happy to sit down and, and discuss some of these things. Because I, I think that the, the intent behind this is good. We just have some concerns about it making it

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 7, 2025

harder to hold accountable those who, who do harm children, because there are, unfortunately, a lot of people out there who do harm children. And we don't want those people slipping through the cracks, like Senator Hallstrom has, has alluded to here, because there are, there are plenty of those. But--

DeBOER: Part of the reason I ask is because-- I don't know if you were here for the hearing last year.

DARA DELEHANT: Yes.

DeBOER: OK. So you remember that I had some concerns. And now part of me is worried that I've made the language worse by telling them that I wanted the reasonable person standard in there. And when you said some of the language was vague, is that what you were referring to or you're just referring to-- I, I-- in your testimony, you said, who gets to decide, that sort of thing. Do you think these are curable questions, like the, the vagueness of the language?

DARA DELEHANT: Adding reasonable person standards is-- I, I think can get tricky for juries. And, and that-- any time there's a qualifier like adding something like "sufficient" makes me nervous because, what is sufficient to a jury? Because any time that you have something like that-- like, just for example, here where we have sufficiently obvious, sure. Maybe everyone sits around and says, you know, yeah. It's obvious. But is it obvious enough? And so a reasonable person, OK. It's reasonable to me, Dara, but is it reasonable to Jane Doe sitting next to me? So some of those--

DeBOER: But the--

DARA DELEHANT: --the language to the existing statute, as to at least that, that subsection is endangering the physical or mental health right now is just very straightforward without having that additional language.

DeBOER: I get that. And my reasoning for putting in the reasonable person is because we trust juries with that language in civil law.

DARA DELEHANT: Sure.

DeBOER: So I thought, well, if we can trust juries on that. But-- I mean, I get your point about who gets to decide if they're, you know, have gotten to the sufficient cognitive ability, blah, blah. But do you think that the ideas that he's trying to get to, do you think that, that the, the vi-- vagueness that you were concerned about is curable?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 7, 2025

Do you think we could come up with something that was less vague enough for you to feel comfortable with it?

DARA DELEHANT: I don't know what it would be. I guess-- we're certainly open to seeing something, but adding more words to sort of modify things-- the more words we add to a statute I think sometimes makes it harder for juries.

DeBOER: Makes it worse.

DARA DELEHANT: Yes. Keeping it simple I think sometimes is the easiest way. Then juries pick things apart the more words you add there.

BOSN: Well, I will look forward to hearing if you and Senator McKinney can come up with something.

DARA DELEHANT: Absolutely.

BOSN: Round four. Any other que-- oh. Senator Hallstrom.

HALLSTROM: Just wanted to clarify. Even in the amendment, it says sufficient maturity, sufficient physical condition, sufficient mental ability. That would be something that would cause you pause in terms of the ability to prove up in a, in a criminal case?

DARA DELEHANT: Yes.

HALLSTROM: And then with regard to the, the knowledge, I've been involved with situations where you have actual knowledge, you have knew or should have known, or a reasonable person knew or should have known. And all of those can become problematic as well?

DARA DELEHANT: Yes.

HALLSTROM: OK. Thank you.

BOSN: Any other questions for this testifier? Thank you for being here.

DARA DELEHANT: Thank you.

BOSN: Next opponent. Welcome.

BRYAN WAUGH: Good afternoon, Chairwoman Bosn and members of the Judiciary Committee. My name is Brian Waugh, B-r-y-a-n W-a-u-g-h. And I am a Police Chief for the city of Kearney, Nebraska. I'm testifying today on behalf of the Police Chiefs Association of Nebraska, the Nebraska Sheriffs Association, and the Police Officers' Association of

Nebraska. We appreciate Senator McKinney introducing this bill and providing this opportunity to discuss Nebraska's child abuse and neglect reporting policies. Keeping our communities and children safe is the highest priority for Nebraska's law enforcement community. LB462 does present some ideas which we would agree, such as expanding mandatory reporting requirements to certain other groups routinely in frequent contact with children, such as youth sports organizations, for example. We have one point of opposition to this bill. LB462 imposes training requirements on mandatory reporters, including law enforcement officers, related to identifying and reporting child abuse and neglect, implicit bias, and available alternative resources. I want to inform the committee that law-- and you are probably well-aware of this through other, other legislation that has come through this committee-- law enforcement officers in Nebraska are required to complete the annual training covering most, if not all, of these areas. We believe the additional training requirements of LB462 would be duplicative. While we take no position on whether any other mandatory reporter should be required to take this training, we oppose LB462 because it would create unnecessary additional training burden for law enforcement personnel across the entire state. I thank you very much for the opportunity to be here today. And I would be happy to address any questions you may have.

BOSN: Thank you. Any questions of this testifier? Seeing none. Thank you for being here.

BRYAN WAUGH: Thank you so much. Have a great day.

BOSN: Next opponent. Welcome.

TOM VENZOR: Good afternoon, Chairwoman Bosn and members of the Judiciary Committee. My name is Tom Venzor, T-o-m V-e-n-z-o-r. I'm the Executive Director of the Nebraska Catholic Conference. Here to testify in opposition on LB462. I just want to note up front I think there's been a lot of good discussion here. There's, I think, a lot of shared concerns about the interests of the child, preventing child abuse. Obviously, there's a lot of discussion here about the delicate balance of how do you do that without creating situations of overreporting, particularly disproportionate overreporting for certain communities. I want to note that. But I also sort of, you know, why are we here testifying? You know, any given year, the Catholic Church, you know, in light of the historic sex abuse scandal, we've done a lot in the church to repair that damage, especially through child protection work. Any given year, we have 15,000 clergy, teachers, employees, volunteers who are undergoing background checks, training programs for a safe

environment to spot abuse, report abuse, et cetera. We also have all of our kids in Catholic schools and all the kids who go to, like, you know, things like CCD, et cetera. So about 33,000 kids who are also going through their own training programs to understand just healthy boundaries, healthy behaviors, and what to do if they're ever in a situation where they're being harmed. So I think it's from that experience that we wanted to point out four concerns that we have. The first one would be we are concerned about the move away from universal mandatory reporting. Second, we would strongly urge that volunteers of youth-serving organizations be included as mandatory reporters. Third, we have concerns with the limitations on when mandatory reporters must report. And finally, we strongly urge prov-- providing additional types of content to be allowed for training of mandatory reporters. I'll try to see if I can get through all of those, but I don't think I will. With the first one, just a basic, I think, fundamental concern with moving away from universal mandatory reporters. I think there-- you know, the balance here, right, is now you don't have people like family, friends, and neighbors, people who are often closest to some of this abuse or neglect that might be-- have a great likelihood of having information that they can share is imp-- is important and they, and they will not be included. So I would also go to the youth-serving organizations. Even though the, the legislation has employees of youth-serving organizations included, the fact of the matter is, is that volunteers are not included. So I think of things like scouting or youth sports where you have maybe few employees that actually participate in that organization, but you have a lot of volunteers-- say your coaches, your scouting leaders, et cetera. They're the ones who are actually having the interactions and the engagement with the youth and able to recognize these instances that, that could be reported. So I would say that their inclusion, we believe, is very important. Also on the limited list of mandatory re-- so with mandatory reporters under the bill, they only have to report when they have a suspicion of abuse or neglect when it's in their professional capacity or within the scope of their employment. I think our position is, is if they're going to go through the training to be able to, to identify this, they should be a mandatory reporter at all times and not just when it's in the scope of their employment. So-- I'll end there because of the light.

DeBOER: Thank you. Are there questions for this testifier? I don't see any. Thank you for being here.

TOM VENZOR: All right. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 7, 2025

DeBOER: Next opponent. Anyone else in opposition to the bill? Is there anyone here in the neutral capacity? Welcome.

SCOTT THOMAS: My name's Scott Thomas, S-c-o-t-t T-h-o-m-a-s. With Village in Progress, Nebraska. We do human rights work. I'm testifying neutral capacity because we agree with the laxing in the definitions of neglect regarding direct supervision. Parents are the best suited to adjudge the particular capabilities of an individual child, which is known as the zone of proximal development in the field of psychology. Parents should not have their competency questioned solely for allowing their children to engage in independent or unsupervised activity that is in no way inherently negligent. But we disagree with the laxing of mandatory reporter requirements. I think the training by the department online is the best facet of the bill because this will make public the standard being used for child abuse metrics by the department, which will in turn make it harder for people to politically exploit children. The standard for abuse and neglect is defined by the department and defined by legal context are different, and this would make the former available to the public, as is the latter, and increase transparency and public accountability. And I think we heard testimony-- two speakers prior that spoke directly to that. Reasonable person standard's, like, ambiguous language in the statute-- or, in the bill proposed, I guess. So I moved here from Texas. And the state of Texas, if you call in-- I think the hotline here in Nebraska is 1-800-652-1999. But if you call the hotline for abuse in Texas, there's, there's a recording that plays that lets you know, if you make a bad faith report, you'll be subject to prosecution. We don't have that here in Nebraska. We don't have that kind of disclaimer to parents or reporters. And we should. And it'd be very easy to institute some kind of a system to hold people accountable for abusing the system of mandatory reporters. That's all I have. And I'll be willing to take any questions if anybody has any questions.

DeBOER: All right. Thank you. Are there any questions? I don't see any. Thank you, though, for your testimony.

SCOTT THOMAS: Appreciate it.

DeBOER: Are there any other neutral testifiers? All right. I will note for the record that there were 31 proponent comments, 1 opponent comment, 1 comment in the neutral capacity. Senator McKinney to close.

McKINNEY: Thank you. Online comments love hearing my bills. Just in closing, I think this bill is a step in the right direction because, as I stated in my opening, our state does have a problem, especially with,

you know, overreporting, which, as I'll go again, you know, our state ranks in the top ten of overreporting. And because of that overreporting, we have disproportionate, you know, representation of, of groups because of that overreporting. And I feel as though we should address that. And I do care about the safety of kids in our state. I'm very empathetic to the safety of kids in our state, and I never want to jeopardize the safety of kids of our state. But that is why I think this bill is important, because of the safety of kids in our state. Too many kids are subjected to the child welfare system because of this-- these things, and then they end up in the foster care system and they get lost and their innocence is taken away and their-- that, that-- their safety is taken away once these things happen. I've, I've come across way too many people who just, however it happens, ends up getting crossed with the system and it's never the same from, from there. And that's why I think this is important. I introduced this bill, I believe, January 21. County attorneys never reached out to me to-- if they had issues with definitions, I would have loved to have that conversation. We could have set up a meeting, as always, with any bill. I'm open to talking to anybody. We may disagree on a thousand things, but as, as I always say, if I could, you know, do something to help the people in my district, I'll sit down with anybody as long as I'm not sacrificing myself and sacrificing my district. And they never reached out. Senator Hallstrom, I believe the standard to report is broadened to any knowledge rather than the old, you know, reasonable suspicion. So-- I mean, I think it's better. And then the-- like, the comment that say, like, poverty isn't a excuse-- I don't think that-- nobody's saying because you're in poverty it's an excuse to neglect your kid. I would never make that argument. But what is missing is context. It's why the willful is needed. It's, it's not giving a excuse to families in poverty. It's saying, like, these, these families are in these situations, but they're not outright trying to deprive their kids and neglect their kids because-- yes, they refrigerators might not be filled. Yes, like, they might not have everything. That don't mean the-- their parents aren't waking up and trying to go to work every day and take care of their families. I'm, I'm open to volunteers and coaches. I think we can have a conversation about that because anybody can walk into a gym and say, hey, I want to volunteer. So I, I think we-- there's still a balance with volunteers. Like, saying we should include volunteers, what, what level of volunteering are we talking about? Is it, is it the people who just come on a weekend or are we talking about people who are actually-- because-- me-- I'll use myself for example. I volunteer with a youth club. Yes, I would be cool with that because I'm actually in contact with kids on a more frequent basis. I would be cool with that. But just somebody who might every

weekend, like one weekend out the year, I think that's a different conversation. I think we would have to craft that language some type of way. The police opposition. I really think you really-- they didn't reach out to me either. We could have amended that some type of way and said, if you already are taking this training, you're exempted. You didn't have to come in our position if that was all your opposition was. I-- and, and that's what-- I'm not going to say it, but I'll leave it there. And you're right. Children of Nebraska do deser-- do deserve better. Children of Nebraska deserve better, especially children of Nebraska that are from communities like mine. And children of Nebraska that look like me deserve not to be overrepresented in the child welfare system. And their families deserve not to be overreported and put in, put in-- put through the wringer in the court system. And that's why I brought this bill. I'm willing to work on language. I'm willing to fix it however we need to fix it. But-- I'm going to just end it because some of the comments was a, a little annoying. Thank you.

BOSN: Any questions for Senator McKinney? Thank you for being here.

McKINNEY: Mm-hmm.

BOSN: That will end LB462. And now we will have Senator Rountree open on LB141. Good afternoon. Welcome.

ROUNTREE: Good afternoon, Chairwoman Bosn and the members of the Judiciary Committee. I know I'm the last thing that's standing between you and the weekend, so I'll go ahead and enter that. My name is Victor Rountree. That's V-i-c-t-o-r R-o-u-n-t-r-e-e. And I represent District 3, which is made up of Bellevue and Papillion. Today, I'm here to introduce LB141, which would improve child abuse and neglect reporting when dealing with military families. LB141 would better connect the Department of Health and Human Services and military installations when cases of child abuse or neglect occur. During the course of an investigation of cases of child abuse or neglect, if the department determines that the subject of the case is a military fa-- a member of a military family, the department then would notify the appropriate military authorities and the appropriate military family advocacy program. Families going through these circumstances are having the hardest days of their lives, and being connected to services as soon as possible can make a world of difference. This bill was brought to me by the Department of Defense, and I would like to highlight some of the written testimony submitted by Michelle Richart on the department's behalf in her statement. This proposed policy is not a military law enforcement matter, but rather a victim advocacy measure to protect our

most vulnerable. This policy is to ensure that military families get the Department of Defense resources available to them at the outset of an investigation. The federal Child Abuse Prevention and Treatment Act, or CAPTA, designates the Family Advocacy Program as a federal entity subject to the requirement to protect children from abuse and neglect. DOD Instruction 6400.01 directs the military services to establish memoranda of understanding with the state and local child welfare services to collaborate on the oversight of cases involving military families. Currently in Nebraska, the framework relies on individualized, local memorandums of understandings around Offutt Air Force Base to guarantee communication between the local authorities and the military community. However, these MOUs may not be regularly updated, and many military families live outside this area. Specific state-level guidance that directs information sharing with the military will provide that needed consistency with state and local agencies when there is an allegation of abuse or neglect involving a military family. As described in her testimony, this bill aims to ensure that there is a statewide response in these cases. Having the Department of Health and Human Services enter into an MOU with the military family advocacy programs, that will ensure that these advocacy programs are receiving the information in a timely manner and are able to quickly connect with families. Now, earlier this week, we've met with the DHHS to discuss this legislation and ensure that they are able to provide the appropriate information to the family advocacy programs. Based on our discussion, there may be an amendment drafted to allow them to share certain documentation that cannot be shared under an MOU and must be stated in statute. I think this policy, though, is an important step in protecting military families and ensuring that every child in Nebraska is protected under the law. There are many resources provided by the family advocacy programs, but they are only available to help if they are aware of the issue in the first place. Ensuring effective communication between the department and these programs is vital to helping families recover. And with that, I would be happy to take any questions that you may have. Thank you.

BOSN: Thank you, Senator Rountree. Any questions from the committee?
Senator Hallstrom.

HALLSTROM: Senator, with regard to the, the reporting, the military family ada-- advocacy is intended to be rehabilitative or, or helpful. Is that the underlying objective?

ROUNTREE: Yes, it is to be rehabilitated and not punitive.

HALLSTROM: And-- but the bill says that it's reported to appropriate military authorities and the military family advocacy program. Who are the other military authorities? And does that-- the reason I ask the question is, does that edge into they could be sanctioned for having had some issues with child abuse and neglect from those other military authorities?

ROUNTREE: Sorry. Each, each military member-- and I'm glad Senator Holdcroft is here. He'll, he'll vouch for that. But each military member belongs to a unit. We have a structured chain of command and other folks that are in that unit. So I'll just use myself as an example. And my unit has a unit first sergeant or a superintendent. And we have those members that are under our charge. If an issue comes into the unit, then we are made aware of that. And what is our position? We can assure that our members are engaged in the family advocacy process to make sure they're not skipping appointments or denying opportunities for services that are provided for them. At the same time, as a first sergeant, I'm also-- would be involved in our monthly advocacy meetings to ensure that we're making good progress and that safety is also covered with our members that are involved.

HALLSTROM: OK. Thank you, Senator.

ROUNTREE: Yes, sir. Thank you so much for that question. That's a good clarification.

BOSN: Any other questions for Senator Rountree? All right. Thank you.

ROUNTREE: All right. Well, thank you so much.

BOSN: Yeah. First proponent. Opponent? You might be the most popular man of the day. Neutral? Oh. Never mind. Lost your popularity status. I'm kidding. Welcome.

IVY SVOBODA: I'll be under three minutes. Good afternoon, Chairperson Bosn and members of the Judiciary Committee. My name is Ivy Svoboda, I-v-y S-v-o-b-o-d-a. The Executive Director of the Nebraska Alliance of Child Advocacy Centers. I'm here to provide neutral testimony on Senator Rountree's LB141. Our mission is to enhance Nebraska's response to child abuse by coordinating with our seven nationally accredited child advocacy centers, CACs, across Nebraska. In 2023, our CACs assisted in over 9,200 children and families across the 93 Nebraska counties who are reported victims of abuse or neglect. CACs provide a full range of services to support high-quality, trauma-informed investigations, as well as ongoing advocacy and mental health care to

children and families. Since 1992, Nebraska laws provided for local teams to coordinate on child abuse investigations and ongoing child welfare and juvenile justice cases. Currently, there are 130 child abuse and neglect investigative and treatment teams in Nebraska. All 93 counties participate. In 2024, these teams conducted over 10,000 case reviews. These teams are comprised of over 4,000 professionals statewide. Statute 28-729 encourages teams to expand their membership to include various relevant disciplines with the necessary expertise for case involvement and discussion. This includes collaboration with military agencies. A prime example of our collaboration is seen in our member CAC in Omaha, Project Harmony. Project Harmony has established team protocols for case review and coordinating with Offutt Air Force Base on cases of potential abuse and neglect. This partnership extends to their family advocates, the, the Child Advocacy Centers' family advocates, who began co-locating with the base's family advocacy program-- program, their FAP program, at the Ehrling Bergquist Clinic in the fall of 2023, where they are present every Monday afternoon. This co-location fosters increased communication between the two programs and streamlines services for families facing abuse or neglect. Project Harmony supports Offutt's family advocacy program by answering questions about the investigative process and connecting families with appropriate pers-- personnel for their investigations. This collaboration has been fundamental, and we are committed to continuing and enhancing this partnership. Lastly, our CAC and state chapter accrediting body, the National Children's Alliance, has nationally established seven memoranda of understandings, MOUs, with the military, criminal investigative organizations, and the national family advocacy programs. So-- to support the CAC mitil-- and military partnerships nationwide. I want to thank Senator Rountree for his support and advocating for how we can coordinate to protect children.

BOSN: Thank you. Any questions of this testifier? Thank you for being here. Next neutral testifier. Anyone wishing to testify in the neutral capacity? All right. Senator Rountree, would you like to close?

HOLDCROFT: Proponents, opponents.

BOSN: Oh. Thank you. OK. We have 3 proponent, 1 opponent, and 1 neutral comments submitted.

ROUNTREE: Thank you so much, Chair Bosn, and to the members of our panel. Thank you for allowing us to be heard this afternoon. We've heard a lot from each one of the cases that have come before us today dealing with protecting our children. And I thank our member that have given us a neutral testimony as we have come today. As we get ready to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 7, 2025

close this one, I ask that you will consider when we are-- consider this LB141, that it would better connect our Department of Health and Human Services and all of our military installations and go forward in protecting our children. And so with that, I do ask that you respectfully consider our bill and move it out of the committee for the General File. All right. Thank you so much.

BOSN: Questions? Seeing none. Thank you very much. That concludes today's hearing and LB141 as well.