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COMMITTEE ON JUDICIARY  
February 22, 2006  
LB 1047, 1253, 842, 1180, 1181, 1070

The Committee on Judiciary met at 1:30 p.m. on Wednesday, February 22, 2006, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB 1047, LB 1253, LB 842, LB 1180, LB 1181, and LB 1070. Senators present: Patrick Bourne, Chairperson; Dwite Pedersen, Vice Chairperson; Ray Aguilar; Ernie Chambers; Mike Flood; Mike Foley; and Mike Friend. Senators absent: Jeanne Combs.

SENATOR BOURNE: Welcome to the Judiciary Committee. This is our 13th day of hearings. We have six bills on the agenda this afternoon. My name is Pat Bourne. I'm from Omaha. To my left is Senator Friend, also from Omaha; next to him is Senator Aguilar, Senator Aguilar is from Grand Island; the committee clerk is Laurie Vollertsen; to my immediate right is Jeff Beaty, the committee counsel; to my far right is Senator Dwite Pedersen, the vice chair of the committee, and he is from Elkhorn. I'll introduce the other members as they arrive. Please keep in mind that from time to time, Senators will come and go, so if a legislator happens to leave while you're testifying, please don't take that personally. They're simply conducting other legislative business. If you plan on testifying on a bill today, we're going to ask that you sign in in advance at this on-deck area here. Please print your information so that it's readable and can accurately be entered into the record. Following the introduction of each bill, I'll ask for a show of hands to see how many people plan to testify on a particular measure. The introducer will go first, then we'll hear proponents, or supporters of the bill. After the proponents testify, we'll take opponents, and then we'll have neutral testifiers. And then if the senator desires, they can close. When you come forward to testify to the table here, please clearly state and spell your name for the record. All of our hearings are transcribed, so your spelling of your name will help our transcribers immensely. Due to the large number of bills we hear here in the Judiciary Committee, we do utilize a timing system. Senators introducing bills get five minutes to open and three minutes to close if they choose to do so. All other testifiers get three minutes exclusive of any questions the committee may ask. The blue light goes on at three minutes, the yellow light comes on as a one-minute warning, and then

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when the red light comes on, we ask that you conclude your testimony. The rules of the Legislature state that cell phones are not allowed, so if you have a cell phone, please disable it. Also, if you have someone else's testimony, if you have a letter from a group or an organization or a person that wanted to testify but couldn't, we'll ask that you submit that to us. We'd rather hear from you, so we don't want you to read their testimony, but we will take that and introduce it into the record. With that, I'll introduce the other senators as they arrive, and turn the committee over to Senator Pedersen.

SENATOR DW. PEDERSEN: Okay, we'll open up our hearings today with LB 1047, which is Senator Bourne's bill, and he will present the bill to us. While he's sitting down, we've had join us Senator Foley from Lincoln.

LB 1047

SENATOR BOURNE: Good afternoon, Senator Pedersen, members of the Judiciary Committee. My name is Pat Bourne. I represent the 8th Legislative District, here today to introduce Legislative Bill 1047. LB 1047 would provide for enhanced penalties for the crime of stalking in certain situations. Currently, the offense of stalking in Nebraska is a Class I misdemeanor, which carries a maximum one-year in prison and no minimum prison time. Stalking is only considered a Class IV felony in cases where the offender has been convicted of stalking the same person within the last seven years. LB 1047 would make stalking a Class IV felony if an offender has been convicted of stalking anybody within the last seven years. A 2004 study profiling 1,005 stalking cases in North America found that at least 31 percent of stalkers had other known victims. The bill would also provide the same penalty enhancement in the following situations: The victim is under 16 years of age; the offender was in possession of a deadly weapon at the time of the offense; the offender was in violation of a protection order; or the offender has been convicted of any felony in which the stalking victim or a member of their family was the victim of the previous felony. According to the 2004 study, stalkers terrorize their victims anywhere from one day to 26 years, and 33 percent of offenders have a prior criminal history that involves violence. Stalking can lead

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to physical assault, vandalism, sexual assault, kidnapping, and murder. While these offenses do carry harsher penalties, a stalking victim shouldn't have to live every day in fear waiting to become a victim of another crime. There will be testimony following me from individuals whose personal stories will hopefully demonstrate the seriousness of stalking. I urge your support for LB 1047. I would be happy to answer any questions.

SENATOR Dw. PEDERSEN: Thank you, Senator Bourne. Any questions from the committee? Seeing none, could we have our first proponent? I'll give the committee back to Senator Bourne. Whenever you're ready. They'll hand them out right there. Just sit your stuff on the corner there and they'll pick them right up.

BRIDGET HOWELL: I've never been here before.

SENATOR Dw. PEDERSEN: Thank you.

SENATOR BOURNE: Thank you. Welcome.

BRIDGET HOWELL: (Exhibit 2) Thank you. Good afternoon. My name is Bridget Howell. I am a civilian employee for the Omaha Police Department. Because of my job, I have become fairly acclimated to criminals and to their behaviors, but I, like many people, never thought this could happen to me, especially working for the police department. However, in late 2003, my perception of my protection was shattered. Today, I come to you not as an expert in defining stalking, but as an expert in relating the terror that stalking creates. My stalker is someone that I had helped through my job. I had no idea that while I was helping him, he was developing an obsession. This person entered my house while I was home alone. He was arrested for trespassing and I immediately got a protection order. Within two weeks, he came back again. I had no idea whether he would harm me or my daughter or what his intentions were at that time. The situation turned very violent and he was arrested again and sentenced to two years due to the different charges. My daughter and I have had to learn to look for signs that someone has been to or into our home. We've had to monitor the outside of our home when we arrive and make sure no one is following us when we leave. How can this not have a lasting negative effect on both of us? Imagine your wife,

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your mother, your sister, or perhaps even yourself in a situation where you're in a deep sleep only to be awakened by your dog barking ferociously, and then wondering, is he back again? And then, in the same breath, wondering, where is my daughter? Is she safe? This is how we live now because of the stalker. My purpose here today is to try to make you understand the destructive powers that a stalker has. My stalker has affected our lives permanently. Our previous sense of well-being has been altered. A stalker strikes terror in their victims. It is their power. It is what they count on. Stalking is actually pretty straight-forward. The person who decides to stalk you is basically a domestic urban terrorist that has established a clear-cut goal in their life: to make your life a living hell for as long as they view necessary. Stalking should be treated as the serious crime that it is. I, as a victim, and with the support of the Omaha Police Department, I'm asking you today to consider Senator Bourne's changes to this law. These changes are designed to protect the victim and to make sure that the most dangerous stalkers will be charged accordingly. Many times, a stalker will stop their behavior only when they've either found a new victim, killed their current victim, or are incarcerated. Let us not wait for another life to be shattered. Let us be proactive and accept the changes to this law. Some of you may have heard my 911 tape. It is available if you want to hear it. It is 12 minutes of pure terror. Are there any questions I can answer for anyone?

SENATOR BOURNE: Thank you. Questions for Ms. Howell.  
Senator Foley.

SENATOR FOLEY: Thank you, Miss Howell. I did listen to that tape, and it was very powerful. I'm sorry for what happened to you and your family. Can you tell us what happened to that man after he was apprehended that day?

BRIDGET HOWELL: What happened to him as far as the...

SENATOR FOLEY: Prosecutions.

BRIDGE POWELL: ...prosecution? He was arrested and charged with stalking, resisting arrest, and assault. And he was given two-years' sentence. I think two years on each charge to be served concurrently. So he served, he actually, he

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was sentenced to two years in jail, but he didn't serve that much time because he had time in for...

SENATOR FOLEY: So he's out?

BRIDGET HOWELL: ...he's out and he lives about six blocks away from me.

SENATOR FOLEY: And if this, I need to study this further, if this bill had been in effect, then he would have received a longer sentence? Is that right?

BRIDGET HOWELL: Quite possibly, he may have received a longer sentence. In my case, I think what I'm mostly concerned with at this point is for others. Because if he comes back and stalks me now, obviously it's a felony. But stalkers are serial in nature. My concern is that he will stalk other people. I know that he has intimidated other people prior to me, nothing that he has been charged with, but now this will carry some weight to get those charges in effect.

SENATOR FOLEY: Thank you.

BRIDGET HOWELL: You're welcome.

SENATOR BOURNE: Thank you. Further questions? Ms. Howell, you had a protection order against this individual?

BRIDGET HOWELL: Yes, I did.

SENATOR BOURNE: Prior to him coming into your house that day?

BRIDGET HOWELL: The first time that he came to my house was very unexpected, and so right after he was there, when he entered my house without my permission, he was arrested for trespassing. And the next day, I went and got a protection order. He contested the protection order. Before we could get back to the court hearing for the contesting of that, he returned to my home and entered.

SENATOR BOURNE: Oh, so you'd had a hearing, but the protective order had not been entered?

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BRIDGET HOWELL: Correct.

SENATOR BOURNE: Okay.

BRIDGET HOWELL: Correct.

SENATOR BOURNE: Okay. Do you know if he's stalking anybody else or has stalked anyone prior to you? I mean, I think...

BRIDGET HOWELL: Honestly, I try to keep that man out of my life and not be concerned. I am concerned about what happens in my world, in my environment, what happens around my house, what happens around my way to work, that kind of stuff. It's almost like, if I can not see him, he doesn't have to be so real to me. But yet, I, you know, I don't have a choice here.

SENATOR BOURNE: You know what I always found interesting about, in our conversations, is the fact that you are a civilian employee of the police department and, you know, you would know where to go and how to pursue it, you know, pursue this, and, you know, to seek a remedy. And I think a lot of times our citizens don't even know how the system works or how to access the system to get help. So it's interesting to me that you, as somebody kind of on the inside, has gone through this.

BRIDGET HOWELL: Being on the inside, I thought it would be easy for me to get what I needed and it was a struggle through the whole judicial system.

SENATOR BOURNE: Thank you for your testimony. Are there further questions? Seeing none, thank you. Next testifier in support. Welcome.

THOMAS JENSEN: Good afternoon. My name is Thomas Jensen. T-h-o-m-a-s and J-e-n-s-e-n. My wife and I are here this afternoon to support this legislation, but to propose that it be amended to include a civil as well as criminal remedy. We have been the victims of a stalker for ten years. Our stalker takes great pains to skirt the fringes of the criminal law, and he feeds his addiction to harass us by not overtly breaking the law, or at least it cannot be tied to him beyond a reasonable doubt. His harassment includes, but is not limited to, ten years of unwanted postcards with his

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full name and address on them. He called our minister to try to stop our wedding. He sent us a fake pipe bomb. It had no fingerprints and a counterfeit postal meter strip. He routinely drives by our house and testifies that his reason for doing so is that he is free to drive on public streets. Two years ago, we filed a civil lawsuit against this person. In that time, we spent \$30,000 on attorney fees alone. Of that amount, \$10,000 was spent to respond to appeals that he filed and lost regarding the last of three protection orders. Since Nebraska law does not allow us to recover attorney fees, he can now continue his behavior unabated because of the enormous cost we will incur if we try to do anything to hinder him. Ironically, he can sue us for attorney fees, and he is also suing us for slander because we filed police reports. At this point, our options are to tolerate his behavior or move out of Nebraska. This is really not about postcards or phone messages. This is about some point in the future when he gets up the nerve to do something than mail postcards or follow us to public places. This is about the day that he is sitting outside my son's elementary school or shows up on my doorstep with a gun in his hand. What I'm asking for is that the law be amended to give us a cause of action against this person, let a jury decide if his actions merit a punishment, and if so, let him pay the attorney fees that his choices generate. Thank you.

SENATOR BOURNE: Thank you. Are there questions for Mr. Jensen? Mr. Jensen, Senator Friend.

SENATOR FRIEND: Sorry, Senator Bourne. I'm slow on the trigger there. Mr. Jensen, thanks for the testimony. And you know a little bit about, I mean, you've read the bill and you think you got a pretty good, you know, idea about what it would try to accomplish. With that, or what the bill could accomplish, with that, do you think under your circumstances, based on the reading you have here, that it would really be that effective for your case? Because when Miss Howell gave us some specific, I mean, this person was coming into her house. This guy seems a little bit craftier.

THOMAS JENSEN: Right.

SENATOR FRIEND: I mean, this stuff is pretty specific, I

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mean, would it have that much of an effect, do you think with the situation you're having?

THOMAS JENSEN: As it currently is, as long as he doesn't, you know, overtly break the law where there can be a criminal charge, it wouldn't really affect us. That's why I would suggest that somehow it be amended or whatever to allow a civil cause of action against these people before it gets to a point where he does something overt. Does that...

SENATOR FRIEND: Yeah. No, it does. I mean, but I guess I was just, this is a, this is pretty specific language, but it probably would cover some of the things that he's done. I mean, would you not agree? I mean, in the way, and I have read one of your letters, too, in regard to, you know, your situation, so I've got a little background on him.

THOMAS JENSEN: Recently, we have had some contact with the county attorney, and he's interested in it. So possibly, we can pursue a criminal avenue. You know, driving up and down our street for no reason. Giving everything else that's going on, it's my understanding, I guess, it's up to a jury to decide if that constitutes harassment and so on.

SENATOR FRIEND: Thanks.

SENATOR BOURNE: Further questions? Mr. Jensen, how did this start? We heard from Miss Howell that she had happened upon her stalker at her job. What's the background behind your situation?

THOMAS JENSEN: My wife and I were in a singles club in the past, and this individual and her were in there previously, and she went out one date with him in 1988. He went away in the military for a while, and then in '95, he became obsessive and would make advances, which she would decline. And it just kept accelerating. He would send gifts and flowers and letters and he's never gone away.

SENATOR BOURNE: So you've been dealing with this for 15, 18 years.

THOMAS JENSEN: Well, he didn't start being a problem until '95. I met her in '96, so it's been ten years for me,

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technically 11 years for her.

SENATOR BOURNE: And you estimate you've spent about \$30,000 in trying to get this...

THOMAS JENSEN: \$30,000.

SENATOR BOURNE: And you've had no success whatsoever in abatement?

THOMAS JENSEN: Well, it's my understanding, I mean, we could keep pursuing it and possibly get a judgment against him. I'm not a lawyer, but that's my understanding. But it would probably be mild in comparison to what we've spent, you know. So we could continue going, and I'm estimating there's probably another \$20,000 to go to finish it, so we would spend \$50,000 to see him get a mild judgment.

SENATOR BOURNE: When you call the police, and I assume you have, what do they, when they come out to your house, what do they do or say?

THOMAS JENSEN: It's kind of difficult to get anyone to pay attention because any one single incident by itself may not seem like a big deal. Okay, we got a postcard. You now, big deal. But ten years of somebody focusing on you is in itself a threat. It's kind of hard to get somebody to, you know, pay attention to it, really. I mean...

SENATOR BOURNE: Because they're not looking at it globally. They're looking at it per incident, I suppose.

THOMAS JENSEN: Right. You know, when he drives up and down the street, you know, it's not illegal to use public streets, but it is illegal to use them to commit a crime.

SENATOR BOURNE: Okay. Further questions? Senator Foley.

SENATOR FOLEY: What is the most threatening thing that this person has ever done?

THOMAS JENSEN: Probably the pipe bomb, I would guess. It was a piece of pipe with a cap on each end. It had batteries and wires taped to it. The pipe was empty inside. The bomb squad came and got it out of our yard.

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SENATOR FOLEY: So, it was left on your property.

THOMAS JENSEN: It was mailed to us and had a counterfeit postal meter strip. The expression that the postmaster used was somebody spent a lot of time on this.

SENATOR FOLEY: And you could trace it to his...

THOMAS JENSEN: We couldn't trace it to him to get a criminal charge. There were no fingerprints, nothing to prove that it was him. He wasn't even brought in and questioned about it.

SENATOR FOLEY: The police never even questioned him?

THOMAS JENSEN: No.

SENATOR FOLEY: Thank you.

SENATOR BOURNE: Further questions? Seeing none, thank you.

THOMAS JENSEN: Thanks.

SENATOR BOURNE: Appreciate your testimony. The committee has been joined by Senator Flood from Norfolk. Next proponent.

MARTY CONBOY: Good afternoon, Mr. Chairman, committee members. My name is Marty Conboy, C-o-n-b-o-y. I'm the city prosecutor in Omaha, Nebraska. Am here to support the bill, and I thank Chairman Bourne for his efforts to bring this issue forward. It is a significant issue. The numbers of offenders are not big, but the cases you've heard already involve a very dark and obsessive kind of behavior. The people we have prosecuted for this offense typically have other histories of this sort of behavior or other violent behavior. It is a menacing crime. Many states, in fact, the majority of states have this sort of potential felony as an option for these most serious offenders. I call the committee's attention to a couple of other additional things. It does expand the definition of family member to include those people involved in domestic relationships, which are often the subject of the most intense, and certainly the previous testifier had a case that I think

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started out, mostly likely, as a domestic violence crime and has just spread through its obsession and continues. That expanded definition is important, as are some of the things that might make this a potential felony. Just call the committee's attention to the fact that children who are harassed might bring the rise to this being a felony. In addition, those who have been victims of a felony in the past, or their family members who are harassed by someone who is now out of jail or free again. Obviously, the danger that that would import would be tremendous. What we're looking for here are cases where there are indications that these kinds of continued, obsessive behaviors are going to result in some ultimate violence. And so often, if you look at cases that have involved violence, in fact, deadly violence, you'll find a history of behavior that is menacing, that is on-going, and that that obsession eventually erupts into this sort of conclusion. And for those reasons, I would urge that you look at all these potential factors here that might eventually cause this to be considered as a felony. It is not something that we'll see a lot of prosecution on, but those cases where it might be considered appropriate are among the most serious and menacing that we see.

SENATOR BOURNE Thank you. Questions for Mr. Conboy?  
Senator Friend.

SENATOR FRIEND: Thank you, Chairman Bourne. Thanks, Mr. Conboy. What I was going to do was pursue a little bit. Can you point to some areas of new language that's going to be the most effective, I guess from the standpoint of a prosecutor looking at it and saying, you know what, we just heard two testifiers before you, we've got a situation here and we've got a situation here, this new language is going to help us. I guess, point to us where, I mean, because I've looked at this thing and I'm not really sure how to determine what's going to be the most effective piece in ratcheting this type of thing up.

MARTY CONBOY: Well, first of all, I guess, in terms of proof, the idea of expanding the definition of family member or household member, those indirect harassments that occur, and I think, again, you've heard cases where there's been direct harassment, but we regularly see cases where family members, coworkers, or members of immediate family of a

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victim are harassed as well. A protection order is generally issued, from the court's point of view, against a person towards a victim. So then the person will start to harass others to continue to get at the victim. As you've heard, these people are clever. They're very well-aware of the boundaries of what they believe they can get away with, and so this would help in that sense in proof. In terms of the victims, the expanded list of victims would permit at least consideration. For instance, when there is a juvenile or a child involved as the victim, or the use of a deadly weapon, somebody comes to the point where they're sitting out in front of your house with a gun. We've encountered cases like that. Our only option is to file a misdemeanor. But if somebody has been stalking you considerably and now they're found sitting in a car out in front of your house with a gun in their lap, I think we've gotten to the point now where it would be nice to be able to think that might be a felony at that point.

SENATOR FRIEND: So I'm correct in assuming that you can use something like this to link to other, I mean, it's just going to give them more leeway in regard to the prosecutor,...

MARTY CONBOY: Correct.

SENATOR FRIEND: ...more leeway in possibly other areas of the law. I mean, you're saying the language would actually do that.

MARTY CONBOY: It would. This would expand at least the ability to consider more serious charges for those cases that are really on the edge of what we would consider very dangerous. We can't do that now.

SENATOR FRIEND: Okay. Thanks.

SENATOR BOURNE: Further questions? Seeing none, thank you. Next testifier in support. Welcome. If you just set them on the edge and the page will get them. Whenever you're ready.

SUSAN MEYERS: (Exhibit 3) Thanks. My name is Susan Meyers, S-u-s-a-n, Meyers, M-e-y-e-r-s. I am here today to tell my story and to ask you to take this opportunity to

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strengthen the stalking laws to help protect victims like myself. I have been stalked by the same individual for the past five years, and he's changed my life forever. I am constantly peering over my shoulder, and because of him, I am in constant fear of my life, the lives of my children, and the lives of those close to me. I've learned through my experiences that stalkers are predators. They're experts at the art of using fear, intimidation, and harassment to control and terrify their victims. Their behavior often absorbs huge amounts of their time, but to them, it's a sport. They're driven by their obsession, and they thrive on the thrill and victory of invoking fear and control over their victims. My stalker, in particular, seemed to know the laws inside and out, so he knew what he could get away with. And he was very proud when he could beat the system. Through my dealings with the legal system where I was trying to convict my stalker, I learned that stalkers often fit a common profile. They're obsessive, jealous, manipulative, controlling, unstable, and oftentimes dangerous. These are also the traits that often drive them to become mentally and physically abusive, and in the worst cases, they use deadly violence against their victims. I have experienced this type of behavior first-hand. My stalker has physically stalked me at all hours of the day. He has come to my work. He shows up at stores, at my church, at my children's pool, at the gym, and at my home. He beats on the doors, he peers through the windows, he yells obscenities. He calls me endlessly or he has called me endlessly at all hours of the day and night. He would hang up or leave unsettling and cryptic messages. He has broken into my home several times, and during one of these incidents, he grabbed a butcher's knife from my kitchen and threatened me with. Other times, he has held me and my children hostage in my home, and during various fits of rage, he has vandalized my home and my vehicle. Unfortunately, the law, I feel, has been less than adequate in protecting me. I have tried tirelessly to get him convicted of stalking and of numerous violations of my protection order. He hired a savvy attorney who delayed the final hearing for nearly a year. In the end, he was able to plea bargain his case to a misdemeanor. He walked away with no jail time, no counseling, and a mere six months of probation. Since then, I've learned that this individual, who is now in his 40s, has stalked numerous women dating back to his teenage years. He stalks and terrorizes unless they are successful at convicting him of

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possibly a misdemeanor, then he merely moves onto his next victim. He knows that the way the law is written now, he can continue to stalk victim after victim with just an occasional slap of the hand. I plead to you today to make these changes in the current law to help protect myself and future victims of stalkers. While these are small changes, they can have a huge impact on deterring the ability of stalkers to commit repeated stalking offenses on numerous victims. My stalker still haunts me occasionally, but after I was able to convict him of a misdemeanor offense, he began focusing most of his attention on several new women, who I know personally. The changes that we are proposing today may have saved these women and may save many more that may cross this path from his reign of terror. Thank you.

SENATOR BOURNE: Thank you. Are there questions for Ms. Meyers? Senator Foley.

SENATOR FOLEY: All right. Miss Meyers, thank you for coming today.

SUSAN MEYERS: Um-hum.

SENATOR FOLEY: Your testimony: He broke into my home several times, he held me and my children hostage, and vandalized my home and my vehicle. That's all criminal conduct, all of that, yet he served no time?

SUSAN MEYERS: Well, at the time, I did not have a protection order. He befriended me, and at one time, he was a friend. He would help me. I was going through a divorce and he presented himself as a friend and a handyman. And then as I got to know him and I tried to get him out of my life, he knew so much about me that it was very easy for him to begin stalking me and terrorizing me. And he knew when I would come and go. He knew that because I was going through a divorce that I was trying to be very careful. I didn't want people to know that this was happening. I was concerned about how it would affect, you know, custody of my children. He would break into my home through my garage, and at those times, I was alone. A couple of times, he held me hostage, and when held me and my children hostage, he would be outside of home trying to get in, and he wouldn't leave. He would be there for hours during the...

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SENATOR FOLEY: Let's just take one of these.

SUSAN MEYERS: Okay.

SENATOR FOLEY: He held you hostage.

SUSAN MEYERS: Um-hum. He came into my home through my garage. He was able to get the code to my garage door opener. I'm not exactly, well, he told me, they take a lot of pride in being cunning and crafty and eventually they end up telling you because they're so proud of themselves. And he would, if I was outside, at the time, you know, it was just evolving. If I was outside mowing the lawn, you know, and I wasn't closing my garage door, he would go in and get the code from my garage door opener. And then when he knew I was alone, he would get it open and he, I physically was standing by the door once, and I had the door locked, but I didn't have a bolt lock from the garage door, and he broke in with like a credit card. Another time, I was standing there, physically holding the door lock so he couldn't get in. But during the couple of times that he was successful at doing that, I since then, you know, got a bolt lock. But he'd come into my house and he would not let me leave. He was obsessed, and if he saw me talking to someone, another male, he would, you know, basically would have me pinned against the chair or something and yelling and screaming at me for hours until I told him that everything was okay and I would see him or that I wasn't dating this person. And one of those times, he had a butcher knife he got from the kitchen and put it behind his back. And another time, he said, have you ever had a gun held against your head? You know, I mean, he would say threatening things like that. When I would tell him that I would call the police or threaten him with that, he would tell me that that would be worst mistake of my life. I would suffer, my children would, he'd run me out of the state. He has friends on the police force. He would turn it around. You know, you're so wrapped up in it you don't know what...

SENATOR FOLEY: Did you get a protection order?

SUSAN MEYERS: I eventually did. I was so, for a while, I was afraid to get a protection order. I mean, I know it sounds silly, but he would threaten me to the degree that I thought that if I got a protection order or called the

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police that he would kill me or my children, and that could happen in a matter of seconds whether I had a protection order or not. And I, also, I talked to several different authorities about, to get advice about what I should do. And one of those was the YWCA, and they, I guess, after talking to them, I felt like I shouldn't get a protection order. I said, would this help me? Would this cause them to become more violent? And they said, yes, it often does. We can't tell you, you know, one way or the another what to do. And I guess when I got off the phone, I thought, my impression was that I probably shouldn't get a protection order. He'd probably harm me. If I did, it would put him in such a rage. And it that it may not even help me. And, in fact, I did get a protection order, and I guess it helped me to a degree, but he still, he continued to stalk me. He'd come at night. He'd show up in public places, at my kids' school and my church, places where it was hard for me, you know, he could reasonably say, well, I was there because, you know, I know somewhere there or, so it would be, it was very difficult for me to pin him on breaking the protection order. They're very cunning at getting around the system.

SENATOR BOURNE: Right. Thank you.

SUSAN MEYERS: Or, like late at night, he'd show up and, you know, by the time I called the police, he'd be gone and then it's my word against his.

SENATOR FOLEY: Thank you.

SENATOR BOURNE: Further questions? Miss Meyers, tell us a little bit, if you care to, about the impact that this has had on your kids. You did say plural, so I assume there's more than one.

SUSAN MEYERS: Right. You know, this was probably five years ago when they were maybe, I mean, this when it started, it went on for a couple of years. Part of the reason why I didn't call the police and get a protection order also was because I was trying to protect my children. I didn't want them to know, you know, he had befriended them as well and didn't know that this was some scary person. And I didn't want them to witness police coming to my house. In several instances, though, I mean, towards the end, I

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finally had to tell them that this is not a good person, you are not to talk to him. For instance, a couple of times towards the end, before I had a protection order, he held us hostage. We couldn't go outside. He walked around our home, banged on the windows, he was yelling obscenities, and that was kind of scary, that was very scary for my children. But I think they've kind of, now they've forgotten about him. I guess we occasionally make, well my daughter, my nine-year-old daughter now, she makes reference to him, and she call him Voldemort from Harry Potter. So, I mean, she knows that he's a bad person.

SENATOR BOURNE: Okay. Thank you. Further questions? Seeing none, thank you.

SUSAN MEYERS: Okay. Thank you.

SENATOR BOURNE: Appreciate you telling us your story. Next testifier in support.

TARA MUIR: (Exhibit 4) Good afternoon, Senator Bourne, members of the committee. My name is Tara Muir, M-u-i-r. I'm the legal director of the Nebraska Domestic Violence Sexual Assault Coalition. For 30 years, this coalition has provided training and technical assistance to Nebraska's network of 22 domestic violence and sexual assault programs across the state. We support LB 1047 because stalking is a very serious crime, as you've already heard, and it is often committed in the context of domestic violence. I've handed out a stalking fact sheet from the National Center for Victims of Crime. One in 12 women, one in 45 men will be victims of stalking in their lifetime. It's interesting to note that 77 percent of female stalking victims and 64 percent of male victims know their stalker, as you've heard today, also. These aren't strangers. Usually, the male victims are being stalked by the former intimate partner of the new woman in the male victim's life. Another interesting statistic is that 59 percent of female victims and 30 percent of male victims are stalked by an intimate partner. The scarier statistic is that 76 percent of female victims of murder had been stalked by their intimate partner; 76 percent had been stalked. So it is very dangerous. Fifty-four percent of the victims had reported the stalking to police before they were killed by their stalkers. We can tell you that in Nebraska very few

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stalking offenses are charged, and most stalking victims, you talk with advocates across the state, say that law enforcement just doesn't see the behavior as very threatening. Leaving a supposed love note or just saying hi every day for three weeks isn't a loving gesture to a stalking victim. It means to victims that stalkers know where they are and they can touch the things victims touch. Some of the experts from the Stalking Resource Center have suggested to me that our stalking statute become more of a general intent crime rather than the specific intent crime it currently is. And maybe this will answer some of the issues that have come up. Proving someone had what our current stalking statute says, "intent to injure, terrify, threaten or intimidate" is very difficult to prove. The Stalking Resource Center, in a discussion with them, suggested a more accurate definition could be "a course of conduct directed at a specific person that involves repeated visual or physical proximity, nonconsensual communication, or verbal, written, or implied threats, or a combination thereof that would cause a reasonable person to fear." So we don't have to prove that intent to harass or terrify. It's just they've done these things and a reasonable person, given the history, would fear those actions. I've attached a news story about a Colorado case where the supreme court there ruled that prosecutors need not prove that a stalker realized his behavior was distressing to his victim. That's what a lot of victims across the state will say, is when law enforcement do talk to the perpetrator, I didn't mean to scare them. I just wanted to talk to her. I just wanted to talk to her about getting back together, or whatever the issue is, didn't mean it. I've also attached Colorado's actual stalking law as well. Just wanted to clarify one thing in LB 1047. We've been talking about protection orders here, but I think that LB 1047 just refers to Statute 28-311.09, which is the harassment order only. If we can add protection order, and I believe that's under Chapter 42, we'll make sure we include the protection orders with the dating relationship in there. Thank you for your attention to the stalking crimes. I'll answer any questions.

SENATOR BOURNE: Questions for Ms. Muir? Seeing none, thank you. Next testifier in support. Any other testifiers in support? Are there testifiers in opposition? Are there any other testifiers after this gentleman, in opposition?

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Welcome.

ROBERT KLOTZ: Robert Klotz, K-l-o-t-z. My opposition is very limited in scope, and I do not want to detract from the bill's intent. On page 3, line 17 to 20, it says: Any person that willfully harasses another person or a family or household member of such person with the intent to injure, terrify, threaten or intimidate commits the offense of stalking. I would draw your attention to the words "willfully harass, threaten or intimidate." When coupled with the language that would include family members, because we have become such a legal system oriented society, common sense seems to have gone out the windows at times, so much so that I fear that some overly zealous child protections worker or prosecutor would charge a father or mother as a stalker because he was doing his parental duty of being in charge of his child and warning that child several times, warning them of the consequences, and then finally spanking that child when all his words were ignored. Indictment, no doubt, would read that the father willfully harassed, terrified, threatened, and injured the child. Parents have authority over a child to use necessary force to control their actions, and rightly so. To allow a child to now be in control is totally irrational. But the child will be in control if the parent's substantial right to be the parent in charge is not protected. Therefore, it should be inserted into the wording of this intended statute that the commission of stalking does not apply when any form of parental discipline is being applied. Obviously, if parents overstep their bounds and abuse their parental authority, there is a sufficient supply of other statutes to deal with this as historically has long been demonstrated.

SENATOR BOURNE: Thank you. For clarity, you're not opposed to the concept of the bill. You're just, you want it narrowed so that it would...

ROBERT KLOTZ: Correct.

SENATOR BOURNE: ...okay. Other questions for Mr. Klotz? Thank you. Other opponents? Are there any neutral testifiers? Closing is waived. That will conclude the hearing on Legislative Bill 1047. (See also Exhibits 1, 19) I think Senator Synowiecki is on his way. Perfect time. Senator Synowiecki is here to open on Legislative

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Bill 1253. As Senator Synowiecki gets ready, could I have a show of hands of the proponents of this next bill? I see five or six. Make your way to the front row, please. Proponents make your way to the front row. That includes you, Joe Kohout. Are there opponents to this bill? I don't see any opponents, Senator Synowiecki. Whenever you're ready.

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SENATOR SYNOWIECKI: (Exhibit 5) Good afternoon, Senator Bourne, members of the Judiciary Committee. I am John Synowiecki. I represent District 7 of the Legislature. I am distributing an amendment to the committee which reflects significant changes to the original draft of LB 1253. I submit this amendment for the committee's consideration after deliberative consultation with community and neighborhood stakeholders, treatment professionals, former prostitutes, judges, and probation officers. The introduction of LB 1253 prompted a health and in-depth community dialog of the prevalence of prostitution in Nebraska, and the proposed amendment represents, I believe, a collective response to prostitution in Nebraska. I originally introduced this legislation on behalf of constituents who face on a daily basis the harmful, negative externalities that are created by prostitution-related activities. Prostitution contributes to the incidence of crime and fear of crime. It depletes local law enforcement resources. Residences and businesses within close geographic proximity to concentrated areas of prostitution are subject to noise, litter, harassment, and are financially impacted by declining property values. I have worked with neighborhood groups for over four years to address this problem. However, those consistently involved in prostitution activity, unfortunately, mostly women, continue to repeatedly cycle through our justice system. This problem is complicated within Douglas County by an Omaha city ordinance that mandates six month's jail sentence upon receipt of the fourth prostitution conviction. These significant county jail terms for four-time offenders, I'm informed, are consistently enforced. The offenders, again, mostly women, are not afforded access to needed behavioral health interventions due to a fundamental lack of resources. To break the cycle of incarceration, Nebraska, I believe,

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must enact a comprehensive approach. LB 1253 is one component of an approach that I introduced this legislative session. In addition to LB 1253, I have introduced LB 1086, a bill to create the Nebraska Prostitution Intervention and Treatment Fund. LB 1086 seeks to create a coordinated array of community based services for those involved in this activity to reduce the prevalence of prostitution and improve the quality of life for residences and businesses that are currently impacted by prostitution. LB 1086 was advanced from the Health and Human Services Committee by a 6-to-0 vote, and I have chosen this bill as my priority for this session. And I hope to include with the valued input and consent of this committee a justice component to LB 1086. The amendment to LB 1253 addresses primarily the demand side of prostitution by creating separate penalties for prostitution and solicitation of prostitution. Currently under state statute, prostitution is a Class I misdemeanor and solicitation of prostitution is not addressed. Under the amendment, first and second offense prostitution would be Class II misdemeanor and third and subsequent offenses would be a Class I misdemeanor. First offense solicitation would become a Class I misdemeanor with a minimum \$250 fine, and second and subsequent offenses would be a Class IV felony with a minimum \$500 fine. As in the original bill, all individuals placed on probation would be required to complete an appropriate mental health and substance abuse assessment. The changes proposed to LB 1253 through this amendment are intended to address the demand side of prostitution. Academic studies and changes in laws in other municipalities and states that focuses on the Johns has provided positive outcomes. Solicitors, unlike prostitutes, can be successfully deterred from this activity with stiff penalties and consequential public scrutiny. Individuals involved in chronic prostitution often use this activity to support drug and alcohol addictions. In addition, many of these individuals suffer from significant mental health disorders including post-traumatic stress disorder, which lead to an increased dependency on drugs and alcohol. Many prostitutes are also subject to physical and psychological abuse by panderers, and are often subject to additional abuses from solicitors. Nebraska, especially within the Omaha metropolitan area, is unfortunately experiencing an increase in the incidence of prostitution-related activities. Between 2002 and 2004, the Omaha City Prosecutor's Office filed over

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1,800 prostitution-related cases. While it may be difficult to ascertain precisely the cause for enhanced prevalence, there's considerable evidence that the methamphetamine epidemic and other drug dependency issues have played a significant role. Prostitution has evolved into the revolving door criminal activity in the metropolitan area. We cannot sit back and watch the problem continue to grow in Omaha, and then in Lincoln, and then in the rest of our state. We must address the growing problem of prostitution with a comprehensive approach that provides a legitimate deterrent and treatment to the victims. I want to thank you, Senator Bourne and members of the committee, for your consideration of this, LB 1253.

SENATOR BOURNE: Thank you. The committee has been joined by Senator Chambers. Senator Flood, questions.

SENATOR FLOOD: Thank you, Chairman Bourne. Senator Synowiecki, thank you for your testimony and introducing the bill. A couple of basic questions. I've always considered a prostitute to be a victim, first and foremost, regardless of the circumstances, if they're trading sex for money or whatever it may be. Would you agree with that?

SENATOR SYNOWIECKI: I think an overwhelming number of individuals that are involved in prostitution on a habitual basis are suffering from addictions, suffering from mental health disorders, and that is precisely why the corresponding legislation to this justice bill, the Prostitution Intervention and Treatment Act, attempts to establish an array of community-based resources for that population.

SENATOR FLOOD: If we remove the felony component of your bill and left the rest of it, would you understand, or would you be willing to negotiate with us on that point?

SENATOR SYNOWIECKI: Senator Flood, absolutely. Actually, this amendment removes the felony provision...

SENATOR FLOOD: Oh.

SENATOR SYNOWIECKI: ...for the act of prostitution. I might, if I can editorialize, our current statutes, I think, are profoundly inadequate and short-sighted relative to

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prostitution in that it's not clear whether or not our current statutes include solicitation. So what the amendment to the bill does is clearly include solicitation as a criminal offense and actually considerably enhances the penalties. What I'm learning is when you're involved with a John and a prostitute, it is without question that the power imbalance is with the prostitute. And that the power, the money, the prestige is usually with the John. And I think if we, I generally want to have some successful outcomes. I've been working with neighborhood groups now for over, ever since I've been in public office. And my intent here is genuine, that we get some successful outcomes.

SENATOR FLOOD: And just so I clarify, your amendment, maybe you said this in your testimony, I didn't hear you, I was reading this bill, but it takes out the felony component in the penalty section?

SENATOR SYNOWIECKI: Within the penalty section relative to prostitution, it actually demotes prostitution to a Class II misdemeanor for the first two convictions, and then, in subsequent convictions, it is a Class I misdemeanor in this amendment. I want to remind you, Senator Flood, that currently prostitution is a Class I misdemeanor. It also adds the substance abuse and evaluation components, which I kind of need for the treatment component that the corresponding legislation that has been passed by the Health and Human Services Committee.

SENATOR BOURNE: Further questions? Senator Chambers.

SENATOR CHAMBERS: Just one. I'm thinking about doing away with mandatory jail sentence being an allowable punishment under any local ordinance. And I wonder what your thought is on that.

SENATOR SYNOWIECKI: You know, I don't know if I really...the city ordinance within the city of Omaha, you know, that, I think rests with the city council and the local city government, how they feel they want to deal with the situation. I think the procedure in Douglas County and with the city is a little short-sighted and does not at all address what Senator Flood indicated, that these women truly are victims and that what is truly needed is intervention, mental health and substance abuse intervention. So I don't

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know how to answer your question, Senator Chambers. I see the city prosecutor is here. Perhaps he could shed some light on the purposes behind the city ordinance.

SENATOR CHAMBERS: I just wanted to give them a heads-up. (Laughter) Thank you, Senator Synowiecki.

SENATOR BOURNE: So, further questions? Senator Synowiecki, just so I understand, the bill, your amendment replaces the bill. You're actually reducing the penalties against the prostitutes...

SENATOR SYNOWIECKI: Um-hum.

SENATOR BOURNE: ...and you're enhancing the penalty on the John to a felony? Is that...

SENATOR SYNOWIECKI: Senator Bourne, I am actually introducing to our state statutes a crime of solicitation,...

SENATOR BOURNE: Okay.

SENATOR SYNOWIECKI: ...which is not clear we have. Number one, doing that. Number two,...

SENATOR BOURNE: Okay. So the purchase, the buyer, I guess, for lack of a better way to say it, is for the first time, we're making that against the law.

SENATOR SYNOWIECKI: As I've been told by those people that are learned in the law,...

SENATOR BOURNE: Okay.

SENATOR SYNOWIECKI: ...it's unclear whether or not solicitation is even covered under prostitution classification. So, yes.

SENATOR BOURNE: Okay.

SENATOR SYNOWIECKI: And then, first offense is a Class I misdemeanor with a mandatory minimum fine, and the second offense and subsequent offenses would be raised to a felony under the provisions of this amendment.

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SENATOR BOURNE: Okay.

SENATOR SYNOWIECKI: And I leave it to the due consideration of this committee to take a look at that, along with other provisions in the green copy of the bill so that I can potentially have on the floor of the Legislature a justice and a treatment component relative to prostitution.

SENATOR BOURNE: Understood. Further questions?

SENATOR FLOOD: Yes, I do.

SENATOR BOURNE: Senator Flood.

SENATOR FLOOD: Thank you, Chairman Bourne. What can, now I know if there's an addiction, an underlying addiction for a prostitute, obviously that is treated with mental health. But is there a special type of treatment for somebody that engages in prostitution as a way to make money? Is there a recognized treatment approach, or, like the matrix model would be for addictions? Is there something for people engaged in prostitution?

SENATOR SYNOWIECKI: I think, Senator Flood, my layman's understanding is that generally you have underlying issues of addiction, which is substance abuse addictions, obviously, and that there is a mental health component to prostitution. It's more prevalent, perhaps, than your run of the mill addictions in the sense of a post-traumatic stress disorder. Many of these women, unfortunately, are victims of sexual abuse as children. They're victims of domestic violence in many cases. And they're victims of a wide range of abuses, both sexual and otherwise. And so, obviously, when you undertake to treat an individual that has that experience, you have to address all components of their disorder. And that would include both mental health and substance abuse.

SENATOR FLOOD: If we did this, I think it would be important that we made sure that they could have their children with them. I think that's something we need more of in Nebraska, where the children can receive treatment with the individual that's...and would that be something that, as I can see somebody being unwilling to go through a

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program if they had to choose between their children and their treatment.

SENATOR SYNOWIECKI: There is a profound deficiency in Douglas County for treatment for women and their children. If you talk to any CPS worker in the Omaha metropolitan area, they'll be the first to tell you that, and, particularly, with the methamphetamine epidemic. Substance abuse treatment that includes children is desperately needed.

SENATOR FLOOD: Thank you.

SENATOR BOURNE: Further questions? Seeing none, thank you. First proponent.

MARTY CONBOY: Good afternoon. My name is Marty Conboy, C-o-n-b-o-y. I'm a city prosecutor in Omaha, here on behalf of the city of Omaha for support of this bill. I'd like to thank Senator Synowiecki for bringing this issue forward. I call it the issue because it's kind of "morphed" quite a bit as it's developed. This, for those in the law enforcement community here and everywhere, has been a tremendously troubling crime. And in Douglas County and in Omaha, it has been fairly, mildly ignored. We have very serious penalties and go about that business of jailing prostitutes pretty regularly. I checked. Today is vice day, it's Wednesday afternoon, is prostitution in county court. A couple of cases I looked at. One woman had been to jail six months 15 times after she'd had lower penalties for a while. Another had five six-month penalties. She was younger and hadn't gotten that far along. You can do the math. If you're doing six months that regularly, you're going to be spending the majority of your adult life in a county jail. But they're back out on the street virtually as soon as they get out of jail. It's, as Senator Synowiecki aptly put it, the ultimate revolving door of justice. But what this has done, I think, is that it started a process of education. I will tell you that the city council endorsed a resolution to make this a felony and to tow the vehicles. And as they've learned, and the people involved have helped all of us learn, that the penalties aren't really the key here. I think the solution to the problem is more complex than that. We've recognized through the other bill that made reference, LB 1086, which would provide a fund for the treatment and

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long-term solutions to this problem, are part of the solution. Recognizing that these people who engage in prostitution are victims, often with, as you've heard, mental health, drug, abuse, prior victimization, all contributing to their lifestyle. I don't think anybody wakes up one morning and just says, I'm going to become a prostitute. It sounds like an interesting field. These are people who are desperate. The ones that come to society's attention are among the most desperate of criminals in the sense that they are willing to sell themselves, and that is almost unimaginable what that would do to your self-esteem and your view of the future. What we're looking for is a solution that would be comprehensive. The criminal penalties really for prostitution are a way to induce people to get involved. And these are people who are very resistant. They're not sympathetic. They have serious problems that require tremendous effort to solve, and their cooperation, if not voluntary, through the conscription of the possibility of penalty, much like we do with drug court or diversion or any of those other things, like probation. I would urge this committee to look at this bill, to take the opportunity to learn from the people here who are experts in this, and to look to try and make our law successful, to address this problem in a way that is much smarter and better than what we've done in the past. I think every time we do that, we will move towards elimination of other crimes that go along with this particular offense. I'd be glad to answer any questions.

SENATOR BOURNE: Thank you. Questions for Mr. Conboy? Oh, Senator Chambers.

SENATOR CHAMBERS: Mr. Conboy, the first thing that I wanted to do, as I always do, is acknowledge your necktie.

MARTY CONBOY: I had occurred to me, I think you and I are the only people in the room that probably don't own any normal ties. (Laughter)

SENATOR CHAMBERS: You had heard my question to Senator Synowiecki, and I'll put it in a little context now. When the Legislature enacts a law, that becomes the policy of the state. And the policy with the enactment of this law would be treatment, recognition of these women as being truly victimized, so it would seem to me to be counterproductive

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to allow municipalities to enact ordinances with mandatory jail sentences. This bill says, in every instance, that if the judge decides on probation. Well, if a local ordinance is going to be the basis for the prosecution, then that can erase what is being contemplated here. So what I would envision, and I'm not going to put it as a question, but you can respond however way you want to, making an affirmative declaration that no ordinance mandating a mandatory jail sentence shall have any effect, there shall not be such an ordinance.

MARTY CONBOY: Looked at in the context of this issue, I would agree with you, that the six-month jail mandatory offense for fourth offense and beyond is probably pretty ineffective in terms of a long-term solution. And if that's what it would take to accomplish that, the, I was around when this grew from being an infraction, really, with the state, to the point where it carried jail and it carried mandatory jail, now a maximum penalty for every offense. It really hasn't made a big dent. These women, I think if you took them aside and said that, you know, they'll be executed if they commit this offense wouldn't affect their thought process one bit. It's, the deterrent theory is wasted here. And so in that sense, I would agree with you. I don't know if, globally, that's the solution. There aren't a whole lot of other offense, frankly, in the city that have mandatory jail. I was trying to think, I think minors with guns carries 30 days in jail, is about the only other one I can think of. But truthfully, when this came before the city council, there was a lot of, this was more in frustration. This wasn't, the idea of making it a felony, I think everybody recognized as a pretty serious move. It was debated as to whether it was necessary. And frankly, this is the only tool that really we've ever used. And they're just going to get a bigger hammer now. You know, the six months wasn't doing it; let's try a year; let's try five years and see if that, maybe, will sink in. And I think the recognition of everyone involved has been kind of a growing awareness that we need to do something a little more sincere about this, to spend the money, to take the time to figure what the proper solution for each individual is, and to, you know, instead of just trying to jail them out of our sight, to try and solve the problem a little better. It's been moving, frankly, to watch. I've learned a lot. I've been around this for over 25 years. I've watched people in

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government, people at committees, almost astonished to hear some of the things that have come out about this issue. And again, these aren't sympathetic people. I mean, if you work around prostitutes, they're very resistant to sympathy. They are hardened. They're suspicious of anybody who attempts to help them. And they've got problems that they don't even see the future as being a valuable thing for them. They're not anxious to help themselves because they don't see a future for themselves. And how you go about solving that problem is more complex than you can do in a jail.

SENATOR CHAMBERS: For sure. And I think part of the problem lays in the fact that they are treated like throw-away objects. They are "commodified" and nobody has respect for them. And if they make handy a group of women on whom the hatred that this society generally has towards females to be manifested, and not only are these women considered the dregs, they have no friends, they have no health, and nobody really cares. So I think they do well to be suspicious of everybody, skeptical and doubtful, and I don't know whether you've known any personally, but not only do they have serious problems, but they have bad teeth, many of them. Hygiene is nonexistent. And the kind of men who will get involved with these women and take advantage of them in the way that they do are really the perpetrators who need to have something like the threat of a felony. And the reason I think it will work there, in addition to their being felon, you know, being the perpetrators, I think they're the kind of men who will count up the cost. They're not victimized like women who might feel I've got no hope, so as you said, you could threaten to execute them and it's not going to change anything. But if these men who are involved in soliciting these women know that there's going to be a heavy price to pay, it might have some impact on them. But I think as far as your city council, I think you have misogynists, women haters, and it's an opportunity for them to show their contempt for women by talking about making this a felony when there are other matters, where perhaps an enhanced penalty of some kind would make a difference that involves men, you won't see it at all. The question I have to ask you is this because I'm not sure: When they were considering making it a felony to catch a woman, I meant, a felony for a woman, did they talk about enhancing the penalty for the Johns?

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MARTY CONBOY: Truthfully, that did come up. And the sad reality is we don't catch enough Johns repeatedly that we have very many repeat offenders. And the enhanced penalties only apply to those people with prior convictions. So, even though that came up and it would apply to both, realistically, it would very rarely ever affect a John, a man.

SENATOR CHAMBERS: But since we can tailor and customize legislation, we could make it a first offense for a John to have that high punishment because he doesn't accidentally stumble into this. He is on the prowl. He's on the move. And if the council was not made up of women haters, they would have said the first time a man does this, we throw the book at him to the extent that we can so that it's clear we're fighting the problem and not attacking women. You are kind, and I'm not being facetious when I say this. I've come to see you in a different light than I used to in the old days. You've shown yourself to be a kind, thoughtful, sensitive person, and you can learn. And you will learn. And your conduct will be modified. I can't say that about your council, so I'm not putting you in the category of what I'm doing with those city council people. They'll never know what I said, except that I'll get a copy of this transcript and send it to them. And this final thing, Mr. Conboy, then I'll let you go because I'm not going to be questioning everybody who comes up here, so I'm using you something like a sounding board. In all of the meetings that you attended and the people you talked to, what do they, or did they talk about as far where any one of these women might be five years from now? Did they speak in terms of that, or just look at the short term that we will put them someplace and talk to them and say, if you've got a mental problem, we're going to deal with that, but never talk about what might happen down the line and discuss that with these women so that they can see they're being viewed more than just in terms of this short term issue of getting them out of a particular neighborhood for a period of time? Did they talk about anything long term for the women?

MARTY CONBOY: They did. And those, and hopefully some people here might bring that up. But the solutions they've identified, that the people who, as you point, really get to know these people personally, is that a six-month jail

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sentence or a probation or some sort of program is not enough. It requires long-term and continued support in various ways. And sometimes just that continued encouragement alone is enough. Sometimes it is just the constant supervision to keep the people who exploit them from taking over their lives again, or to provide them with the experiences to move away from the lifestyle that they've gotten into. Most of them don't have the ability to solve their problem. And it's not something can be done in six months or a year. And I think that they've, I heard some stories of success. It is encouraging. But the resources that are involved with a group of people like this are hard to convince governments to supply. And so the simple solution is just to pay to keep them in jail another six months.

SENATOR CHAMBERS: The final thing, then I'll let it alone for sure, but I wanted to get all those serious things out of the way. To show how canny these women become, there was this black woman who was being hounded by this white male officer who was putting pressure on her to have sex with him. Not sex, but perform oral sex on him. Well, she wanted to become the huntress instead of the victim. So she took her plastic covered identification card and collected semen so that when she accused him and the attempt was made to cover for him and discredit everything she said because she's a prostitute, although cops know this, and I'm aware of cops who do this in our community, maybe in communities where poor white women are, too. So when they tried to discredit her, she said, I've got unimpeachable evidence. Here it is. So they charged him. Then she became a second, she became victimized again. I was called at my office because a white male and white female officer came to where she was staying and they started harassing her and said they wanted to search her purse. She said, I haven't done anything. So they put handcuffs on her and searched the purse and said, we know who you are. Give us some identification. She said, then if you know who I am, you know where my identification card is; the police have it and you know why they have it. And these cops said, we know all about it; we know all about you. That's what they did. So when I was contacted, I called the northeast precinct and I talked to Captain Cousin and another person, and they were very outraged about this. And I said, I want something done, and I want it made clear that I'm not going to

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tolerate this woman being harassed in this way. And the first thing the first officer I talked to said, we don't make those kind of stops on the street. We're not supposed to. We're not supposed to put handcuffs on people on the street. We're not supposed to search their purses. We're not even supposed to stop them just because we see them on the street. So they were acknowledging all the wrongful things that had been done to this woman, but I don't know if there was any follow-up on it at all. And the reason I'm putting that in the record, these women are not just victimized by these Johns. They're victimized by the police, too. And I wish that prosecutors, internal affairs is nothing, would look at when these cops are found to have committed a violation of the law would do something about it. So I think there's responsibility in the office of prosecutors, too.

MARTY CONBOY: I'm aware of it. I get those reports as well, and I read them.

SENATOR CHAMBERS: Okay. And I am genuinely through now. Thank you, Mr. Conboy.

SENATOR BOURNE: Further questions for Mr. Conboy? Marty, who are the Johns? I mean, who, what type of person is this that solicits a prostitute? And the reason I'm asking is because I want to know if a felony is a deterrent to them as well. I'm compelled by some of testimony here that no matter how harsh the crime is on the lady that it doesn't change the behavior, but let's go to the other side of it.

MARTY CONBOY: It's a little more difficult demographic to pin down. Some of the literature, and I have some of it here, suggests that the percentage of men who have at some point or another engaged in prostitution is much larger than most people recognize. A lot of them do it through, you know, means such as escort services and massage parlors and what they call indoor prostitution. And that that actually encompasses such a broad section of society it's almost impossible, you know, a lot of very upstanding, well-to-do citizens. It's a much different demographic in that regard. Most of them are employed. Most of them have means. I can tell just by the way that they hire attorneys and that they're so worried about getting their name in the paper that it's a pretty stable group of people. Most of them

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have very little other criminal record that you can find. So this is a group of people who feels pretty much above the prospect of jail, not as concerned about the penalties because traditionally they just get small fines. And so, I think that's one of the things that led Senator Synowiecki to rethink the penalties for solicitation, just that revelation that we've uncovered.

SENATOR BOURNE: We've heard people testify that these ladies are generally addicted to drugs and resort to this to get money for their habits or whatever. So if we dry up the demand side of it, what, I mean, is there any chance that crime will increase elsewhere because they still need the money? Or are they mobile? Do they leave our community? I mean, what happens then? The demand to feed the drug habit still is there, but their mechanism to make the money to fund it isn't if we're really going to put felonies on the buyers. So then what?

MARTY CONBOY: Well, you're exactly right. If we just do that, I think you will see them moving onto other crimes to support their habits or just leaving the community. It would take a comprehensive approach, both the idea of using the penalties to try and stop the crime, but having solutions that will give them alternatives that are actually a little bit more positive. And recognizing that that's got to be part of it. And that's part, I think LB 1086 does that, at least to the extent that it provides a fund and a prospect that we might have some other alternative besides just the criminal justice system.

SENATOR BOURNE: Thank you. Further questions? Seeing none, thank you. Next testifier in support. Welcome.

MICHELLE ROY: (Exhibit 7) Thank you. My name is Michelle Roy, R-o-y. I am the current vice-president for the Ford Birthsite Neighborhood Association and have been asked to represent the mothers, daughters, and children of our neighborhood. I apologize for giving you more to read. I've tried to be representative whenever possible and attempt to give you a complete picture, but also trying to keep in mind how busy you all are. A brief history: When we first bought our house six years ago, I was one of the multitudes who believed that prostitution was a victimless crime, illegal only because nobody had found a way to

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regulate and tax it. It took less than a month for us to realize what we'd gotten ourselves into. Our kids can't ride their bikes, play catch, tag, or hide-and-go-seek if it involves being in or crossing the street because of John traffic. Johns drive fast and recklessly with no regard for stop signs, speed limits, or any living creatures who may be around. The children of our area are receiving their sexual education while playing in their own front yards. Needless to say, this is not the kind of sex education taught in the schools. You ever seen a five-year-old pick up a used condom? It makes you sick to your stomach. We can't allow our kids to play outside without adult supervision. My neighbors and I take turns sitting outside to watch them. During one of my shifts, I, along with several neighborhood children, all between the ages of five and 11, witnessed an attack on a pimp and a prostitute. Three gang members surrounded the pimp, maced him, and then beat him with baseball bats until the screams of his prostitute brought people outside on the run. According to some of the things the victim said while waiting for the ambulance to arrive, they were having a turf war over pimping rights, if you can believe that. The gang members then parked up the street and took note of the neighbors who came out to help the victim, in effect, choosing sides in that war. So many people are of the impression that those of us in the neighborhoods are just old maids who are trying to force our own standards of morality on other people. I'm hoping that we've been able to prove to you so far that our concerns are legitimate, not only from a quality of life standpoint, but also from a compassion to trauma victims standpoint. We need LB 1253 so that we can start making a difference in the lives of everyone victimized by prostitution, including the prostitutes themselves. Thank you.

SENATOR BOURNE: Thank you. Questions for Ms. Roy? What neighborhood, again, did you say?

MICHELLE ROY: Ford Birthsite Neighborhood Association.

SENATOR BOURNE: Oh, Ford Birthsite, down off 32nd and Center, just north, okay. All right. And these, the papers that you handed out, these are from your neighbors?

MICHELLE ROY: Yes.

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SENATOR BOURNE: This is actual stories from your neighbors?

MICHELLE ROY: Yes.

SENATOR BOURNE: Further questions? Thank you.

MICHELLE ROY: Thank you.

SENATOR BOURNE: Appreciate your testimony. Next testifier in support of this bill. Welcome.

ELESHIA TEET: Hello. My name is Eleshia Teet and the first name is E-l-e-s-h-i-a, and the last name is T-e-e-t. I'm representing the Park East Neighborhood Association, and that's a neighborhood that's just west of downtown between 20th and 28th Streets, Dodge and Leavenworth, in Omaha. I became aware, well, I've lived in the neighborhood several years. And we've had the problem before, and I guess it's come back with a vengeance. Last May, I got a call from a property manager who was just fed up with the verbal abuse she was getting from the ladies that worked on her block. She couldn't keep tenants in her apartment, and she couldn't get her apartments rented; very nice apartments at a decent leasing rate, and she just couldn't get anybody to move in because of what traffic was happening. And then I got another call within the same span of a couple of weeks from a new homeowner who said that he was amazed at how many people he saw, Johns, you know, driving through our neighborhood and picking up women and just doing this all times of the day. He's like, I can't move my family into this house. He bought the house and he at some point was going to fix it up and live in it, but so far he hasn't moved into it yet. There are new condos going up in our area, and a real estate representative called me. We were talking and she was like, I can't get these condos rented. No one wants to buy into an area that we have this type of thing happening, this activity happening across the street from the particular building, very nice renovations. And our community is on the verge of revitalization everywhere. People have called to say, what kind of neighborhood is it? And I'm not the type of person who's going to say, oh, yeah, come on in, move. I'll tell them, we're working on these problems and, you know, in time, if everyone invests in the area, we can move toward a different type of neighborhood than the reputation we've started to get. Everyone knows, I

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guess, to come to 24th and Leavenworth or 22nd and Jones to do that type of activity. And because of that, the Johns going throughout our neighborhood, we can't get that revitalization going at a steady pace to truly help the near-downtown area and have reasonable homes where people will feel safe and that business owners will want to come and actually invest. And that's why we feel that LB 1253 is something that will address, it will help the police, because we're working very closely with the police to try to do something about this problem. But until there's some type of help for everybody involved, and some type of punishment for the Johns, it's just going to continue. Thank you.

SENATOR BOURNE: Thank you. Your last name is Teet?

ELESHIA TEET: Yes, Teet.

SENATOR BOURNE: Teet. Questions? Senator Aguilar. I read the newspaper. I live a little bit north and slightly west. I live in the Benson area. And I've read about things that, I don't know if it's the neighbors are doing. I've heard about billboards. I mean, is there a court watch? I mean...

ELESHIA TEET: There's actually the Ford Birthsite. We sort of trade off with the activities, and they actually had that going. And there's some people going to talk.

SENATOR BOURNE: Okay. So there's somebody that's going to testify on what you've tried to do to solve the problem.

ELESHIA TEET: Right. What we've actually done, we actually had a meeting with the police last October. And even the chief of police was there. The problem is that I had so many neighbors upset that they felt the police weren't actually coming to their rescue. They were allowing the traffic and prostitution, which brings drugs and other things into the area, and absentee landlords, and those are all problems that come along with it. The girls were using hallways and getting into the hallways of other buildings who didn't welcome that type of activity. And, you know, people finding those same types of things that the lady before me mentioned, children finding. They're finding those types of activities going on in their hallways. So

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everyone there, one man came to a meeting last week and said if he just put in a keypad system so that people couldn't get into his building to partake in activities.

SENATOR BOURNE: Give me a sense of how, I mean, is it, in your neighborhood, is it large numbers of ladies walk along the sidewalks, and then people just driving around. I mean, give me a sense of how significant, you know, the population is there.

ELESHIA TEET: It has been. When they called last May, because it's been colder, not as much activity. But in early, I think it was early January, they did a sting on our block, and within an hour, ten arrests. And it was cold that night. So we thought it would curtail in the winter time, and it has. So ten was probably a light night.

SENATOR BOURNE: Okay, but there's, you as a neighbor, constantly see activity...

ELESHIA TEET: Um-hum.

SENATOR BOURNE: ...on the street. Okay. Further questions for Miss Teet? Seeing none, thank you. Appreciate your testimony. Next testifier in support. Welcome.

CAROL HAAS: (Exhibit 8) Thank you. My name is Carol Haas, C-a-r-o-l, last name is H-a-a-s. I've been a member and I am a member of the Southeast Omaha Prostitution Task Force and also a member of Leavenworth Neighborhood. So, I live in a Midtown area which is economically and ethnically diverse, but it's really beautiful. It has a lot of potential. It's close to the downtown, which is being revitalized. But unfortunately, it also has the reputation of significant problems with prostitution and the crimes that go along with that. In 2003 and 2004, there was a privately funded study that looked at the larger area of Midtown and included our neighborhoods as well. And the study identified the ten most attractive features and the ten most negative. The number one negative was Park Avenue and Leavenworth, and the reason for that was because it was infested with crime, drugs, and prostitution. And the study also identified significant threats to neighborhood stability and vitality. One of those was the prostitution along the Park Avenue corridor. Now, the study was for a

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larger area, but because of these little pockets of crime, it was perceived, you know, citywide, that the whole area was crime-ridden. I guess the bottom line is that, you know, perception tends to be the reality. People are reluctant to start businesses in the neighborhood. They are reluctant to move into the neighborhood, buy homes, or rent apartments. It's a wonderful neighborhood. I love the area and I love my home, and I don't plan on leaving for a long time. But we need help in addressing the prostitution issue. I hope you will advance this bill because it won't only help the neighborhoods, but also the people engaged in this activity. We want them to have an opportunity for better options as well. Thank you.

SENATOR BOURNE: Thank you. Questions for Ms. Haas. Ms. Haas, as I'm listening to you talk, I'm thinking we actually have a three-headed problem here. We have the buyers, we have the sellers, but nobody's talking about the facilitators, the pimps. What's the, I mean, how do you target that? Is there anything being done in that regard?

CAROL HAAS: I think that we've been talking about that a little bit with Senator Synowiecki earlier, and I'm not really well-informed of what he's been discussing. But, yes, that is a problem, and often with the street prostitutes in our neighborhood, the pimps are the guys that get the drugs for them.

SENATOR BOURNE: Okay. I mean, is that pretty much every prostitute has a pimp, or does it work that way?

CAROL HAAS: I'm not sure that I can address that accurately. I don't think every one does.

SENATOR BOURNE: Okay.

CAROL HAAS: I think some do.

SENATOR BOURNE: Okay. Further questions? Seeing none, thank you.

CAROL HAAS: Thank you.

SENATOR BOURNE: Appreciate your testimony. Next testifier.

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CAROL HAAS: I think I'll take the microphone with me.  
(Laughter)

SENATOR BOURNE: Leave that there. That's all right. Thank you.

JAN QUINLEY: I can talk loud.

SENATOR BOURNE: Thanks for testifying. Appreciate it.

JAN QUINLEY: (Exhibits 9, 10) Good afternoon. My name is Jan, J-a-n, Quinley, Q-u-i-n-l-e-y, and I'm currently president of the Ford Birthsite Neighborhood Association. I am chairman of the Southeast Omaha Prostitution Task Force. I was a member of the original prostitution task force that Captain Sundemeier (phonetic) started with the Salvation Army about seven years ago. When my husband and I first made our decision to sell our typical suburban home and move into an urban neighborhood, we understood that we were making a social as well as a financial decision. We expected to encounter a diverse community, both economically and culturally. What we did not expect was to find a community that was blatantly being held hostage by criminal activity. The crime of prostitution is not victimless. It is not something that just goes on between two consenting adults. The activity that surrounds this crime has a direct and devastating effect on the neighborhoods in which it takes place, as well as on the women and men who are trapped in that lifestyle. I'd like to assure this committee that bringing this issue to the state was neither an easy decision, nor something taken without prior efforts on the part of the neighborhood associations and community groups. In the written material that's being distributed, I have included information on many of the things that we've done in just the last five years to try to deal with this process, this problem, and this crime on a local level. And prostitution may seem like it's a city or a metropolitan problem, but I want to remind you that any time there are concerns about meth and street drugs, there needs to be concerns about prostitution and the lifestyle that addicts can be dragged into. When criminal activity is at its greatest, families leave, apartments sit vacant, houses remain unsold, children are left unattended, but worst of all, the stigma remains even after the criminal activity decreases. The revolving door of jail does nothing to help

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the men and women trapped in prostitution, and it does nothing to help the communities that are associated with this activity. Our goal with this bill is to establish a system where the prostitute can receive concrete help to reverse the downward spiral this lifestyle brings, where the Johns are held accountable for their actions, and where law-abiding citizens don't have to see prostitution activities outside their front door. My experiences over the past seven years have shown me that we need to be proactive, not reactive. No other community in this state should ever have to overcome the stigma our neighborhood battles. I urge you to pass this bill on to the full Senate. I thank you.

SENATOR BOURNE: Are there questions for Miss Quinley? Seeing none, thank you. Next testifier in support. Welcome.

ABRA POINDEXTER: (Exhibit 11) Thank you. Good afternoon. My name is Abra Poindexter, spelled A-b-r-a, Poindexter is spelled P-o-i-n-d-e-x-t-e-r. I'm here on behalf of the Dignity Cooperative, a group of organizations and citizens concerned for the welfare of people in prostitution in the Omaha metro, as well as across the state, to support LB 1253. I'm a licensed mental health practitioner and certified master social worker with 13 years' experience in women's issues in mental health, including a former tenure as director of the Salvation Army Wellspring Program, the only prostitution-specific intervention program in Nebraska. The Dignity Cooperative supports mandatory mental health and substance abuse assessments for individuals arrested, convicted, and placed on probation for prostitution and/or solicitation. Furthermore, we support LB 1253 and its provisions that solicitors have a different penalty structure than those who are prostituted. Research tells us that prostitution, properly defined, must include streetwalking, escort services, and brothels, as well as the entire industry of sexual exploitation that includes stripping, live sex shows, pornography, international and domestic trafficking, and live Internet broadcasting of these activities. People in prostitution experience high levels of sexual and physical violence at the hands of those who purchase them, as well as at the hands of pimps. Contrary to popular mythology that prostitutes cannot be raped, people in prostitution experience frequent battery,

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vaginal, oral, and anal rape, and assaults with weapons. It is estimated that women in prostitution are raped 13 to 33 times per year. Significant physical and mental trauma, poverty, homelessness, mental illness, addiction, and shortened life spans are inherent to the life of a prostitution survivor. Furthermore, and consistent with prostitution research during my Wellspring tenure, I found that 98 percent of Wellspring participants, who were 85 percent female and 15 percent male or transgender, were victims of sexual trauma, domestic violence, poverty, and/or homelessness prior to their involvement in any form of prostitution. Due to the initial and on-going violence and trauma experienced by people in prostitution, the necessity for mental health and substance abuse evaluations, trauma screening, and referral to appropriate mental health and substance abuse and trauma treatment is evident. Of great concern to Dignity Cooperative has been the lack of understanding and accountability regarding men who purchase humans for sex. Traditional enforcement of laws prohibiting prostitution, which rely heavily on arresting, finding, and incarcerating prostitutes has proved ineffective in reducing or deterring acts of prostitution. As a result, communities are looking to new tactics. The demand side of sex trade has been exposed in research in the last several decades. Increased accountability for solicitors takes into account the vast research that documents the variety of solicitors' motivations and behaviors that range from dominance, control, subjugation, and manipulation to battery, rape, and murder. LB 1253 takes a step toward placing responsibility for acts of prostitution more heavily with those who have more power in the exchange. Research shows that people who prostitute do so in the absence of other choices. Solicitors typically have more financial resources, education, employment, and opportunities. Solicitors prefer anonymity and are attracted to the vulnerabilities of people in prostitution. Increased accountability for solicitors because of their preference for anonymity may serve as a more effective deterrent for prostitution activity in general. Finally, because LB 1253 requires...

SENATOR BOURNE: Go ahead and finish your thought, if you would.

ABRA POINDEXTER: Okay. Because LB 1253 requires mental health and substance abuse assessment for solicitors

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convicted and placed on probation, solicitors may be directed towards treatment that will prevent future acts of solicitation.

SENATOR BOURNE: Thank you. Are there questions for Ms. Poindexter? I'll just say, for the record, one of the other earlier testifiers had indicated they thought it was a victimless crime. And I felt the same way. And I'll tell you, it was John Synowiecki, actually that kind of educated me on the issue and brought to light a lot of the problems that the neighbors are facing. And I've got to tell you, that's really compelling to me is, you know, having a safe neighborhood free from this kind of activity. And again, I got a lot of insight information from Senator Synowiecki as it relates to how significant the problem is.

ABRA POINDEXTER: That's wonderful. We really appreciate all the efforts he's made and how much he's included many of us in establishing the bills that he's looking at.

SENATOR BOURNE: Further questions for Ms. Poindexter? Thank you.

ABRA POINDEXTER: Thank you.

SENATOR BOURNE: Other testifiers in support? Are there other proponents after this gentleman? If there are, make your way to the front row and sign in, please.

JOE KOHOUT: (Exhibit 12) Chairman Bourne, members of the Judiciary Committee, may name is Joe Kohout, K-o-h-o-u-t, registered lobbyist appearing on behalf of the Douglas County Board of Commissioners. I've passed out for the members of the committee a copy of the commissioners' resolution supporting LB 1253. The one thing I would highlight for the committee is that the board did take a position of support on the bill with opposition to the increased felony provision. The most recent draft, I would have to take back to them and get direction from them, but I believe it fits generally within the scope of what they envision this legislation would do. I would, sort of following on the last testifier, note for the committee that we certainly appreciate Senator Synowiecki's approach to this from the aspect of doing a two-pronged approach. And that is we're looking at the criminal side, but he's also

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introduced quite a bill in LB 1086. So we also would like to add our thanks for involving us in the process, and then also, kudos to him for that, for the dual introduction.

SENATOR BOURNE: Questions for Mr. Kohout? Seeing none, thank you, Joe. Other proponents? Are there any opponents? Are there any neutral testifiers? Senator Synowiecki to close.

SENATOR SYNOWIECKI: Senator Bourne, thank you. I'll just be very brief. I want to thank everyone who took the time to testify. I think that the evidence that you heard here today, that the status quo relative to this really unacceptable, that we have profound inequities in our administration of justice as it relates to this crime, and we need to do something about it. I think it's incumbent upon us. As I indicated, I have prioritized the intervention and treatment component. I'd also like to have the justice component, so it may be a timely consideration by the committee as asked for. Senator Bourne, you mentioned pandering. That is currently a felony level crime, but I'd be more than willing, as I've had an on-going dialog with you relative to this issue, if the committee wants to look at our pandering statutes as well. I want to thank the committee for your attention, and again, thank everyone who has testified. I thought it was compelling testimony. Thank you.

SENATOR BOURNE: Thank you. Are there questions for Senator Synowiecki? John, I do want to tell you this, and it's so easy today, you know, that we have a lot of politicians that pound their chests, and I've used this phrase in the newspaper a lot, and you know, the tough on crime, because it does sound good. But what I appreciate about you is how you worked the issue, researched it, involved the community, people, and you come up with something that actually will work. It might not sound as sexy or appealing as towing their cars away or whatever, but it's going to work. And I commend you for doing that. I wish we had more politicians like you that would do that.

SENATOR SYNOWIECKI: I genuinely want to do something in terms of both, what I do consider the victims of this, the prostitutes, and also for the community, the neighborhood. There's another victim here, the neighborhoods, as we've

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heard some compelling testimony. So it's really, genuinely in all of our best interests to do something that will impact all of this. Thank you.

SENATOR BOURNE: Agreed. Further questions? Thank you. That will conclude the hearing on Legislative Bill 1253. (See also Exhibits 6, 34) Senator Stuhr is here to open on Legislative Bill 842. As she makes her way forward, can I have a show of hands of those folks here wanting to testify in support? I see three, four, five. Those in opposition? I see none. Senator Stuhr, do you want to just a second until the noise dies down? That be okay? Whenever you're ready.

LB 842

SENATOR STUHR: Okay. Thank you, Chairman Bourne and members of the Judiciary Committee. For the record, my name is Elaine Stuhr, E-l-a-i-n-e S-t-u-h-r, and I represent the 24th Legislative District. I come before you today to introduce LB 842, a bill that would criminalize human trafficking. I became involved with this topic last year when I was fortunate enough to be able to host, along with Senator Landis and Senator Beutler, Dr. Leslie Wolfe, the president for the Center for Women Policy Studies in Washington, D.C. Dr. Wolfe spoke about the topic of human trafficking and how states need to work with federal agencies to address this growing problem in our country. Dr. Wolfe is here today to testify before the committee, and will be able to answer many of your questions. LB 842 addresses this issue by providing that no person shall knowingly subject or attempt to subject another person to forced labor or services. This would include a perpetrator knowingly subjecting another person to forced labor or services by causing or threatening to cause physical to such other person, physically restraining or threatening to physically restrain another person, abusing or threatening to abuse the law or legal process, knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigrant document or any other actual or purported government identification document of such other person, using blackmail, or using or threatening to cause financial harm to such other person. And the penalties are outlined in the bill. I'm not

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outlining them right now. The bill also maintains that no person shall or attempt to recruit, entice, harbor, transport, provide, or obtain by any means another person under 18 years of age knowing that such person under 18 years of age will engage in commercial sexual activity, sexually explicit performance, or the production of pornography, or cause or attempt to cause a minor to engage in commercial sexual activity, sexually explicit performance, or the production of pornography. The bill also states that no person shall or attempt to recruit, entice, harbor, transport, provide, or obtain by any means another person intending or knowing that the person will be subjected to forced labor or services, or no person may benefit financially or by receiving anything of value for doing so. Restitution is mandatory under this section of the Nebraska Criminal Code. The bill also provides for the Attorney General, in consultation with the Department of Health and Human Services, shall no later than one year after the effective date of this act issue a report outlining how existing victim and witness laws and rules and regulations respond to the needs of trafficking victims, and suggesting areas of improvement and modification. Additionally, the Department of Health and Human Services, in consultation with the Attorney General, shall no later than one year after the effective date of this act issue a report outlining how existing social service programs respond or fail to respond to the needs of trafficking victims, and the interplay of such existing programs with federally funded victim service programs in suggesting areas of improvement and modification. Some people have asked me, is this a problem in our state? The honest answer at this time is that we are not sure. There is some anecdotal evidence that trafficking of humans does occur in Nebraska, although no trafficking rings have been explicitly discovered. Additionally, research indicates two things about trafficking. (1) Where there is a high immigration population, trafficking of humans often occurs, and when there is a major interstate crossing our state, that trafficking often occurs. We have both an immigration population that is increasing and an interstate that crosses our state. I urge your support of LB 842, and would be happy to answer any questions that you might have.

SENATOR BOURNE: Thank you. Are there questions for Senator Stuhr? Seeing none, thank you. First testifier in support.

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Welcome.

LESLIE WOLFE: (Exhibit 13) Good afternoon. I'm Leslie Wolfe, W-o-l-f-e, and I'm the president of the Center for Women Policy Studies, and I'm very grateful to Senator Stuhr for inviting me back to Lincoln. And I'm handing out materials that I will not have to repeat before the light goes out, but the Center for Women Policy Studies is working in as many states as possible. We're going state by state to promote state leadership in confronting trafficking of women and girls from around the world into the United States and into our states. So we are very grateful that Senator Stuhr and her colleagues have taken leadership on this very, very dangerous and important issue. We know that each state in this country can and must play a role in partnership with the federal government in addressing the crisis that we are facing as a trafficking destination country. The United States is wealthy and has a great demand, and traffickers who generally are criminals are in it for the money, and they are making huge fortunes by trafficking people against their will around the world and into this country. So we have both a federal and state responsibility to make a domestic response to an international human rights crisis. We have been helping states create the legal and policy framework that will enable them to prosecute and punish traffickers while also meeting the needs for protection and services of the women and children who are trafficked into this country for sexual exploitation and forced labor exploitation. We need to be very clear, we are talking about international trafficking. It is a qualitatively and legally different reality than what is happening domestically. So we already have in most states state laws on the books that address domestic prostitution, that address child abuse, child exploitation, kidnapping, violence against women, the transport of persons across state lines from one state to another, in short, to address the horrors perpetrated against American women and girls. These laws are not often enforced properly, as you've just heard. They are frequently blaming the victims, but we only need new statutory authorities for international trafficking of persons into our country. The existing laws are a sort of patchwork and won't enable you to be the full partner with the federal government, and LB 842 will help enormously in this regard. The federal government, of course, as you know, passed the Trafficking Victims Protection Act in 2000.

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This is in some ways modeled upon and in some ways an improvement on. We are asking Nebraska and other states to follow the lead of the almost 13 states--Maine hasn't yet passed their bill, but almost--that have, in fact, made international trafficking in persons a state felony offense. We are also recommending, of course, that statewide interagency task forces be created that would answer the question I am asked in every single state, which is, could that be a problem in my state? The problem is underground. It is hidden. What you have in this bill that is really wonderful is Section 4 that Senator Stuhr mentioned, which mandates that the Attorney General and other agencies study the situation, try to find out what is actually going on. Unless there is a concerted effort, it's not likely to be uncovered. What I would recommend most importantly is that when the Attorney General and the Department of Health and Human Services are doing their investigations that they make a special point of consulting with those nonprofit organizations and service providers in the state and in the communities that serve traumatized women. This is battered women's shelters, this is rape crisis centers, this is refugee and immigrant women's programs, because they truly do know what's going on in their communities. They also will have the kind of advice and expertise that the state agencies require in order to do what is necessary. Thank you very much.

SENATOR BOURNE: Thank you. Senator Aguilar.

SENATOR AGUILAR: Thank you, Dr. Wolfe. Is it Dr. Wolfe?

LESLIE WOLFE: Yes, thank you.

SENATOR AGUILAR: Thank you for being here today and your testimony. I'll just first ask you, did you have one more specific point you wanted to make before the time ran out?

LESLIE WOLFE: Well, the only other one would be to provide for victim services. It isn't inexpensive to provide services to trafficking victims. There is a substantial amount of federal funding available for certain trafficking victims, but I'm always asking state legislatures to share the bounty of the country with these young women.

SENATOR AGUILAR: About two weeks ago, I watched a

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documentary on TV on just this subject. It was actually in a foreign country, and the way it worked was they would take the victims to another country and sell them to a pimp, if you will, and then he would put them up in a house and work them almost like an indentured servitude until he felt like he was paid off, and then would either let them go or sell them to someone else. Now, I guess I don't really doubt that that could happen in the state of Nebraska because the victims themselves, there's nobody really looking for them in that country. They don't they're missing. So, it could be happening, and I guess I would ask you in your opinion, do you think it is happening in Nebraska?

LESLIE WOLFE: Well, I can't say for sure about Nebraska, but if it is not happening in Nebraska, this is the only place that it isn't happening. And the truth is that you do characterize international trafficking perfectly because there are families living on less than a dollar a day around the world. There are people living in desperate poverty none of us can imagine. And traffickers tell lies. They're not strangers. They go to families and they say, I can get your oldest daughter a wonderful job as a nanny, and she'll be able to go to school. And we do all have to realize that she believes this. She gets false papers, but she doesn't know they're false. She has a passport. She believes this is the opportunity of a lifetime because in one week she will earn enough money, she's been told, to support her family back home for a year. But what we are talking about is forced labor, involuntary servitude, and not just brothels in this country. Agricultural fields, sweat shops, domestic servitude, children begging on the streets not for themselves, and the issue is force fraud deception, and that's what defines trafficking under the Trafficking Victims Protection Act and most of the state laws. It is a global crisis, and in the United States, we have estimates of the number of trafficking victims that are, at best, flawed. But they range from 15,000 to 100,000 mostly women and girls trafficked into this country every single year.

SENATOR AGUILAR: Thank you. And I guess I'll just add that the program that I was watching, the victims were promised a modeling job in the other country.

LESLIE WOLFE: Right. The promises are always false.

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SENATOR BOURNE: Senator Foley.

SENATOR FOLEY: Thank you, Dr. Wolfe, for your presence today. You mentioned that Congress did enact some legislation. Can you tell us more about that, and what the weaknesses of their legislation that require us to take some additional action here at the state level.

LESLIE WOLFE: Well, it's the Trafficking Victims Protection Act of 2000. It has recently been reauthorized for the second time. It has strong and powerful bipartisan support in both houses of Congress. It establishes the federal crime of trafficking in persons. It has two parts. The first part is for the United States through the Department of State to look around the world and to analyze how well other countries are combatting trafficking and to threaten, no, we don't say that word, to consider that if countries are not seeking to combat trafficking within their countries, whether they're source countries or transit countries or destination countries, that the United States could withhold some foreign aid. So that's the United States looking outwards. But looking inwards, the Department of Justice, the Department of Homeland Security, the Department of Health and Human Services, and the Department of Labor all have major responsibilities. The cases in the packet I provided, there's a summary of a few characteristic federal cases that have been brought since about 2001 by the Justice Department with U.S. attorneys, and often in some partnership with local and state law enforcement. What I think you're asking that I would say is that the federal law is not enough. Even the Justice Department says we can't prosecute every case. And following the tradition of civil rights law, for example, in the 60s, where you pass a federal civil rights law, and then virtually every state follows suit. In some of the cases, the state law is stronger and better than the federal law. But the federal-state partnership is going to be essential because as the Justice Department will say, we're not on the ground. Local law enforcement is on the ground and they need to understand trafficking. They need to understand how to recognize it. And I have cases from my area where it's quite clear they don't understand.

SENATOR FOLEY: Thank you.

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SENATOR BOURNE: Further questions? Seeing none, Dr. Wolfe, thank you.

LESLIE WOLFE: Thank you very much.

SENATOR BOURNE: Next proponent.

DARCY TROMANHAUSER: (Exhibits 14, 15) My name is Darcy, D-a-r-c-y, Tromanhauser, T-r-o-m-a-n-h-a-u-s-e-r, and I'm the director of the Immigrant Integration and Civic Participation program at Nebraska Appleseed Center for Law in the Public Interest. And first, we'd like to thank Senator Stuhr for her leadership on this important issue, and I'm here today to register our support of LB 842. Human trafficking and forced labor is a modern day horror that cannot be tolerated more than a century after this country abolished slavery with the 13th Amendment, yet the Department of Justice estimates that 18,000 to 20,000 people are trafficked into the country annually. This is an important bill that helps us address this, as was just discussed, at the state level. In researching the issue, the Department of Justice found that many states do have some laws on the books that address pieces of this problem, but because they're codified in disparate parts of the code, are archaic, or are little known, they're underutilized and they do not reflect the current understanding of slavery and trafficking in persons. Experience at the federal level also has indicated that more-comprehensive and modern anti-trafficking statutes are needed at the state level to address the wide range of tactics that traffickers use to coerce the labor and services of their victims, and it will help us to put together a more direct response rather than relying on a piece here from a law addressed at kidnapping, which doesn't really apply, and a piece over here from another law that doesn't directly apply. But with a single state law like this, it will help us to address the trafficking phenomenon that is actually occurring today, and to bring it out of the shadows. Thank you.

SENATOR BOURNE: Thank you. Are there questions for Ms. Tromanhauser? Seeing none, thank you.

DARCY TROMANHAUSER: Thanks.

SENATOR BOURNE: Next testifier in support.

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LISA GOOD: (Exhibit 16) Mr. Chairman and members of the committee, I am Lisa Good. I am the executive director of the Nebraska Commission on the Status of Women. It's spelled L-i-s-a G-o-o-d. And I'm here today to voice the Commission's support of LB 842. The commissioners have unanimously determined that trafficking of women and girls as a global human rights issue has reached crisis proportions and is totally unacceptable. As such, we support this bill, which will address at the state level the trafficking of women, girls, and children for sex and labor. Nebraska needs a domestic response to international trafficking, and we believe LB 842 establishes in law the first steps that are needed. We thank you for your time and your consideration.

SENATOR BOURNE: Thank you. Questions for Ms. Good? Seeing none, thank you. Next testifier in support.

ABRA POINDEXTER: (Exhibit 17) My name is Abra, A-b-r-a, Poindexter, P-o-i-n-d-e-x-t-e-r. Good afternoon. On behalf of the Dignity Cooperative, a coalition of organizations and citizens concerned for the welfare of people in prostitution, I'm here to support LB 842. Trafficking is a global problem, and rural states across the U.S. have seen an increase in trafficking for prostitution and labor in recent years. Nebraska is not exempt from the trend, and may be a source location and end destination for traffickers. Research tells us that traffickers often have ties to organized crime, but that the degree of involvement varies. We know that other organized criminal activities are not foreign to Nebraska. Large quantities of drugs and drug money are regularly intercepted on I-80 and I-29. Because these roads bisect the country horizontally and vertically, it's only logical that they're used to transport humans as well as drugs. We also know that undocumented citizens are drawn to Nebraska to work as migrant farm hands, in meatpacking and processing, and in construction. Their journeys into the U.S. are often fraught with rapes, beatings, food and water shortages, threats and other exploitive treatment at the hands of traffickers, sometimes called coyotes. Many refugees from around the world report very similar experiences, and Nebraska is home to several refugee populations. It's highly likely that survivors of trafficking are quietly living amongst us in silence and are

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not receiving medical care, psychological care, and other community support required to help a person deal with such traumatic events. The word trafficking usually makes us think of people who are from other countries, but it is also true that women and children are trafficked from one U.S. destination to another for use in prostitution, stripping, pornography, and other related sexually explicit businesses. I provided you an article that cites Nebraska as a source for teen girls who are on the streets of California. The felony restitution accountability for traffickers in LB 842 is an excellent step towards decreasing and deterring the existence of sex trade in Nebraska. As a former Wellspring director in Omaha, ongoing member of Dignity Cooperative, and private practice therapist, I have been a direct witness to the trauma experienced by survivors of sex trade. Stiff accountability for offenders and the availability of service programs for those trafficked and or prostituted is a necessity for our state.

SENATOR BOURNE: Thank you. Questions for Ms. Poindexter? If you could tell me, what's the interplay between Dignity Cooperative and Moxie Resources?

ABRA POINDEXTER: Kristin Houser is Moxie Resources. She is our chair of the Dignity Cooperative, and so mailings to the Dignity Cooperative go to her address.

SENATOR BOURNE: Oh, okay.

ABRA POINDEXTER: So, that's basically (inaudible).

SENATOR BOURNE: I just know her from testifying, so.

ABRA POINDEXTER: Yes, um-hum.

SENATOR BOURNE: Further questions? Seeing none, thank you.

ABRA POINDEXTER: Thank you.

SENATOR BOURNE: Next testifier in support.

TARA MUIR: Good afternoon, Senator Bourne and members of the committee. My name is Tara Muir, M-u-i-r. I'm legal director of the Nebraska Domestic Violence Sexual Assault Coalition. We're here today on behalf of our network of

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22 domestic violence and sexual assault programs across the state. We support LB 842 because we know there are victims in our state who would get some justice under these proposed laws. Some of the victims have shown up at our programs. In general, I can say that we have heard the stories about frequent rape by bosses at business employing undocumented workers. Some of these are the meatpacking plants in greater Nebraska. We've had a couple of people, maybe a year or two ago being left, basically were thrown out of vehicles in the middle of very rural counties, didn't know any English, didn't know where to go, had obviously been through some repeated acts of violence. We've helped a lot of these victims get back to their families for help, whether it's just in another city or another state, or even their home countries. What we learned from them before they disappear is that they have suffered unspeakable trauma and are grateful for our help. And I'm a little vague because what's problematic with a lot of these victims is that telling a complete stranger or even a best friend that you're a victim of some of these crimes, especially at the hands of a person who either employs you or the person who brought you to this country is a tremendous and courageous act in and of itself. But when you're an immigrant, there are cultural and language barriers that can make telling the truth of your story even more difficult. And if you're an undocumented immigrant, forget about trusting anyone enough to tell your story because you're going to be very afraid of deportation. Forget about telling anyone that you were forced to sell yourself for a sexual act because of the pimp involved has pretty much assured you that you are the criminal if anything were to be reported, and so silence is the name of the game in a lot of these crimes. Usually, their story doesn't result in any charges, primarily because the ones we've been involved with, the perpetrators just seem to be very expert at getting away. We help refer victims to appropriate agencies to help with the complex immigration issues. Some of the federal laws that have been passed, the Immigration Trafficking Act, but also some of the VALA (phonetic) remedies, we have advocates who specialize in assisting those victims just in those kinds of either a self-petition or there is a trafficking visa now. Our organization is very supportive of LB 842, particularly the report that Attorney General and the Department of Health and Human Services are going to be required to do. And those reports will be important in helping our programs

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as well, as well as all the service organizations in the state, understand the numbers of people that are affected and what the population actually looks like so we can serve them better. So I thank you, and I thank Senator Stuhr very much for bringing this bill. And if you have any questions, I'm happy to answer them.

SENATOR BOURNE: Thank you. Questions for Ms. Muir? Seeing none, thank you. Next testifier in support? Are there any testifiers in opposition? Are there any neutral testifiers? Senator Stuhr to close.

SENATOR STUHR: First of all, I'd just like to thank the committee for their attention and thank all of those that testified on this issue. I believe that as a state, we have the responsibility to pass some statute in regard to human trafficking. And I urge your support and advancement of the bill.

SENATOR BOURNE: Thank you. Are there questions for Senator Stuhr? Seeing none, thank you. That will conclude the hearing on Legislative Bill 842. The committee will stand at recess for ten minutes.

(RECESS)

SENATOR BOURNE: Senator Thompson is here to open on Legislative Bill 1180. Would those proponents of this next bill make their way forward to the front row, please? Welcome.

LB 1180 1181

SENATOR THOMPSON: (Exhibits 18, 20, 21, 24) Are you ready?

SENATOR BOURNE: Whenever you're ready.

SENATOR THOMPSON: Okay. This bill and the one that is following I brought to the Legislature because of a concern that I have over the number of juveniles who are, for lack of a better word, languishing in detention. It's an issue to me because the purpose of detention is to hold juveniles until a disposition is made of where they should be placed. What's happening is there are kids in detention centers in

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Nebraska that have been there for long, long periods of time. And what these two bills do is tighten up the, and I forgot another handout that I have, the time frame so that some decisions can be made and we can get the kids where they should be within the system more quickly. And also cut back on some, in many cases, perhaps needless costs to various levels of government that are dealing with these issues because the kids are in detention and somebody has to pay the bill. LB 1180 deals with juvenile transfer--do you want me to start with LB 1180?

SENATOR BOURNE: Are they similar enough that you want to (> them together?

SENATOR THOMPSON: I could do them both at the same time if you want.

SENATOR BOURNE: Okay.

SENATOR THOMPSON: LB 1180, under current statute, after a juvenile is arraigned in district court, the juvenile may ask the court to waive jurisdiction and transfer their case to the juvenile court not later than 15 days before trial. This bill, if the Judiciary Committee advanced it and became law, would change the process so the juvenile may ask the county or district court to waive jurisdiction and transfer their case to the juvenile court not later than 30 days after arraignment. And that's, the purpose of this bill is to tighten that process up so those decisions can be made and the case moved along more quickly. The second bill, LB 1181--and I have a little handout on that one, too--changes the time frame from 48 hours for probable cause hearings to be held under Section 43-256. Current statute states these hearings must be held in a reasonable time. It also amends Section 43-408 to require the juvenile court to hold a hearing every 14 days to review the status of a juvenile who is placed in detention after the initial level of treatment is determined by the committing court. Currently, a court places a juvenile with the Office of Juvenile Services when the additional level of treatment is determined. After this treatment is ordered by the court, the Office of Juvenile Services is required to provide the treatment. Prior to receiving this treatment, juveniles may be placed in detention facilities while they await a treatment placement by the Office of Juvenile Services.

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This language clarifies, also, that a placement of a juvenile in detention is not to be considered a treatment service, which is an issue that's been kind of blurry in terms of what courts have tried to decide whether that's treatment or not treatment. What this does is tighten up the time frame so that the courts are reviewing and kids don't languish in detention centers. And the chart is a flow chart to kind of show you where these various suggestions would come into play within the system to try to tighten that process up.

SENATOR BOURNE: Okay. Are there questions for Senator Thompson on either Legislative Bill 1180 or LB 1181? Seeing none, thank you. Since we're doing the combined hearing, if you would, after you state and spell your name for the record, if you'd say which bill you're in support of or both. And we'll be a little lax on our timing systems if you wanted to testify on both measures.

HANK ROBINSON: (Exhibits 22, 23) My name is Hank Robinson. I'm the director of the Juvenile Justice Institute within the Criminal Justice Department at the University of Nebraska at Omaha. I'm here in support of LB 1180 and also in support of LB 1181, provided that there's a bit of a clarifying amendment made to it. With respect to LB 1180, the background behind LB 1180 comes from the fact that right now counsel do not have to request transfer from county or district court until 15 days prior to trial. As a result, you can have a 17-year-old who's been sitting in county court docket for six, seven, eight months, and then two weeks before their trial on some misdemeanor charge, their attorney files a motion to transfer it to juvenile court. And all of a sudden, it's in juvenile court, and you've got a 17-and-a-half-year-old kid who has committed some violation a year ago and the juvenile court is supposed to do something about it. The only thing that this does is it says that, the only thing that LB 1180 really does is say, if you're going to file a motion to transfer a case from adult court in county court or district court that you file that within 30 days of the arraignment, and makes adequate provisions to advise the juvenile of their rights at the time of the arraignment, along with all their other rights, so that motion can be made. I'm an attorney. I've practiced in juvenile court. I practice in county and district court. I can tell you there is absolutely no

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justification, no reason why those motions to transfer can't be made within 30 days of the date of the arraignment. So, it goes a long ways to making sure that if there is going to be a transfer in the case, this is going to end up in juvenile court, that all the interventions, all the services are brought to bear in the case as soon after the offense as possible instead of waiting for a year or two years to go by. And if you have any questions on LB 1180, I'll take them now.

SENATOR BOURNE: Okay. Senator Flood.

SENATOR FLOOD: Dr. Robinson, thanks for your testimony. And I guess my question is, I agree with the bill. In Douglas County, and I may not be familiar, do county court judges ever accept pleas for felony conduct, or do they always bond it over to the district court? Even...

HANK ROBINSON: If it's going to be a felony case, it's going to be in district court.

SENATOR FLOOD: Does your prosecutor file it directly in district court, then?

HANK ROBINSON: I think there may be an exception to that, Senator Flood, but I think that the protocol between the Douglas County attorney and the city of Omaha prosecutor is that, essentially, if it's a misdemeanor, the city pursues it in county court. If it's a felony, it gets pursued in district court.

SENATOR FLOOD: And I would imagine that's a more efficient system. In the 7th Judicial District, it's been my experience that county attorneys will always file in the county court. Even in the case of the US Bank murders, the first-degree homicide charges were filed in county court. And most of the time, I have seen judges accept a plea in county court if it's a not guilty plea, then there's a request for a preliminary hearing in county court, and a preliminary hearing determines if there is enough evidence for the district court. So do you see that as a problem in our system where we have a juvenile that's sitting in county, the prosecutor files in county, it's bound over to district court. You're looking at another 90 days.

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HANK ROBINSON: We don't see that. You know, LB 1180, the real need for LB 1180 is that we're seeing cases that are landing back on the county attorney's desk eight and nine months after they were originally filed. And there are a number of these kids that are going through diversion programs. But, you know, in order for--and are good candidates for diversion, too--but when it's nine and ten months after the date of offense, you've knocked most of the motivation out. I mean, the family is like, oh, that happened a long time ago, as opposed to within the last couple of weeks, the last month-and-a-half or so when their motivation is at the highest to be held accountable and hold their children accountable for what happened.

SENATOR FLOOD: I guess, and I agree with that, but if we had juveniles who are being charged with felonies and the charge is filed in county court originally, wouldn't it make more sense to require that those charges, if brought against a juvenile, be directly filed in district court so you don't have the preliminary hearing, the time to bind it over to the higher court? Wouldn't that make more sense?

HANK ROBINSON: For sure, especially if it causes the kind of delay that you're talking about in the 7th District. You said 7th Judicial District, right?

SENATOR FLOOD: Up time is 90 days just to get from county district court.

HANK ROBINSON: Nobody gains from any delays in these juvenile courts.

SENATOR FLOOD: Thank you very much.

SENATOR BOURNE: Further questions?

HANK ROBINSON: Senator Bourne, with respect to LB 1181, I've been in charge of the Juvenile Justice Institute now for about three years. It was created by the Legislature to provide technical assistance to the state on a number of different things. And every year, senators ask me, is there any legislation that needs to be introduced on behalf of juveniles. And almost without exception, I really haven't seen anything. I've looked at stuff. I have got to tell you that LB 1181 may be the most important juvenile bill

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that has come up. I'm a little bit embarrassed that I didn't catch it before. And the reason is, right now in the state of Nebraska, there's no way to get a juvenile out of detention if a judge decides that they're going to let them sit there. I can be representing a juvenile in juvenile court and trial may be set off another six or eight weeks. I can have all of the services set up so that kid can get back out of jail, get out of the detention center, wherever they're at, get back in school, start going to counseling. Start getting the treatment that they need, and I can file that motion so that that detention can be reviewed. And if a judge says, well, you know, my docket is pretty full. I don't have time for this. We'll have the detention review during the time of adjudication, my client is going to sit there for the next six weeks not going to school, not getting the services that they need, even though adequate safeguards have been put in place to protect the community. It is really strange, and I don't know how it happened, but under Nebraska law, there is no way to compel a detention review hearing for a juvenile that's in custody. And it doesn't mean that we're suddenly going to open the gates and all these juveniles are going to flood the streets. It means that judges have to have hearings to decide whether or not it remains necessary to hold a juvenile in custody while their case is being processed. So, the only amendment that I offered was to add a section to Section 43-271, and the reason is because as the LB 1181 is written right now, I'm afraid that it would be interpreted as indicating that the only time that you're entitled to a detention review hearing was at the time of the probable cause hearing, which is almost invariably at the time of the arraignment. Well, it can be as long as six months under state statute after that hearing before a kid comes up for trial. And consequently, if there's not some sort of amendment that allows those detention hearings to be conducted during that six-month time period, then the most important change won't have been affected. The second thing is, we've seen situations in Douglas County and maybe in other counties in exceptional cases where the Office of Juvenile Services, for example, has actually located an alternative placement for a youth after disposition and they've not been able to get the kid out of jail because a judge didn't like it. This would give state agencies, including probation, OJS, and attorneys the ability to at least bring the action back in front of the court and have a hearing on whether or not this youth needs

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to continue to sit in jail.

SENATOR BOURNE: Thank you. Questions? Did you submit that amendment to us?

HANK ROBINSON: Yes, I did, in the written.

SENATOR BOURNE: Okay. Okay. Thank you.

HANK ROBINSON: Thank you.

SENATOR BOURNE: Next testifier in support of either of these bills?

ELAINE MENZEL: Chairman Bourne and members of the Judiciary Committee, for the record, my name is Elaine Menzel, it's M-e-n-z-e-l, and I'm here on behalf of Nebraska Association of County Officials appearing in support of LB 1180 and LB 1181. And essentially, the reasons we support the bills are for the same reasons that Mr. Robinson and the Senator Thompson testified. And these bills should reduce the detention cost for juvenile offender prior to court hearings, and thus benefit the juvenile offender and minimize the cost incurred by counties. I encourage you to support LB 1180 and LB 1181. If there is any questions, I'll attempt to answer them.

SENATOR BOURNE: Thank you. Are there questions? Seeing none, thank you.

ELAINE MENZEL: Thank you.

SENATOR BOURNE: Next testifier in support. First testifier in opposition.

BILL MUELLER: (Exhibit 25) Chairman Bourne, members of the committee, my name is Bill Mueller, M-u-e-l-l-e-r. I appear here today only on LB 1180 on behalf of the Nebraska State Bar Association. I've spoken with Senator Thompson's office about the bar's concern. The page is handing out what is current Statute 43-261, and that is a section that is being outright repealed in this bill, Section 4. Our concern is whether 30 days after arraignment gives sufficient time for the juvenile and the juvenile's lawyer to determine whether they should file this motion to transfer the case. In

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speaking with Dennis Keefe, who is the Lancaster County Public Defender, this morning, in his looking at the bill, he was concerned that there are cases where the attorney just does not have enough information in order to make this determination. An example he gave is in a serious felony case to where you might want a psychiatric evaluation to take place. You would not have that evaluation performed and you would not have the reports back in this 30 day time period. Currently, there appear to be two different deadlines in statute for filing this motion. I've handed out to you Section 43-261 that appears to handle misdemeanor matters, and that filing requirement is that you must request this transfer any time prior to the trial or the plea. Section 29-1,816 and the bill requires that you file this any time up to 15 days before trial. Mr. Keefe's concern is that we want to make sure there are no unintended consequences here, and that is that the Legislature is not saying that you do not want to allow transfers in misdemeanor situations just because you are repealing Section 43-261. Currently, we have two sections of statute. One appears to pertain to the transfer of felony cases; the other pertains to the transfer of misdemeanor cases. In this bill, you are repealing the misdemeanor section, keeping the felony statute. We want to make sure that (1) you can transfer either a misdemeanor case or a felony case, and we want to make sure that there is enough time for the lawyer and the juvenile to decide whether they even want to file this motion. Lastly, on page 3 of the bill, line 16 through 19, the language is being stricken. It's my understanding that Senator Thompson is going to request that that be reinserted. If she doesn't request that, I would request that. And again, the language that is being stricken states currently, after considering all the evidence and reasons presented by both parties, the case shall be transferred unless a sound basis exists for retaining the case. We think that that needs to remain in this. There also is language in Section 43-261 that nothing will prohibit the county attorney from waiving their objection to this being transferred. We think that needs to be retained as well. Be happy to answer any questions you may have.

SENATOR BOURNE: Okay. Questions? Thank you.

BILL MUELLER: Thank you.

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SENATOR BOURNE: And again, just for clarity, you're testifying in opposition to LB 1180, not...

BILL MUELLER: I'm sorry, LB 1180 as introduced. Yes.

SENATOR BOURNE: Understood. Further opponents? Are there any neutral testifiers? Senator Thompson to close.

SENATOR THOMPSON: Thank you. On LB 1180, I got all flustered and I forgot to mention that I did, attached to the blue sheet is an amendment which deals with one aspect of the bill that Bill Mueller mentioned, which is the stricken language. And I would request that if the committee chooses to advance this, they reinstate that language. Our staff visited with some juvenile court judges who had an interest in that also, and so that comes back in. On the other issue, it's a policy matter. I think that it's, in these misdemeanor cases, you know, is it more important to leave a whole ton of kids there or not? And I think it's good public policy to get that process tightened up and get it done. That's just a difference of opinion I would have with some of the public defenders.

SENATOR BOURNE: Fair enough. Senator Flood.

SENATOR FLOOD: Thank you, Chairman Bourne. Senator Thompson, if we modified the language, or maybe you'd be interested in helping us with this, if we said 30 days unless good cause is shown why it should be extended, that date should be extended, in the case that there is a psychiatric evaluation. If we gave...

SENATOR THOMPSON: That would be, I would agree to that. But if we can make it so it isn't just a giant loophole...

SENATOR FLOOD: Yeah.

SENATOR THOMPSON: And, you know, I have, maybe I have some bias because when I was a county board member, we had lots of issues with even having attorneys who were representing juveniles who were contracted for otherwise not even getting to them or talking to them or standing out in, we used to have this hallway, and you'd see them go, Mike Flood, Mike Flood, like, you know, it's like, hi, I'm your attorney.

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Let's chat. You know, I just really don't want to see that kind of lapse happening.

SENATOR FLOOD: All right. Thank you.

SENATOR THOMPSON: But I'm happy to work with you on that.

SENATOR BOURNE: Further questions? Thank you.

SENATOR THOMPSON: Thank you.

SENATOR BOURNE: That will conclude the hearing on Legislative Bills 1180 and 1181. Senator Aguilar is here to open on Legislative Bill 1070. As he makes his way to the witness chair, if the proponents of the bill would make their way forward and sign in, please.

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SENATOR AGUILAR: (Exhibit 26) Thank you, Senator Bourne, members of the Judiciary Committee. My name is Ray Aguilar, R-a-y A-g-u-i-l-a-r, for the record. Child advocacy centers are a place where a child who has been a victim of abuse, neglect, or assault of a serious nature can be interviewed, get a medical examination, and have initial assessments done by a multidisciplinary team of trained professionals. Started as a grassroots effort, we now have seven CACs across the state. Some are well-developed and provide 24-hour service. Others are fairly new. Each are uniquely using the resources of their community. A map of the CACs and the counties that have been assigned to each one is designated in the colorized map on display and in the smaller version found in your packet of information. Two years ago, at the request of the Governor's Task Force on Children, the CACs were given duties to coordinate and encourage communication between Health and Human Service and law enforcement as well as other agencies in an effort to provide the best care for the children involved in abuse cases. Funding was given to pay for the coordinator through a contract with HHSS. In only two years, they have greatly improved the number of county 1184 teams that are meeting statutory requirements from 40 percent to 95 percent, improved training for team members, and are getting many more abuse cases reviewed by the teams. To assure continued

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success and improvement of this part of the state's response to child victims and for the efficiency of the 1184 teams, I feel that CACs need statutory recognition. Therefore, LB 1070 will: recognize child advocacy centers in statute; officially list their duties to assist county attorneys in convening meetings, coordinating training for 1184 team members; setting protocols and coordinating case investigations; and treatment for children who are victims of abuse; name the case coordinator as a member of the 1184 team that is held to the confidentiality laws and procedures; assign each county one of the current seven centers, which is already done by contract; mandate that interviews of children up to 16 years old be forensic and conducted in the assigned CAC in their child-friendly atmosphere (Forensic simply means proven scientific interviewing methods to be nonthreatening, thorough, and accurate. Satellite networks such as telehealth system can be used to facilitate remote participation in interviews.); add procedures for responding to drug-endangered children to the team protocol duties (You might know these suggested procedures as the CHEM-L Protocol.); add a representative from the Nebraska Attorney General's Office as an alternative to the county attorney for cases that get turned over to the AG's office. In addition, this bill includes some clarifying language to specify that the team includes a member of HHSS Child Protective Service Division. This bill also requires no appropriation whatsoever. Any questions at this time?

SENATOR BOURNE: Are there questions for Senator Aguilar? Seeing none, thank you.

SENATOR AGUILAR: Thank you.

SENATOR BOURNE: First proponent. Welcome.

MARY JO PANKOKE: (Exhibit 28) Good afternoon, Chairman Bourne and members of the Judiciary Committee. My name is Mary Jo Pankoke and I am the executive director of the Nebraska Children and Families Foundation. My testimony today is based on my experience co-chairing the Governor's Children's Task Force with Gary Lacey in 2003. As you may know, the Children's Task Force was charged with two fundamental duties. The first of these was to investigate 30 child deaths that occurred within a five-year period as a

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result of child abuse. The second was to develop recommendations to prevent future deaths. The task force's final report divided its recommendations into a series of outcome areas, one of which focused specifically on investigation strategy of child maltreatment reports. This outcome area asserted that reports of child abuse should be investigated in a thorough, competent manner utilizing a coordinated, multidisciplinary approach. I feel that it is important to note that the task force identified child advocacy centers as a key component in many of the recommendations for this outcome. Child advocacy centers provide a neutral forum in which professionals from a variety of disciplines may discuss cases or address problems that occur on either a case-specific or system level. Accordingly, the members of the task force clearly recognized that child advocacy centers could play a critical role in facilitating a multidisciplinary approach to the investigation of child abuse reports. In respond to the task force's recommendations, as Senator Aguilar just mentioned, the state Legislature in 2004 appropriated funding to add case coordinator positions to each of the child advocacy centers. Since the establishment of these coordinator positions, we have seen dramatic increases, not only in the number of active multidisciplinary teams, but in the scope and activity levels of those investigative teams as well. In essence, I would assert that these positions have greatly enhanced communications on child abuse investigations and enabled local multidisciplinary teams to operate more efficiently and effectively. LB 1070 would put in statute the role that child advocacy centers already occupy in the investigation of child abuse reports. Moreover, it would acknowledge the critical role that these centers play in the child protection system. I urge you to support this important bill and the work it promises to foster on behalf of our state's children.

SENATOR BOURNE: Thank you. Questions for Ms. Pankoke? Seeing none, thank you. Next testifier in support.

MARK ELLS: Chairman Bourne, members of the committee, my name is Mark Ells. I'm a research assistant professor at the University at the Center on Children, Families, and the Law. I'm testifying in support of LB 1070.

SENATOR BOURNE: Could you spell your last name, sir?

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MARK ELLS: Oh, I'm sorry. I'll spell both, because it's Mark with a "k" and my last name is E-l-l-s.

SENATOR BOURNE: Thank you.

MARK ELLS: Thank you. In 1992, I was one of a group of people who helped draft LB 1184, which created multidisciplinary teams in Nebraska. Since then, I've had the opportunity to work with teams here in Nebraska and across the country. Those teams were developed in Nebraska to minimize system trauma to children and to enhance investigation of allegations of child abuse. It is widely recognized, both in the United States and elsewhere, that an interdisciplinary collaborative approach to this process generally results in a gathering of more-reliable information than traditional, less-collaborative methods. It is important to have as members of the 1184 teams all agencies involved in the investigation or treatment processes. The Attorney General, because of the authority the Attorney General has to prosecute crimes against children specifically, are in particular cases crucial members of those teams. The coordinators also should be members of the teams because of the issues of confidentiality. Statute 28-730 provides both that confidential information may be shared among team members and that information shared among team members remains confidential. In order to have necessary access to do the job that Miss Pankoke just described, coordinators need the authority to hear the information that's shared among team members, and they also should be required, as they have been doing, to keep that information confidential. And this statute would make both that ability to receive information and a duty to maintain confidentiality explicit. LB 1070 also recognizes the importance of a forensic interview. A forensic interview is a critical part of the investigative process conducted to gather information from a child to determine whether the child was a victim of a crime or if the child witnessed a crime against another person. The primary goal of forensic interview is to gain facts, and the best place to do a forensic interview is in a child advocacy center, and the best way to do it is by a forensic interviewer and have it recorded, which is what the bill requires. I'd entertain any questions.

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SENATOR BOURNE: Thank you. Are there questions for Mr. Ells? Seeing none...

SENATOR FLOOD: I do.

SENATOR BOURNE: Senator Flood.

SENATOR FLOOD: Thank you, and thank you for your testimony. I agree with you, these child advocacy centers have been a huge improvement in Nebraska. And I'm going to ask this question, and if you'd prefer somebody else to answer it, I would, that's fine...

MARK ELLS: All right.

SENATOR FLOOD: ...because I know that there's others coming behind you. My county attorney called me and said, we're very supportive of, I represent Madison County, we're very supportive of child advocacy centers. We don't want anything that ties our hands by forcing us to go here in the event that unforeseen circumstances arise, like the Cherry County attorney can't get out of town. It's a blizzard. The roads are icy. The kid is, the child has to be somewhere else. As I read the bill, I don't see that there, that county attorneys are required or mandated to use a child advocacy center, but that each area has to have one for their use. Am I reading that right?

MARK ELLS: That's the way that I would read it, and also, that the county that the teams, the 1184 teams have a protocol, a written agreement as to how to utilize the child advocacy center, under what circumstances. So, if they have those, and most counties outside of Lincoln and Omaha, well, even in Lincoln and Omaha, they have those issues, have instances where it's difficult to get a child to the advocacy center. But the other thing to keep in mind is that often times, interviewing a child isn't an emergency and can wait. In those instances when it is an emergency, then alternatives methods could be prescribed in the protocol.

SENATOR FLOOD: And the other thing, I guess, just, maybe future speakers can elaborate on this, it doesn't seem to require that every interview with a child be videotaped, just that interviews at a child advocacy center have access

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to videotaping. And I want to make sure that's the case because somebody in my district suggested to me that, does that mean that we can only present the videotape at trial? Well, everybody knows there's a right of cross-examination and that it's better, you know, obviously, for the videotape to exist and spare the child. But that's not your intent, either, is to require that evidence of a child, its testimony, be presented only by videotape. That's not it, right?

MARK ELLS: That would not be the way I would read the statute. And I think it's important to note that one of the purposes of recording one of those forensic interviews is to decrease the number of interviews that a child has to go through, that other agencies who need that information can look at the video. It's rare in Nebraska, actually, that the tape can be admitted, at least in a criminal case, standing alone. So, it's a way to preserve evidence. It's a way to decrease the number of interviews a child has. But, no, this statute, as I read it, also does not mandate that every interview be recorded, only the forensic interviews conducted at a child advocacy center. And even then, there may be instances where a team might want to write in an exception, but that should be the general preference.

SENATOR FLOOD: Thank you very much.

SENATOR BOURNE: Further questions? Seeing none, thank you.

MARK ELLS: Thank you.

SENATOR BOURNE: Next testifier in support.

MARK ZIMMERER: Good afternoon, Chairman Bourne, fellow committee members. My name is Mark Zimmerer, Z-i-m-m-e-r-e-r, director of the Northeast Nebraska Child Advocacy Center in Norfolk, Nebraska, and also president of the Nebraska Alliance of Child Advocacy Centers. First of all, I want to praise Senator Aguilar and his staff for their work on LB 1070 and its proposed changes to statutes that created the LB 1184 teams that review child abuse cases in Nebraska. I want to praise the Legislature for focusing this year's efforts on sexual predators and the young victims that can't protect themselves. The fact is that

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there are several senators introducing sexual predator bills, and this is a sign that the state is ready to take a stand on these horrendous crimes. I have reviewed all of the introduced bills and have one thing consistent with most of them. The one consistency is the fact that not many of them address the investigation process, or the fact of what these young victims are going through during this tough time. LB 1070 focuses in on what's right for victims and the processes it takes to build a strong case against these predators. A quote from Paul Logli, president of the National District Attorneys Association in December's APRI describing the purpose and positive attributes of child advocacy centers nationwide. He states a child advocacy center provides a child-friendly environment that's response involves a multidisciplinary approach to investigation, prosecution, and treatment of child abuse. A protocol sets out the responsibilities prosecutors, police, child protection agencies, and medical providers have in response is sensitive and nonduplicative. Mr. Logli's comments mirrors that of the Governor's Child Abuse Task Force, whom identified that child maltreatment reports must be investigated in a competent, thorough manner utilizing a coordinated, multidisciplinary approach. Child advocacy centers play an important role in the investigation process by providing a safe place for the children to be evaluated. Child advocacy centers are a mechanism for regionalized expertise, and are nationally accredited and research-based. A task force conclusion was to expand the availability and utilization of child advocacy centers in Nebraska. The realization of the task force goals can come closer to reality with the passing of LB 1070. LB 1070 will identify child advocacy centers in statute and assign counties to one of six nationally accredited child advocacy centers, and soon to be a seventh child advocacy center in North Platte. Then-Governor Johanns and Governor Heineman have supported Child Advocacy Centers in the last two years of their budgets. This support shows the increased awareness related to the effectiveness CA, child advocacy center standards, and multiagency involvement has on the child abuse investigative process. I would like to ask each of you to consider the bill carefully and help fulfill the goals of the Governor's Child Abuse Task Force by advancing LB 1070.

SENATOR BOURNE: Thank you. Are there questions for Mr. Zimmerer? Seeing none, thank you.

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MARK ZIMMERER: Thank you.

SENATOR BOURNE: Next proponent.

COLLEEN ROTH: Hello. My name is Colleen Roth, C-o-l-l-e-e-n R-o-t-h, and I am one of the seven case coordinators hired. I am at Project Harmony in Omaha, and so I have Sarpy and Douglas counties. So I just kind of wanted to kind of give you a feel for what kind of difference the coordinators have made. I started a year and a half ago, and when I first started attending the teams, as you've heard, rurally, some of the teams weren't even meeting, and those are up to 95 percent. Our teams in Sarpy and Douglas county were meeting regularly. However, not all parties were at the table that should be at the table. Law enforcement agencies were missing. All school districts weren't represented, and agencies, as such. There were minimal cases being reviewed, and those were just randomly chosen. You would go to a meeting and they'd say, anyone have a case they want to review? Or the county attorney might bring one, or Health and Human Services, but it was just very randomly selected. Members at the team were often adversarial. I need to tell you, when I started, there was finger pointing, cursing at the meeting, I mean, I was scared my first meeting, very adversarial, were not working together to coordinate investigations. There was more blaming going on than anything. Law enforcement did not understand why they would need to coordinate with Health and Human Services. They were doing a criminal investigation. They don't need a social worker tagging along. So there was a great lack of information sharing, many communication problems, minimal if any follow-through on cases. There weren't regular minutes kept. They were unable to effectively address system issues, also. Basically, the county attorney has many responsibilities, so to follow up on system issues outside of the 1184 teams, it really was not happening. Training provided, also, kind of the same thing. You know, lack of coordination and time, didn't allow for them to arrange much training. Since the coordinator, we have increased memberships. All law enforcement agencies are participating. We have representatives from all the school districts represented. At treatment teams, we've made sure that we have diverse experts on the teams representing chemical dependency,

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experts in sexual abuse, domestic violence, developmental disabilities, Indian Child Welfare Act. We monitor protocols, make sure that protocols are adhered to. I think having a neutral facilitator with a coordinator has made big difference so that when there's conflict among investigative parties, we're not party to the investigation. Regular minutes are kept on the agenda now. We have access to N-FOCUS, which is HHSS' computer information system, so we can pull up the referrals that are sent to the hot line and review those. We can review all the priority ones, bring what cases forth that we see need to be brought forth. We also have made sure that the county attorneys, that the HHS and law enforcement understand what the protocol is in terms of, we need to address all suspicious child deaths, serious injuries, life-threatening neglect, have made sure they have a referral form, and that those cases are getting to the team. Minutes are documented with each case. We put specifically what action is needed on that case, so at the next case review, we are following up on all those cases to make sure that the corrective action is taking. We address case-specific issues. As I said, for coordinate investigations, we've set aside separate meetings when we need to, outside the team meeting, with law enforcement and Health and Human Services, setting up some protocols on how do you find out what case is assigned, how do we go about coordinating the investigation, scheduling interviews with one-another, addressing system issues. I would like to tell you, in 2005 in Douglas and Sarpy County, we staffed 15 child death SID, cases that were diagnosed as SIDS. Thirteen of those were related to cosleeping and other factors. We took that outside the team, contacted the health department, the Nebraska SIDS Foundation, the media. It sparked the series of articles on SIDS and cosleeping with the Omaha World-Herald, had TV interviews. We're still involved. We've submitted information to be involved, and been involved with the Governor's Task Force for the Child Death Scene Investigations. We have a meeting right now with medical representatives. All the medical representatives, a representative from each hospital in the metro area, we meet regular'y once a month to address issues that have come up on case reviews, like child sexual assaults, how we're dealing with that, mandatory reporting issues, uniform drug testing--none of the hospitals across the metro area do drug testing the same--the CHEM-L protocol that was mentioned, and SIDS and shaken baby syndrome

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policies. We also had a meeting with all school districts in the area and a representative from the Nebraska Department of Education in reviewing cases when we found out that emotional and behavioral information does not follow a student. So if a student is suicidal or have violent behaviors, that information does not automatically part of the "cume" file. So we've met to try to look at, reviewed HIPAA laws and FERPA laws, and tried to figure out how can we make sure that that information gets to the next school so that these children are not in danger themselves or putting others in danger. Training, we have a, RCAC is connected. We're memberships of the National Children's Alliance, so we do provide monthly training free to all multidisciplinary team members. Some of that training has included interviewing children exposed to pornography, witness to violence, the methamphetamine protocols for the MDT, fatal child abuse, intercranial trauma, attachment disorders, et cetera, et cetera. In addition to that, I arranged training based on the team's needs. So if, for instance, we just had training on injury reconstruction, and establishing the child as a credible witness. We've, prosecutions with children particularly of sexual abuse often are lost because of a child's testimony and not enough corroborating information. So, et cetera. Any questions?

SENATOR BOURNE: Thank you. Are there questions for Ms. Roth? Seeing none, thank you.

COLLEEN ROTH: Okay. Thank you.

SENATOR BOURNE: Appreciate your testimony.

COLLEEN ROTH: Thank you.

SENATOR BOURNE: Next testifier in support.

BOB CASHOILI: (Exhibits 29, 30) My name is Bob Cashoili, that's C-a-s-h-o-i-l-i. I'm a deputy county attorney for Grand Island, Nebraska, and my principle job there is working with children and prosecuting in that matter. I'm here to support this particular bill. I think it's very important, Senator, and, in fact, I was going to start talking about some experiences I had. But what I think what I'd like to do is address a question, which may arise, which I think Senator Flood brought up earlier. One of the things

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you understand is, I've been doing this for almost 20 years now. And in the beginning, there was a lot of problems I found, had (inaudible) and I am going into some of these things with children clamming up, not being able to proceed any further, trauma the children receive, problems I've had because I didn't have tapes or recordings of these interviews, the best forensic investigations were just terrible in the beginning. I've worked with the CACs for quite a while, that's child advocacy centers, now, and found out that this is improving dramatically, and I'm having a lot better success in my prosecutions. And that's why I wanted to turn to one of the things that Senator Flood asked, was that whether or not this is mandated. And it is not. In fact, I would recommend it would be in the long run. You're going to find, I understand there's going to be situations where there's not going to be availability of doing this at times. I think that should be (inaudible) to the statutes, but I think every competent officer who's doing his duty will proceed and use the CACs. We found it to be quite a successful rate. I found the tapes, and that's another thing I wanted to work by you. You were concerned about other counties having tapes, and that's (inaudible) mandated. We can't, because we can't get them into courts. However, you're going to find a lot of success. I have found that there has been, I use those tapes because I can minimize the number of times a child has to testify, relieve the child of trauma. Also, it works when you present those to the defendants. I've gotten them to back down off of their defenses. I've gotten better convictions, quicker convictions, I've had quite a bit of success. No matter which way we go, though, this particular LB, I think, is a great LB. It gets us going in the right direction. And I want to ask you, quite full-heartedly, to go ahead and adopt it at this time. Is there any questions I can...

SENATOR BOURNE: Thank you. Are there any questions? Seeing none, thank you.

BOB CASHOILI: Thank you.

SENATOR BOURNE: Appreciate your testimony. Next testifier in support.

LISA GOOD: (Exhibits 31) Good afternoon, again. My name

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is Lisa Good, G-o-o-d, executive director of the Nebraska Commission on the Status of Women, here today to voice the commissioners' support for LB 1070. We recall that the Governor's Children's Task Force in 2003 responded to serious abuse and neglect incidents regarding Nebraska's children. One of the task force's recommendations was to utilize the child advocacy centers. The commissions' review of the progress of this initiative with the child advocacy centers is quite favorable. The considerable improvement in the way communication is facilitated between Health and Human Services and law enforcement with respect to abuse and neglect of children is to be commended. The commission also applauds Section 2 of LB 1070, which states that child advocacy centers must be accredited by the National Children's Alliance. We concur that the National Children's Alliance has set the proper parameters to ensure an individual child's needs are met all the way through the process. The commission supports recognizing the child advocacy centers in statute. We believe it sends the message that the state of Nebraska is diligently working to deal appropriately and effectively with the abuse and neglect that has already occurred. Further, Nebraska's use of child advocacy centers is providing serious coordinated communications necessary to identify, coordinate resources, and ultimately to prevent child abuse and neglect from occurring in Nebraska in the first place. The Nebraska Commission on the Status of Women thanks Senator Aguilar and his staff, and we do support LB 1070 and encourage you to do the same. Thank you.

SENATOR BOURNE: Thank you. Questions for Ms. Good? Seeing none, thank you.

LISA GOOD: Thank you.

SENATOR BOURNE: Other testifiers in support? Testifiers in opposition? Are there any other testifiers in opposition? Are there any neutral testifiers? Welcome.

EDWARD MATNEY: Good afternoon. My name is Edward Matney. I am from South Sioux City, Nebraska, and I'm the Dakota County attorney.

SENATOR BOURNE: Could you spell your last name for us?

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EDWARD MATNEY: Yes. It's M-a-t-n-e-y.

SENATOR BOURNE: Thank you.

EDWARD MATNEY: Thank you. And I appreciate, Chairman and members of the committee, hearing my comments today. I think the bill has some real good things in it. I am in opposition to the bill as written for a couple of reasons, which I'll address right now. My county sits in close proximity to both Iowa and South Dakota. My concern is that this bill will sever our relationship with Mercy Medical Center's child advocacy center, which is in Sioux City, Iowa. Mercy, we've had a very long-term relationship with Mercy Medical Center and its child advocacy center. I feel it's important that we continue to use it because it acts as kind of a clearinghouse for information for the tristate area. What we have found is a number of families or perpetrators of child abuse will try to avoid consequences by moving within the various jurisdictions in our area. If we are all meeting within one setting, we are all basically on the same page, whether you are a South Dakota law enforcement officer or a South Dakota prosecutor, and Iowa law enforcement officer, or a Nebraska law enforcement officer. We're all there. We find that we have a number of people who are common to our jurisdictions. We have been working with Mercy, I think, since 1989, so it's been a long-standing relationship. It is five minutes away from my county as opposed to more than an hour away for another child advocacy center that would happen to be within Nebraska. The child advocacy center at Mercy is housed within a first-rate hospital campus, which has numerous resources that can be brought to bear on the problem of child abuse. One of the things about being located close to a major area, there's a lot of disadvantages. We see a lot of crimes that normally a small community wouldn't see. This is one of the advantages, that we have this first-rate facility that we can use. It's also a good idea for drug-endangered children. Most of our children who are going to be in that situation are going to be born at a Sioux City hospital. We have very talented doctors there, Dr. Young and Dr. Carlton are both nationally recognized experts in their fields of child abuse. One final concern as it regards the current language in the bill is there seems to be some confusion on who's actually going to run the child abuse and neglect investigation and treatment

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teams, whether it's going to be the CAC case coordinator or whether it's going to be the county attorney. I have some ideas about some things that could be inserted in there in terms of language to clarify that. I think that it should continue to be the county attorney, and, I see my time has expired.

SENATOR BOURNE: Well, if you can finish your thought, your testimony is relevant.

EDWARD MATNEY: I just...

SENATOR BOURNE: And then in a minute, I'm going to ask you about when you Senator Aguilar to discuss these issues with the bill. But if you conclude, that would be great.

EDWARD MATNEY: The secondary issue with regard to who is actually going to be in charge of the team and be responsible for making sure the team is carrying out the goals, I think there's some very quick ways to clarify that. And I've got some ideas in that regard that I'd be happy to share. And then, that concludes my presentation. I do have two letters, that one is from the Mercy child advocacy center, the manager there (Exhibit 32), for the committee's consideration, and then also a letter from the Cedar County attorney (Exhibit 33) in Hartington, Nebraska, George Hirschbach.

SENATOR BOURNE: We'll take those letters and enter them in as part of the record.

EDWARD MATNEY: Thank you.

SENATOR BOURNE: Before we take questions, if I could, just say what did Senator Aguilar say when you went to him prior to coming in and testifying in opposition about his willingness to work with you on this bill?

EDWARD MATNEY: I haven't had an opportunity to speak with Senator Aguilar about the bill.

SENATOR BOURNE: Are you behalf of the trial attorneys today?

EDWARD MATNEY: No, I'm just here as Dakota County attorney.

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That's the only...

SENATOR BOURNE: Okay. And you weren't here, not the trial attorneys, but you're not here as a representative of the County Attorneys Association?

EDWARD MATNEY: No, sir. We're in kind of a unique position. My county, because it lines up with Iowa and South Dakota, so I think our concerns are somewhat unique to...

SENATOR BOURNE: Your concerns are legitimate, but I'll tell you, and I've not, I don't know if I've met you before, I don't recall. This is my mission, this session, is to remind lobbyists who come in and testify in opposition on people's bills without discussing these issues before them, reminding these folks how discourteous that is. This, in my mind, this Legislature is a process of give and take, negotiations, compromise, and lobbyist after lobbyist after lobbyist come in in front of this committee that I am on and others, testify in opposition to these bills without ever discussing it with the introducer. And I just, it's frustrating and it's bothersome. Your input is warranted, and it's wanted, but this isn't, in my opinion, the forum to do that. You know, it's a collaborative effort. And, again, I'm not going after you because I haven't seen you before, but I did see you back there with the county attorney representative, and I just want to make very clear that I'm just sick and tired of lobbyists. Now, this doesn't apply to the citizens. The paid lobbyists coming in here and testifying in opposition to a bill without ever talking to the introducer. That's just my comment here.

EDWARD MATNEY: Could I respond to that?

SENATOR BOURNE: Please.

EDWARD MATNEY: I'm not a lobbyist. I'm a prosecutor.

SENATOR BOURNE: I just, I saw you with the county officials, or the county attorneys' representative, and that's why I brought it to mind, because she knows better than to do that.

EDWARD MATNEY: The county attorneys, I'm not here

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representing the County Attorneys Association whatsoever. It's my understanding the County Attorneys Association has not taken a position on this issue, so please don't, I hope you don't construe my being here as any sort of connection with the County Attorneys Association.

SENATOR BOURNE: The point I'm trying to make is we have, this committee has almost a hundred bills. And most nights we go till five, six, seven o'clock at night. We've been here as late as 8:30. And in my mind, this is a process, and this isn't the forum to just spring upon the introducer of what your objections to the bill are. You should have been working with him over the past, what are we in, the 33rd day of the legislative session. You see my point? And so that, if you had been working with him all along, he's very cooperative and I'm sure those issues would have been addressed. And that's kind of my point. It just, we constantly are having these surprises, so to speak, and it just makes our job harder, so.

EDWARD MATNEY: Well, I apologize about that. I'm not a professional lobbyist.

SENATOR BOURNE: I understand.

EDWARD MATNEY: I've actually not been to the Legislature all that many times. I'm just a prosecutor. I thought I'd want to voice these concerns about my particular geography.

SENATOR BOURNE: And that's why I didn't turn red and pound the table like I have in the past, so. Questions? Senator Aguilar. Thank you.

SENATOR AGUILAR: Thank you, Senator Bourne. Thank you for your testimony today. And, first of all, let me say, thank you for being proactive in this area, associating yourself with a child advocacy center. I mean, just because it's out of the state doesn't cause me any concern whatsoever. And you read the legislation, you'll see that it only assigns you to a child advocacy center. It doesn't say that you cannot use another one for your forensic interviews. If you're using another one and you're using that information to prosecute cases, well, I certainly don't have a problem with that. As Senator Bourne alluded to, I wish you would have come to me earlier and talked about this. It could

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have all been taken care of beforehand.

EDWARD MATNEY: Well, I apologize about that. And again, that should just reflect upon me as the county attorney. It's not the County Attorneys Association that I'm here on behalf of today.

SENATOR AGUILAR: No problem. It's a learning experience down here.

EDWARD MATNEY: I'm glad to know that. I just, it wasn't clear to me from reading the bill that it was not going to be mandatory.

SENATOR AGUILAR: We aren't unapproachable at all.

SENATOR BOURNE: Absolutely.

EDWARD MATNEY: Thank you.

SENATOR BOURNE: Further questions? Seeing none, thank you. Appreciate your input on the bill.

EDWARD MATNEY: Shall I leave the letters here, then?

SENATOR BOURNE: If you just leave them on the edge, the page will hand them out. We'll make them part of the record. Are there any other opponents to the bill? Are there any neutral testifiers? Senator Aguilar to close.

SENATOR AGUILAR: Just real briefly, thank you, Senator Bourne, members. Senator Flood had asked a question I wanted to address. He alluded to a specific incident where Cherry County county attorney couldn't get out because of a bad weather situation. I would remind you of what I talked about in here in the satellite networks telehealth system, which would allow for interviews that way. There would be no need to worry about not being able to make it to a specific location. There are alternatives and safety nets in place for that. Thank you very much for your time today. I'd like to thank all the people who come down to testify. I would ask the committee if they see fit in their benevolence to advance this to General File, to please consider it very strongly for the second priority package from this committee. Questions?

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SENATOR BOURNE: Fair enough. Questions for Senator Aguilar? Seeing none, thank you.

SENATOR AGUILAR: Thank you.

SENATOR BOURNE: That will conclude the hearing on Legislative Bill 1070 and will conclude the hearings for this afternoon. (See also Exhibit 27) Thank you to all who participated.