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Judiciary Committee
March 12, 2009

[LB82 LB265 LB284]

The Committee on Judiciary met at 1:30 p.m. on Thursday, March 12, 2009, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB82, LB284, and LB265. Senators present: Brad Ashford, Chairperson; Steve Lathrop, Vice Chairperson; Mark Christensen; Colby Coash; Brenda Council; Scott Lautenbaugh; Amanda McGill; and Kent Rogert. Senators absent: None.

SENATOR ASHFORD: Let me see, we're here on three bills. Good afternoon. Welcome to the Ernie Chambers Judiciary Committee Hearing Room. And let me introduce my colleagues: Scott Lautenbaugh from Blair; Senator McGill from Lincoln; Senator Lathrop from Omaha; and Senator Rogert. (Laughter)

SENATOR HOWARD: Nice to meet you.

SENATOR ASHFORD: Stacey Trout is our legal counsel, as most of you know, and Christina Case is the clerk, so. Senator Howard is here to introduce LB82. [LB82]

SENATOR HOWARD: Thank you. Are we ready to go? [LB82]

SENATOR ASHFORD: Yes, ma'am. [LB82]

SENATOR HOWARD: Thank you, Senator Ashford and members of the Judiciary Committee. For the record, I'm Senator Gwen Howard and I represent District 9. I appreciate the opportunity to bring LB82 for your consideration. The purpose of this bill is to require notification to the courts of any change in case managers for a juvenile that is in the care of the Department of Health and Human Services. And this notification has to be done within seven days after the assignment of a new case manager. LB82 would track the number of case manager changes a juvenile and their family experiences. Case managers would be required to submit (1) the name of the case manager being replaced, (2) the name of the new case manager, and (3) the number of times a case manager has been assigned to the juvenile. Senators, let me for a moment paint a picture of a child in the care of the Department of Health and Human Services. Initially Health and Human Services provides in-home services. This often requires the introduction of a case manager, service providers for family preservation, and possibly a therapist. This is a critical time where the family is undereducated about the process, emotionally drained, and scared of losing their child or children. The family may be resistant to forming a relationship with a case manager because of their own concern and the protective nature of family. Case managers work hard to develop a trusting relationship with their families. And let's say that the in home interventions are not successful and the children must be removed due to safety reasons. If a child gets bumped into care to an out-of-home placement, they will have another living environment, likely a new school, a new set of rules, a new therapist, and possibly may

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even be separated from their siblings. The only consistency may be the caseworker that fosters the bridge to the life they hope to return to. But the reality is that there are currently 4,500-plus children in out-of-home care. More than 1,500 of these 4,500 children or one-third of Nebraska's children have had four or more caseworkers in out-of-home care. Of the 1,500 children with four or more caseworkers, 1,233 have been in four or more placements. Essentially, the more caseworkers a child has, the greater the likelihood is that they will have multiple placements. In fact, according to the Nebraska Foster Care Review Board, 82 percent of children in out-of-home care have had four or more caseworkers and have also had four or more placements. Half of those, or 584 children, will have been in ten or more placements over their lifetime. Every time a child gets assigned to a new caseworker, the case essentially starts over. At the very least, the barriers the family and the child faced when they entered the system are restored. One of the goals of Health and Human Services Division of Child and Family Services is to improve attaining permanency. This is often facilitated by the case manager through communication with the parents, the judicial system, and the providers. This includes clear communications about the case plan that outlines the expectations of the parents in order to regain custody of their child or children. And in addition to this, the case manager assists in referring and arranging services for the child as well as for the parents. A good case manager would develop an encouraging and supportive relationship with the children and the parents to give them the opportunity for reunification of their family. Each time a new caseworker is assigned, this diminishes the potential value of a case manager to help the family that hopes for reunification. Clearly it is important for the Department of Health and Human Services to provide effective and timely services to the children and the families that rely on them everyday for their futures. Case managers are the proxy of the state to provide continuity for families that are struggling to provide for the safety or help needed for their children. But the department's ability to be effective and efficient is reduced each time a new case manager is assigned because of the diminished trust by the family and the lack of knowledge of the nuances and uniqueness of each individual family. LB82 will give us the data necessary to address the problems that I've talked about. The department is accountable for the number of transitions children have while you're in state care. LB82 will allow for information in advance of a court hearing of a case manager assigned in order to improve outcomes for our families. Thank you for your attention and your time, and I'd ask for your favorable consideration of this bill. [LB82]

SENATOR ASHFORD: Thank you, Senator Howard. Any questions of Senator Howard? Yes, Senator Lautenbaugh. [LB82]

SENATOR LAUTENBAUGH: Thank you, Mr. Chairman. Thank you, Senator Howard. [LB82]

SENATOR HOWARD: You're welcome. [LB82]

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SENATOR LAUTENBAUGH: I'll be more well-behaved than I was the other day. [LB82]

SENATOR HOWARD: Thank you. [LB82]

SENATOR LAUTENBAUGH: Is this a bill to gather information so we know if there's a problem or is there already a problem and this bill is seeking to address it? [LB82]

SENATOR HOWARD: You know, I would answer that question in two ways. First off, there is a problem with the lack of continuity when there's a change of case manager. It's a bigger problem for the court when they don't know there's been a change and someone comes in with a new plan or is looking at taking the family's plan for reunification in another direction. It's also, I see it, as a possible tool for charting the number of case managers that are assigned to a case that handle a case in the lifetime of that case. It's a way to document those changes. I would note for you, too, that the department does already have a form in the computer for this very purpose to notify the court. It's just, to my knowledge, not being used at this time. [LB82]

SENATOR LAUTENBAUGH: Do you anticipate this then going further to mandate fewer changes or what are we going to do once we have the information, I guess, is what I'm asking? [LB82]

SENATOR HOWARD: I don't...I really didn't bring that bill to direct the department in any way as to...I mean, they have the responsibility if they feel that they should address the turnover. Personally to me, yes, that's a problem. But it really at that point it is the department's information and it's with the department. [LB82]

SENATOR LAUTENBAUGH: Thank you. [LB82]

SENATOR ASHFORD: Senator Coash and then Senator Council. [LB82]

SENATOR COASH: Thank you, Chairman. Thanks for bringing this bill forward, Senator Howard. I work in this field and I know this is... [LB82]

SENATOR HOWARD: Yeah. [LB82]

SENATOR COASH: ...I know this is a problem. I know families know it's a problem, and I know the department knows it's a problem. Do we need data? I mean, it's kind of along the lines of Senator Lautenbaugh's question. Do we really need the data to prove it? I mean, it seems to be common knowledge from anybody associated with this issue that the turnover in the case managers is an issue for the service. [LB82]

SENATOR HOWARD: Well, Senator, I would answer this, but you and I both know there's a problem. But without the data what we're doing is we're telling stories about

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the problem. And we would have data...when you can document what is happening it makes for a much stronger case for a change. [LB82]

SENATOR COASH: Kind of one of those things, you put a spotlight on something and sometimes it changes. I agree. This requires notification to judges, and maybe somebody behind you will testify on this, but can you speak to the judges care? Is this important for them to know? What are you hearing from the juvenile judges? [LB82]

SENATOR HOWARD: Let me tell you the ramifications of a situation where there's not notification ahead of time that there's a change in case managers. Case manager brings a court report into the court. Hopefully that's sent at least three days ahead of the court hearing so that all parties have a chance to review that. When there's a change in case manager, that court report may not be the...reflect the plan that everybody has been operating under up to that point. One of the unfortunate consequences, and I hear this quite a bit from guardian ad litem, is it delays termination in a court case where there is valid reason to look at that as an option. [LB82]

SENATOR COASH: Okay. But, again, are the judges saying...I mean, I'm sure... [LB82]

SENATOR HOWARD: From my experience this is a big problem. [LB82]

SENATOR COASH: Sure. [LB82]

SENATOR HOWARD: And I spend a lot of time in the juvenile court system in both Douglas and Sarpy County. [LB82]

SENATOR COASH: Okay. Thank you. [LB82]

SENATOR HOWARD: Thank you. [LB82]

SENATOR ASHFORD: Senator Council. [LB82]

SENATOR COUNCIL: Both Senator Lautenbaugh and Senator Coash's question prompted a question from me, Senator Howard. First, I want to thank you for bringing this bill forward. [LB82]

SENATOR HOWARD: Certainly. [LB82]

SENATOR COUNCIL: Having had occasion to serve both as defense counsel and guardian ad litem in juvenile matters, I have unfortunately experienced the multiple changes of case managers and the effect it can have, particularly when you look at the department's efforts to meet the federal standards in terms of reunification and adoption. [LB82]

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SENATOR HOWARD: Um-hum. Um-hum. [LB82]

SENATOR COUNCIL: I've seen them extend far beyond the period... [LB82]

SENATOR HOWARD: The time frames. [LB82]

SENATOR COUNCIL: ...principally due to the fact that there have been changes of case managers. But in terms of the question as to whether this is principally a data collection bill, currently there is no time frame on the practice of notifying a judge of a case manager change, is there? [LB82]

SENATOR HOWARD: Not to my knowledge, but that may be a question you also want to ask Todd Landry. [LB82]

SENATOR COUNCIL: Okay, because if nothing else this bill places a duty on the department to notify the judge within seven days after a change. And if the department is going to notify the judge, they have to notify all of the other parties at the same time... [LB82]

SENATOR HOWARD: Um-hum. [LB82]

SENATOR COUNCIL: ...and you don't get surprised when you show up, you know, in court. You may have gotten the court report... [LB82]

SENATOR HOWARD: Right. [LB82]

SENATOR COUNCIL: ...timely, but when you get to court it's not the case manager who prepared the report who is there to testify with regard to it, and we end up getting these continuances or setting a different hearing date. And the way the juvenile court calendar is right now... [LB82]

SENATOR HOWARD: Yes. [LB82]

SENATOR COUNCIL: ...that's easily three to six months down the road. So if nothing else, if there's no current time requirement for submitting that notification to the court, this bill would serve a purpose. And in fact now even though it's standard in the order that the report has to be provided in, you know, so many days in advance of the hearing, I routinely get them the morning of the hearing. So I guess I want to alert that there is an enforcement problem associated with it as well. [LB82]

SENATOR HOWARD: Well, I really do appreciate you bringing that up because I don't think your experience is at all novel. I think that's actually pretty typical of what happens

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in those situations. And I had a conversation last Friday. I was with Judge Wadie Thomson (sic) in his courtroom. And I was kind of curious and I asked him if they were getting the court reports three days in advance as is required, and commonly...I mean, this is not new. This has been a requirement since I worked with the department all those years. And he said unfortunately that is not the...maybe I should not say that out loud with Todd Landry here, but. And the difficulty with that is people don't have that information about what's happening on a case if there's not a court report submitted ahead of the court hearing and they don't have the time to read it, frankly. I don't know how the judge keeps up with all the information he gets. [LB82]

SENATOR COUNCIL: Thank you. [LB82]

SENATOR ASHFORD: Thanks, Senator Howard. [LB82]

SENATOR HOWARD: All right. Thank you [LB82]

SENATOR ASHFORD: Do you wish to stick around? [LB82]

SENATOR HOWARD: I will. I wouldn't want to leave. [LB82]

SENATOR ASHFORD: Good, good. Proponents. How many proponents do we have? Okay. Proponents. [LB82]

C.J. JOHNSON: (Exhibit 1) Senator Ashford, members of the Judiciary Committee--sorry, been chatting all morning--my name is C.J. Johnson, C.-J. J-o-h-n-s-o-n. I'm the regional administrator for Region V Systems, one of the six behavioral health regions in Nebraska. I am providing this letter in support of LB82, which requires notification to the courts of a change in case managers for a juvenile that is in the care of the Department of Health and Human Services within seven days after the assignment of a new case manager is made, as well as requires the tracking of case manager changes a juvenile and their family experience. In addition to the language that is found in LB82, I would also ask consideration of the following language as an amendment to LB82, which I believe might further minimize the negative impact of case manager changes to the overall progress that children and families under court supervision experience anytime there is a change of their case manager. The proposed language, which you'll find in attachment A, to the amendment would state: Whenever a change in a caseworker is anticipated due to resignation, leave of absence, etcetera, the current case manager will inform the family in a face-to-face interaction. And then, upon sharing this information, schedule a time to introduce the newly identified case manager to the family during a face-to-face interaction in order to ensure the family that pertinent information from their perspective has been shared. Professionally, I have worked in the field of behavioral health for over 30 years, including an 11-year time period as a state employee working with juveniles under the care of the state of

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Nebraska. The components of LB82 are ones that appear to simply be that of good practice and common sense when working with children and families in any context, thus bringing into question the need to pass into state statute language requiring such practice. Unfortunately, I do believe that there is a need to incorporate the components of LB82 into state statute as it does not appear that the current culture within the Department of Health and Human Services supports this good practice and common sense. This is not to say that the frontline workers, those in direct interaction with the families and the courts, wish to ignore good practice. It is to say that the top-down culture of DHHS appears to view such good practices as secondary to efficiency and convenience. I believe that some recent positions and other activities by the Department of Health and Human Services supports the need for policy considerations to establish standards of practice such as LB82 requires. Examples of these are as follows: On February 28, DHHS testified in opposition of LB247 which would require that the Division of Children and Families to become an accredited public agency through a recognized national accrediting body, the Council on Accreditation for Children and Family Services. Accreditation under LB247 would establish a set of standards at all levels of care by ensuring that state government holds itself to a recognized national set of standards as is expected of behavioral health providers and the behavioral health regions. [LB82]

SENATOR ASHFORD: C.J., I'm going to... [LB82]

C.J. JOHNSON: Okay. I'm...so anyway... [LB82]

SENATOR ASHFORD: We have the letter. [LB82]

C.J. JOHNSON: I got it. Yeah. So I got all those points. And so I just want to finish, but I knew I'd have a time issue. I just figured I'd go as long as I could. [LB82]

SENATOR ASHFORD: That's candid. [LB82]

C.J. JOHNSON: Huh? [LB82]

SENATOR ASHFORD: Well, that's fine. Good. [LB82]

C.J. JOHNSON: Okay. I'll just finish up with: And it's in response to one of the questions about of the judges, about the importance. I'd like to share with you an exchange I had with one of the ICCU care coordinators last week after establishing the transition guidelines that I've outlined on attachment B. The ICCU care coordinator had just returned from court and indicated that while in court she was asked by the judge on the record: Mrs. Jones (phonetic), since you are from the ICCU, do you know what the transition plan for this family is? The case worker reported: I testified that the ICCU has set up parameters to transition the family according to family centered practice, and that

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for this particular family I had met privately with the family to inform them of the transition and that the new worker, who has already been assigned but was not able to come to court today, and I would go out next week and meet with the family. I also explained that the worker assigned was a state worker and that we would be meeting to discuss the case in detail. The case is a particularly difficult one with extreme mental health issues. And since the child had only recently moved home, the judge was concerned about this case leaving the ICCU. In summary, I would again offer my support of LB82. I would also ask that the Judiciary Committee consider the language presented in attachment A. My own experiences in the field of human services support the importance of information exchange with the children and families, court, and other stakeholders whenever there is a change in case managers to minimize the negative impact to the family's progress. I have no doubt that Senator Howard introduced LB82 based on her own experiences as a caseworker and believes that such standards must be addressed to support the success to children and families. [LB82]

SENATOR ASHFORD: Okay. Thanks, C.J. Any questions of C.J.? Seeing none, we have your...oh, I'm sorry, Senator Coash. I was...that was a pencil or a waving pencil or an actual...(laughter) [LB82]

SENATOR COASH: Thank you, Chairman. C.J., thanks for...you know, your ideas on amendments, it's a good idea. Senator Howard's...or her bill is a good idea. And I'm going to ask if Todd Landry gets up what we're doing already. But I think it's important and I wanted to go on the record. We've got caseworkers who are doing their best, trying their hardest, and for whatever reason they don't find this to be a long-term thing as a career and we get the turnover, which creates the problems that Senator Howard is attempting to address. My experience working with caseworkers has been these guys...these ladies and gentlemen who do this work, they're good people and they get burned out, they're under pressure, they do a lot of work. And now Senator Howard is saying, here's one more thing you have to do. Your idea is one more thing we have to...that we ask them to do. Is it in the best interest of the families? I think it probably is. I'm concerned we may exasperate the problem. [LB82]

C.J. JOHNSON: Actually, I'd comment on that. With our ICCU about two years ago there was an expectation such as Senator Howard was speaking of, of things like having court reports to the court by five days prior, the background checks, and those. So we actually worked with the care coordinators and came up with what we call six gauges that have those very strict expectations, such as making sure background checks are done, court reports are completed 13 days in advance so they do get to court 5 days in advance. And as we did those we actually, again, sat down with the care coordinators and said, okay, what if one of your colleagues is not meeting these guidelines? And quite frankly they came up with very strict expectations and corrective action plans in relation to those. They developed those. And what's interesting about that is you would have thought just what you thought. But what we actually found out

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was once we implemented those, we did have some workers that were weeded out, if you will. They recognized that they couldn't do the work. But the ironic part was we actually saw our turnover rate go down more than 100 percent per month. And from October through January, in fact, we had not a single turnover or resignation at that level despite the fact that we're holding them accountable for those, they were holding each other accountable. They all knew what was expected of each other. So at some level by putting an expectation like this, which is good practice, I don't think it actually causes people to get burned out. I think it actually helps them know: These are my expectations, everybody else here has these expectations, it's good practice, and it just makes us do our work better. And so, you know, we have the data that show that once we implemented that, our turnover rates went down, our...and like I said, we went a four-month stint and didn't have a single turnover. [LB82]

SENATOR COASH: Well, I'm all for clear expectations. I'm for high expectations if they help families, which is what we're here to do. I just want to make sure that we are doing something that doesn't make the problem worse, and I appreciate your feedback on that. Thank you. [LB82]

SENATOR ASHFORD: Thanks, C.J. Other proponents? Opponents? Neutral? Neutral. [LB82]

GEORGIE SCURFIELD: Good afternoon, Senator Ashford, members of the committee. My name is Georgie Scurfield, G-e-o-r-g-i-e Scurfield is S-c-u-r-f-i-e-l-d. I am a social worker. I'm the director of the CASA volunteer program in Sarpy County, and I'm here today in my capacity as Chair of the Foster Care Review Board, state board of the Foster Care Review Board. And it's strange for someone from the Foster Care Review to be testifying neutrally on an issue that we care so passionately about. The problem with changes in caseworkers has been an issue for the Foster Care Review Board for a long time. When we have looked at the numbers, we have significant concerns about the problems that are created by changes in case managers. When a caseworker leaves HHS, the cases are then distributed...that that person has been working with, distributed among other workers. And then redistributed to the new worker when that person becomes available so each change of a worker is often two changes in some ways, and that there are therefore many different levels of how we look at this change. There are other considerations about what happens when those changes happens, and there are often gaps in evidence that the case workers provide to prosecutors. So that when they're working towards termination of parental rights there are breakdowns in communication with parents, changes in the trust level between parents and case managers. And especially that's true with children who need that kind of consistency. So those things are very important issues to us. A wonderful staff at the board pulled up some numbers for me today, and as of today there are 4,453 children in out-of-home care in Nebraska; 1,452 of them have had four or more case managers; 210 of them have had ten or more case managers in the life of the case. This is a significant

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problem. The reason that I'm speaking neutrally, however, is we're not sure that this is the way to solve it. It may be some part of the way to track things. And certainly the Douglas County judges have requested that the Foster Care Review Board provide them with this information on a regular basis, and we're trying to do that. But really we have to limit court caseloads, create better support systems and supervision, and possibly consider increasing pay related to excellence, but most of all, reduce caseloads and help case managers stay doing this very difficult job. And I think that would be the way to solve this problem. [LB82]

SENATOR ASHFORD: Thank you. [LB82]

GEORGIE SCURFIELD: Okay. Any questions? [LB82]

SENATOR ASHFORD: Any questions? It's a compelling issue. When I first read this I didn't get how important an issue this is, but you've all certainly made it clear. So thank you. Thank you. [LB82]

GEORGIE SCURFIELD: Thank you. Thank you. [LB82]

SENATOR ASHFORD: Any other neutral testifiers? [LB82]

TODD LANDRY: (Exhibit 2) Good afternoon, Senator Ashford, members of the Judiciary Committee. I'm Todd Landry, T-o-d-d L-a-n-d-r-y. I'm the director of the Division of Children and Family Services for the Department of Health and Human Services, and I'm here today to provide information regarding LB82. You've already heard, you know, some testimony about situations as it relates to changes in case managers. You should know that the department does currently notify all parties, including the court, when there is a change in case management. The current case manager sends a letter notifying parties of the new case manager's name and contact information including phone number. This information is also updated on the Nebraska Data Exchange Network, sometimes referred to as NDEN. The information does not currently include the number of previous case managers. In considering LB82 it's important, I think, to know that all courts currently have accessed information on the current case manager through that NDEN network. This information does include, or does not include, the number of prior case managers, therefore a data field would have to be added to track this new data requirement. However, court records do already contain that information. The additional staff time and/or the cost to change our information system to meet the requirement of indicating the number of prior case manager seems, in my opinion, unnecessary given the current availability of the information to the courts through NDEN and through court records. The purpose in identifying the number of case managers to the court and how that impacts the court's decision making ability is unclear, but the court would already be aware of when the current case manager was assigned to the case. I'd also like to quickly point out that LB82 requires only Children and Family

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Services to report the number and history of staff involved in a case. As all of you know, CFS is just one entity in juvenile court cases. There are several other parties to the case, such as the county attorneys, the guardians ad litem, CASA, Court Appointed Special Advocates, Foster Care Review Board staff, all of whom have significant roles in impacting children and families in the court's review of information. LB82 does not require these parties to report changes in their staff. If the intent of LB82 is to address concerns related to how changes in the parties involved in the case may potentially impact the progress or outcomes of the case, then all of the different entities working with the child or family should report the changes, not just CFS, so that the full picture can be better understood. It's also important to note that in our recent federal review of our child welfare system in the exit conference, the federal reviewers pointed out the concerns that they had about turnover in the county attorneys in particular as having an impact on the cases that they reviewed. In conclusion, the department does question the duplication of information required in LB82 based on the current availability of that information, and it also seems inconsistent to require this information be submitted for just one entity involved in the case. Thank you for the opportunity. I'd be happy to answer any questions. [LB82]

SENATOR ASHFORD: Thanks, Todd. Senator Rogert. [LB82]

SENATOR ROBERT: Todd, I just wanted to actually comment and say, thanks for coming neutral. I fully think the information you gave us is helpful. You point out both good and bad things or what you think might help if we changed it. And I think that is a helpful way to testify. Thank you. [LB82]

TODD LANDRY: You're welcome, Senator. Thank you. [LB82]

SENATOR ASHFORD: Senator Council. [LB82]

SENATOR COUNCIL: Yes. Thank you, Mr. Landry, for coming in. You testified that you currently...the department's procedures or policies dictate that when there's a change of case manager that the courts are notified. There's no time period for that notification, is there? [LB82]

TODD LANDRY: There is not a specific time period. It is supposed to happen as soon as the appointment is made. And the way that it works electronically is as soon as that change is made it's recorded in our N-FOCUS system, and then is automatically uploaded, I believe, overnight to the NDEN system. And so that's that initial notification through NDEN. And then the letters then go out informing the other parties because we inform the other attorneys in the case, we inform the guardians ad litem, we inform the Foster Care Review Board, etcetera. And so that process does heavily rely upon the electronic interface that we have with the court system. [LB82]

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SENATOR COUNCIL: Okay. Well, maybe the problem is not so much in notifying when the new caseworker is appointed, but notifying when the existing caseworker is no longer handling because I'm going to tell you in my experience there's a significant gap in time between a caseworker either leaving the department or moving to another assignment and the time a new caseworker is appointed. We're not notified that the...we being a guardian ad litem or a defense counsel for one of the parties involved, we're not notified that that caseworker is no longer there. Yeah, you contact...sometimes they don't even tell that the caseworker is no longer there. And then it's sometimes several weeks later before you get notified that there's a new caseworker. And oftentimes that bumps up...so maybe it's not notification when a new caseworker, is the notification when the existing caseworker is no longer handling the case would speed up the process. [LB82]

TODD LANDRY: I think that's a valid concern and a valid recommendation and something that we'll take under consideration and consider changing. I think that's a valid concern that you bring. Certainly there can be gaps, particularly if we receive little notice from our staff or in some, although very, very few, but in some cases where we have to terminate a position, you know, then there can be a gap in time before another caseworker is assigned. So I take that to heart and we'll look into that, Senator Council. I appreciate that. [LB82]

SENATOR COUNCIL: Thank you. [LB82]

SENATOR ASHFORD: Senator Coash. [LB82]

SENATOR COASH: Thank you, Chairman. Todd, thanks for coming. I agree with Senator Rogert, your testimony was helpful. I appreciate you coming in, giving us both sides of this. And I certainly don't want to put any words in Senator Howard's mouth. This is her bill, but she can correct me in her closing if I'm off here. But I think she wants to gather some data here because we need to know if there's...we need some proof that there is a problem. She mentioned that to me. And I said, I know it's a problem, you know it's a problem. It's a problem for the families when case managers turn over. And I really hate to force the department's hand on this from this body and say we got to do something, we got to gather the data, but we may be headed that route. But you and I have had some talks before about the case manager turnover because that's been a concern of mine. I want to...you indicated to me some things the department is doing to address that, and I think it may be helpful if you share that with the committee, the direction the department is going to try to address the core issue which is this turnover problem. [LB82]

TODD LANDRY: Sure. And I appreciate that, Senator Coash, and thank you for the opportunity. And I'll just hit on a few key things because I know you have other bills to get to. First and foremost, I want to let all of you know we recognize that turnover of any

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party in the court cases, but particularly maybe with the case manager, is a significant issue. We know it contributes to lack of placement stability. We know it contributes to the time lines in the case. We also know that one of the key aspects of turnover has been historically the size of our caseloads across the state. One of the best things in my opinion that has come about from the reduction in our total number of state wards, and you heard Georgie's testimony of the 4,400 kids who are currently in out-of-home care, what Georgie I'm sure just neglected to point out is that that 4,400 number is the lowest that we've ever had in the state since we've been collecting that data. And we are currently at our lowest total number of state wards since at least October 2003, perhaps longer than that. That's great for those kids. It's also great for our caseworkers because for the first time in 2008, and the data is being collected and it's due to all of you by the end of the month through our annual report to the Legislature, for the first time in at least the past five to seven years I'm aware of, we now have caseloads on average in our state at or below the Child Welfare League of America standards for the Nebraska state standards. That's one of the great benefits of reducing our total number of state wards. That, I believe, long term is going to be a tremendous contributor to us maintaining stability of our staff. The other thing, though, that I will quickly mention that we are putting in place this year and ongoing into the future is one of the key factors...and when we surveyed our staff, staff who were leaving and staff who were staying, we asked them why did you leave? The number one reason was my supervisor, relationship with my supervisor. We asked those who stayed and some of our best performers, and we said why is it that you stay? Number one reason, my supervisor. Very, very telling, you know, data that we collected from those surveys. And one of the things that we as a system, and this is not just true I think in our state, but many other states that we have not done as good a job as we need to. It's doing a good job of training, preparing, and supporting our frontline supervisors. They are the linchpin to success, in my opinion, in any organization, ours certainly included. And so for the first time in the second half of this year we are going to be contracting with the Child Welfare League of America to conduct supervising for success, a supervising model of training specifically designed for frontline child welfare supervisors because we know those are the linchpin to our success in reducing turnover and continuing to get the better results that we want. Those are a couple of things that I wanted to mention. And, Senator, again, I thank you for that invitation and opportunity to do so. [LB82]

SENATOR COASH: Well, let me follow up then if I can. I mean, I appreciate your testimony on the...in your opinion we're down to some manageable caseloads for the first time in a long time. [LB82]

TODD LANDRY: For the first time we're meeting...we're at or below those standards. Could they go further down? Certainly, and certainly we know that there is some room there. But we are at or below those standards for the first time, and that was as of 2008. Now, I will caution all of you and want to be very clear in my statement, that's an average number across the entire state. We're lower in the west and the northern

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service area, we're still too high in the southeast and the eastern, so that's where more of our focus has to be right now. [LB82]

SENATOR COASH: All right. Well, that's a good clarification because the eastern service area has more families than we do out west. [LB82]

TODD LANDRY: They have more families, they have more kids, so they're actually going to drive more of what's happening in the state. [LB82]

SENATOR COASH: Because my follow up was going to be if the caseloads are manageable, we ought to be able to do the things Senator Howard is proposing here. [LB82]

TODD LANDRY: Um-hum. And like I said, we're currently reporting that. If you pass the bill, we will then invest in order to change one of the fields in our N-FOCUS system, and it will then begin to get collected and we can collect that data. That is one of the reasons why I believe the fiscal impact shows a negligible or a zero fiscal impact on this bill. [LB82]

SENATOR COASH: Thank you. [LB82]

SENATOR ASHFORD: Just a comment, not a question. When I hear all these discussions about the challenges that you have, and I do applaud as we talked, many of us on the floor the other day, about the significant reduction in a relative sense in the wards in 2008. That's great work. But I am reminded of when Senator Howard and I used to work together in 1975 and she had and her colleagues in a little brick building I don't know how many families she took care of with very few other people involved. And my guess is...I'm not suggesting they were better results, but I'll bet they were (laugh) with some of these families being reunited. And I wonder sometimes if we've gotten...and I think we have clearly in the process of processing these cases through the juvenile court, way too many people engaged. And when you have so many people engaged in...this isn't your jurisdiction necessarily at all, but when we have so many people engaged in dealing with one child or one family, then, you know, who's on first, who's really the responsible party? But when Senator Howard was working with her colleagues, very small number of people on Burt Street or over on 42nd Street and it was a Douglas County office. I mean, they...nobody ever says this enough to Senator Howard, but they performed miracles with families, literal miracles. And in those days they were just fighting for vacations (laugh) more than five days or something. I mean, it was really...so I commend all of you for the work you do and for Senator Howard for being really a trailblazer with families, so. [LB82]

TODD LANDRY: And I appreciate that. And if I can add, I certainly appreciate the dedication that Senator Howard and many others like her... [LB82]

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SENATOR ASHFORD: All those workers. [LB82]

TODD LANDRY: ...that do the very, very difficult day-to-day. It's emotional work, as you all know, it can be difficult work. [LB82]

SENATOR ASHFORD: Yeah, and I just wonder if we just overcomplicated it, Todd. Yeah. [LB82]

TODD LANDRY: And I think that's a valid point. I think Governor Heineman has said on numerous occasions, two years ago almost, he attended with me on a drop-in notice. He went to a court hearing here in Lancaster County without any notice to anyone, and I think Governor Heineman had said...he was shocked to see how many people were just in that courtroom... [LB82]

SENATOR ASHFORD: Um-hum. [LB82]

TODD LANDRY: ...with, no disrespect intended, almost all of them attorneys (laughter). [LB82]

SENATOR LATHROP: Why would that be disrespectful? [LB82]

TODD LANDRY: And he was shocked. There was one kid in the case, there were seven attorneys, and then there were all the other parties to it. There is a complicated (inaudible). [LB82]

SENATOR ASHFORD: Yeah, yeah. And I think they do great work, but it just gets to be... [LB82]

TODD LANDRY: It is complicated by design. [LB82]

SENATOR ASHFORD: Globbed up. [LB82]

TODD LANDRY: I agree with you. [LB82]

SENATOR ASHFORD: Yeah. So with all those challenges, thank you for what you've achieved in 2008. [LB82]

TODD LANDRY: Thank you, Senator. [LB82]

SENATOR ASHFORD: Senator...I guess that's it. Senator Howard. [LB82]

SENATOR LAUTENBAUGH: I think I remember when you and Senator Howard visited

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my grade school. That was great. [LB82]

SENATOR ASHFORD: Really? (Laughter) [LB82]

SENATOR COUNCIL: Me too. [LB82]

SENATOR ASHFORD: Yeah. I thought, oh, my goodness, I made such an incredible impression. (Laughter) It's breathtaking. [LB82]

SENATOR HOWARD: Don't respond to those things. [LB82]

SENATOR ASHFORD: I believed him for half a second, Senator Howard. [LB82]

SENATOR HOWARD: Well. All right. Case managers provide a valuable service to the children and families, providers and judges. And thank you for your kind comments. I do appreciate that. The problem is that too many times children and families receive new case managers too frequently. The judicial system has a responsibility to families in their courtroom to be vigilant that all factors that may impede the family's progress toward reunification be addressed. And LB82 begins to pave the way for the Department of Health and Human Services to be accountable. And I just want to address a couple of things that were discussed here. Senator Coash, you had made the apt statement that you didn't want to seem more added to the responsibility of the case manager. Trust me, trust me, trust me, neither would I. And I would be the last person that would bring that in to put more burdens on the case manager. If you look at page 4, line 23, it does specify the department. And that leaves it to the department to handle the notification piece, not the individual case manager. Along those lines I would question that do all court systems have access to N-FOCUS and NPEN? I would...I don't know for a fact, but I would say probably not. Regarding the data collection which Mr. Landry referred to, I certainly appreciate his support and looking back, that was...the report that he refers to that will be submitted to all of us soon was actually the first bill I pushed forward and got accomplished when I came down here five years ago. That was LB264. So it's nice that that's appreciated. This is a revenue-neutral bill. There is a statement the additional work on the part of the Department of Health and Human Services would be absorbed within the existing agency resources, so we don't incur an additional cost regarding this. But thank you for your time, your consideration. This is a part of the puzzle, in my opinion, it's an important piece. Thank you. [LB82]

SENATOR ASHFORD: Thank you, Senator Howard. Yes. [LB82]

SENATOR COUNCIL: Quickly, Senator Ashford. Senator Howard, your thoughts on the discussion regarding notification of the removal or termination or reassignment of the caseworker because there's that gap in time that...and maybe that's something that clearly the department would be responsible for notifying the court that there's going to

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be a change. [LB82]

SENATOR HOWARD: I am so glad you mentioned that and I will tell you why. Because I recently received word that the department intends to dissolve the adoption unit down at 1313 Farnam in Omaha, which I think would be a great loss to the families, the children, in fact even the department because the department has prided itself on increasing the number of adoptions that's increased each year. That's a worthy goal. And I certainly do not understand why that would be...that piece would be taken out. I agree with you. If there is a change in case managers, the case is transferred from one case manager to another just as legitimate as this bill is. I'd like to see the continue...if we had an ideal world where case managers were valued and respected and felt that the department was working with their employee, the case manager, and they stayed on the job and they worked with the families and they saw the cases through, I would say a case should start at the beginning and work through until the permanency goal, be that adoption, be that guardianship, be that reunification. Absolutely. But it's not a perfect world, and we know that there are many changes of case manager during the course of a life of a case. Yes. Notification is very appropriate whenever a case is changed, handed to a new case manager. [LB82]

SENATOR COUNCIL: Okay. [LB82]

SENATOR ASHFORD: And clearly, Senator Howard, your work in those years elevated the role of social workers from almost totally disregarded to a profession really of some note, so. [LB82]

SENATOR HOWARD: I look back and feel I did my best. [LB82]

SENATOR ASHFORD: Yes, you did. [LB82]

SENATOR HOWARD: Thank you. [LB82]

SENATOR ASHFORD: (See also Exhibit 6) Thank you, Senator Howard. That concludes the hearing. I think Senator Fulton is back again. LB284. (laughter) [LB82 LB284]

SENATOR FULTON: So pleased to see you, Mr. Chairman. [LB284]

SENATOR ASHFORD: Thank you. [LB284]

SENATOR FULTON: Thank you, Mr. Chairman, members of the committee. For the record, my name is Tony Fulton, T-o-n-y F-u-l-t-o-n, and I represent District 29. I bring to you LB284. I bring this bill before you today in response to a tragic incident occurring here in Lincoln in October of 2007. A Level 3 sex offender had been convicted in Dodge

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County District Court in 1993 on two counts of first-degree sexual assault. Both assaults involved boys. The offender was sentenced to 10 to 20 years in prison, and he was paroled in December of 2004. This past October, a ten-year-old boy told a parent that he had been sexually assaulted at a convenience store near his school earlier in the day. Police went to the store to investigate and before police could do so, the offender went to a back room in the store and committed suicide. I was contacted by the parents of this boy in my capacity as a Lincoln senator. I was asked how the offending individual could so easily work so close to a school where he would surely be proximate to the predilection to reoffend? And at the time I could offer no answer to the parents. LB284 allows political subdivisions to enact employment restrictions for sexual predators akin to the residency restrictions already in statute. The present Sexual Predator Residence Restriction Act permits political subdivisions to impose a 500-foot barrier from schools and childcare facilities within which high-risk Level 3 sex offenders may not reside. Such restrictions, however, do not address cases where a high-risk offender purposefully seeks employment in an area near children. That logic by which the state of Nebraska allowed for residency restrictions seems also applicable to places of employment, for one generally spends as much time at his place of employment as he does in his home. The existing statute as applied to residency has not shown to have correlated to a greater incidence of sexual predators going underground. Thus, we are left with a judgment as to whether restrictions on residency or employment are a proper part of our policy regarding those offenders who present the greatest risk to children. I posit to the committee that employment restrictions allow for greater public safety by placing an additional barrier to recidivism by those who are by definition at a great risk of reoffending. Concluding, this is a bill that I wish I did not have to introduce. However, one real life situation has ended the life of one man and tragically altered the life of an innocent child. Given the likelihood of Level 3 sex offenders to commit their crimes again, I believe this is an important tool in protecting the safety of our children. Considering the tragic costs of inaction, legislative action with respect to high-risk offenders seems reasonable and necessary. I would appreciate your consideration. Any questions, I'd try to answer them. [LB284]

SENATOR ASHFORD: Thank you, Tony. Yes, Senator Christensen. [LB284]

SENATOR CHRISTENSEN: Thank you, Chairman Ashford. Thank you. Senator, one of the objection letters here says it's not right to put restrictions on somebody that's been a rehabilitated defender. Is there any reevaluation we're doing or are they just serving time until they get out? [LB284]

SENATOR FULTON: Well, I wanted...this might be an opportunity to point out, this bill is patterned after the existing statute which identifies sexual predators. Page 2, line 22 of the bill defines what a sexual predator is. It's an individual who is required to register under the Sex Offender Registration Act who has a high risk of recidivism as determined by the Nebraska State Patrol. [LB284]

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SENATOR CHRISTENSEN: Right. [LB284]

SENATOR FULTON: So that's what we're talking about here. [LB284]

SENATOR CHRISTENSEN: And all this does is keep them from getting employment near the school or daycare or things that way, correct? [LB284]

SENATOR FULTON: That's true, but in a...this is permissive. This bill would allow a political subdivision to enact an ordinance which would create that 500-foot barrier. So, yeah. We wouldn't actually be doing it with this law. We are allowing political subdivisions to enact these ordinances. But you're right, within 500-foot of a school or a daycare. [LB284]

SENATOR CHRISTENSEN: Okay. Thank you. [LB284]

SENATOR ASHFORD: Yes, Senator Coash. [LB284]

SENATOR COASH: Thank you, Chairman. Thank you, Senator Fulton. You answered one of my questions which was to Senator Christensen which is this is permissive, correct? So this doesn't mandate, just says a city may do this? Iowa did something near...did something very similar to this both with residency and employment. Basically...or Council Bluffs did in my recollection. Guess where everybody moved? Right to Omaha. Laws like this have the potential to really close the doors to Level 3 sex offenders in a whole community, which I'm not saying is necessarily a bad thing. Communities feel that's important, that's important. Do you know...a lot of times offenders when they're released are released with conditions similar to probation. And do you know if it's possible that a probation officer can say, you know, we're going to let you out, part of your condition is...I mean, there's already restrictions on where Level 3 sex offenders can work via licensing, I mean, daycare, schools, things like that. But do you know if a probation officer can say I want to restrict your employment as well? Any idea about that? [LB284]

SENATOR FULTON: I don't know whether a probation officer would have that authority or not. [LB284]

SENATOR COASH: Or a judge or something like that. [LB284]

SENATOR FULTON: I don't know. If indeed that were the case, I think it'd be a good thing, but I don't know whether that's the case. [LB284]

SENATOR COASH: Okay. Thanks [LB284]

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SENATOR ASHFORD: Thank you. Senator Council. [LB284]

SENATOR COUNCIL: First, a quick comment. Thank you, Senator Coash, because that is problematic. Unfortunately, I have the distinction of representing a district in Omaha that is not the highest, but has the second highest number of registered sex offenders in the city of Omaha because they get pushed out of other areas. But on the employment, in your opinion, Senator Fulton, what do you mean by "be employed?" Because the situation could very easily exist that my employer is not located within 500 yards of a school, but the services I perform for that employer routinely take me within 500 yards of a school. [LB284]

SENATOR FULTON: Yeah. There is...that's a good question, there is some ambiguity in that, you know, the intention here is to have those who have a predilection to offend upon children, keep them away from children. That's the intention here. With regard to employment...and there could be a person who drives, okay, and their driving while may be located...main office may be located at position X, their driving is going to take them all places not X. So it's definitely a consideration and it... [LB284]

SENATOR COUNCIL: I can get a sales job, you know, and the sales office is 2,000 feet from a school, but my territory is the entire city. I mean, there's some...I think you're going to have serious enforcement problems, and there is some vagueness or ambiguity with regard to what "be employed" means. But, again, I share the concern that Senator Coash is...you know, what happens, you keep pushing the offenders out of a particular area and they end up and they can only reside in a certain area and only live in a certain area... [LB284]

SENATOR FULTON: Senator that's... [LB284]

SENATOR COUNCIL: ...excuse me, work in a certain area. [LB284]

SENATOR FULTON: Yeah, if indeed that were the case for working, but the situation of residency if one ordinance in a city causes a sex offender--a Level 3, I want to be clear--a Level 3 sex offender to move from that area, then the argument should be against residency restrictions. But we don't have that argument. So where I'm basing...I'm basing this bill on the logic that whatever logic that caused the state of Nebraska to allow for residency restrictions, that logic holds true if not more so for employment restrictions. And notwithstanding the difficulty and, at times the ambiguity, of defining where an employment would be, you know, that is something that could be cause for concern. And if it would please the committee, hopefully we could work on that. But I'm arguing here by way of intention. If indeed public safety is our concern, then that logic which exists for a residency ought to exist for employment. [LB284]

SENATOR COUNCIL: Well, it just, you know, by way of I guess further discussion, and I

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appreciate what the intent is, but you couple your bill with the next one we're hearing, LB265 and, you know, pretty soon we're just going to have to stop, establish leper colonies because there are not going to be any place else for these individuals to go. I mean, the next bill says you can't be near a park. You know, then what's the next one? You can't be near...we're going to end up establishing leper colonies because there's going to be no place else for these individuals to go. [LB284]

SENATOR FULTON: My recommendation, Senator, would be to enact my bill and not others. (laughter) [LB284]

SENATOR LATHROP: I do think...if I can, I think that the year before we all came down here, you and I, our class, that Senator Bourne who chaired the Judiciary Committee took a comprehensive approach to...because this was becoming a problem. Everybody wanted these ordinances and then they wanted their circle bigger, and we were getting to the place where we put enough things that you can't get near and you put a big enough ring around them you can't come into the state of Nebraska. And as I recall, Senator Bourne and the Judiciary Committee and ultimately the Legislature passed kind of a comprehensive approach. And we ought to step back and look and see what he did and whether this is necessary or whether (inaudible) did these kinds of things. One of the things that that did, too, as I recall is before these high-level guys get out they had to pass through the Regional Center, be tested to see if they're safe to be out. I bring that up because the temptation is to, you know, I want to be tough on these people and we should and we don't want them around kids and that's true. But I think Senator Bourne was...took a comprehensive approach. It was kind of a big deal as I recall and maybe we can look at that and see where this fit in. [LB284]

SENATOR FULTON: Yeah. I appreciate that, Senator. And those on the committee may recall I did bring this bill last year. And I'll tell you, this is something that somewhat of it was a promise, I mean, to the parents. I told them I'm going to bring this so long as I have the ability to do so. So I could study 2006... [LB284]

SENATOR LATHROP: Maybe here's the question, though, and it goes back to what Senator Council just brought up. And that is, people come out of the penitentiary and we say we don't want that guy to be a burden on society. And so he hooks up with...or she, they hook up with one of these ministries, that kind of get-out-of-prisons folks that help them get their life together. And there's a lot of things a felon can't do, a lot of jobs they can't get just because they're felons. They can't work in a bank. They can't do...they can't get bonded, those kinds of things. So what many of them end up doing is manufacturing and delivery. I don't know how many of them do sales, but manufacturing for sure. And if Lozier is kind enough to hire some of these people and give them a second chance--and I'm just choosing them because they're a good business when it comes to that--and a guy is going to deliver shelving from the Lozier plant out to grocery stores, wherever they got to be, he's not going to stop by a school, not going to stop by

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a daycare, but he's delivering. Now do we have to exempt out people that are doing deliveries? I'm just...I know what you're driving at. And if it's the Kwik Shop that's within 500 yards of the school, couldn't agree more. And maybe the language just needs to be tighter so that people who are passing through these zones, we don't effectively create a situation where they can't...I mean, I don't have any sympathy for them, at the same time we also don't want them going back to jail because they can't find work and now they got to steal on top of the other problems they have. [LB284]

SENATOR FULTON: Well founded. I'm thinking through language that would be potential, but I...if indeed the committee does not move forward with this bill it will provide some time for me in the interim for me to study the approach that Senator Bourne used. And just sitting here...I can think through...there are ways that we can exempt out situations where one is in employment which is transitory. [LB284]

SENATOR LATHROP: A set business or somebody would make deliveries to. [LB284]

SENATOR FULTON: Right. What I would hope we could get at or at least agree on is that if there is an individual who has a predilection and who's a sexual predator by definition, if that individual is looking for a place to work that's near children, we can't allow that. And I'm not saying that's what happened in this particular case, but on its face that's what it looks like. [LB284]

SENATOR LATHROP: And I can't agree with you more, but it's about how we...the language you use and whether we've thought through whether it's so broad that these people can never work again because if they're out they only got two choices: One is to work and the other is to steal. [LB284]

SENATOR FULTON: Understood. Thank you. [LB284]

SENATOR ASHFORD: Thank you, Senator Fulton. Proponents? Opponents? Neutral? Yes, come on up. How are you? [LB284]

MEL BECKMAN: (Exhibit 3) Excuse my laryngitis. My name is Mel Beckman, M-e-l B-e-c-k-m-a-n. I live at 3636 Lafayette Avenue in Omaha. I'm here today because I have two friends who are sexual offenders, both of them could be affected adversely someday if this bill is passed. I urge you to not allow cities and towns to put restrictions on sex offenders, like the one proposed in this bill. Thank you. Considering how hard it is for any offender and especially sex offenders to even get an interview with an employer, it would simply be unjust to deny them the right to even look for work in the large areas of a city which surround schools and daycares. I'd ask you to consider this: There are close to 1,000 sex offenders in Nebraska's prisons right now. Tax money is appropriated every year by the Legislature to allow the corrections department to treat them, to provide treatment. Treatment specialists work hard to teach them skills to avoid

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reoffending sexually. They encourage them to develop a healthy life, which includes being a productive member of society, and that's what you want, too. You want them to come out of prison and be part of the community, not to go underground and be isolated. If that's the case, are we not undermining what we try to accomplish in the prisons if we allow Nebraska communities the option that's proposed in this bill? We would be allowing them to place a new disability on sex offenders, making their employment more difficult and thus delaying their full integration into the community. Granted the Legislature can't compel communities to welcome sex offenders, but neither should the Legislature pass laws which would make it easy for communities to reject them. I urge you not to advance LB284. Thank you. [LB284]

SENATOR ASHFORD: Thank you, Mel. We always appreciate you coming. I'm not sure that was neutral exactly, but... [LB284]

MEL BECKMAN: Oh, I meant it to be. [LB284]

SENATOR ASHFORD: Oh, okay. [LB284]

MEL BECKMAN: I just couldn't get up in time. [LB284]

SENATOR ASHFORD: Okay. Thank you for your comments. Any questions of Mel? Thank you, Mel. [LB284]

MEL BECKMAN: Thanks. [LB284]

SENATOR ASHFORD: (See also Exhibit 7) Sorry about your laryngitis. I guess you waive, Senator? Okay. Thank you. That closes the hearing on LB284. LB265, Senator Giese, you're up. [LB284 LB265]

SENATOR GIESE: Good afternoon, Senator Ashford and members of the committee. My name is Robert Giese, G-i-e-s-e, and I represent the 17th Legislative District which includes Dakota, Dixon, and Wayne Counties in northeast Nebraska. I am here today to introduce LB265 which would amend the Sexual Predator Residency Restriction Act to include public parks. The Sexual Predator Residency Restriction Act was adopted in 2006 as part of LB1199 in response to the adoption of strict residency requirements for sex offenders by Iowa and other nearby states. When Iowa adopted residency restrictions that prohibited offenders from living within 2,000 feet of a wide variety of locations where children congregate, communities in the eastern portion of Nebraska saw an influx of sexual predators moving across the river. In the aftermath of Iowa's restrictions, the South Sioux City Police Department, City Hall and Dakota County Sheriff's Office began fielding calls from Iowa sex offenders seeking to move out of Iowa and questioning whether Nebraska had the same 2,000-foot restrictions. As a result, South Sioux City was one of many Nebraska communities that felt they had no choice

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but to adopt a city ordinance mirroring Iowa's 2,000-foot restriction. As it was clearly laid out during the debate in 2006, a 2,000-foot residency requirement like Iowa's has the unintended consequence of forcing sex offenders underground. Recognizing this problem, the Sexual Predator Restriction Act was passed with a more reasonable 500-foot residency requirement. The act, however, only included schools and childcare facilities in the list of locations that cities could restrict by local city ordinance. LB265 seeks to correct what I feel has been an oversight in the 2006 legislation by adding public parks to the Sexual Predator Residency Restriction Act. The bill would define park as a parcel of ground or facility set aside by a political subdivision for recreational use by the public. So in addition to parks, it would include facilities like swimming pools and athletic fields. All of these facilities share one thing in common: They are frequented by large numbers of children, and often these children are completely unsupervised. As with the current restrictions, the provisions of LB265 would only apply to Class III sex offenders who have a high risk of recidivism and have previously victimized a child. Similarly, the provisions of LB265 would not apply to the predators who reside with any correctional facility or treatment facility operated by the state or a political subdivision or to predators who have established residence prior to the effective date of this act. When the Sexual Predator Residency Restriction Act was enacted in 2006, it was a commonsense approach to providing cities the necessary tools to combat a growing problem. By adding public parks to the act, LB265 seeks to continue that reasoned approach while providing city officials with additional ways to protect vulnerable children in their communities. I thank you for your time and would be happy to answer any questions. [LB265]

SENATOR ASHFORD: Thank you, Bob. Any questions of Senator Giese? Seeing none, are you going to stick around or are you going to... [LB265]

SENATOR GIESE: Yes. I'll stick around. [LB265]

SENATOR ASHFORD: All right. Proponents. [LB265]

SCOT FORD: Mr. Chairman, committee members, my name is Scot Ford, S-c-o-t F-o-r-d. I'm the Chief of Police in South Sioux City, Nebraska. And I do want to thank Senator Giese for bringing this bill forward and raising the awareness and attention to it. Senator Council, I think that your statements in the previous hearing are well noted that these become very restrictive to people. However, I think that our first and primary concern and responsibility is to public safety and to our children. And I think that that's where the focus of our energy should lie. It is my opinion that it does very little good to restrict sex offenders who have a very high possibility of reoffending from just school and daycare areas where children are supervised more closely without addressing parks, playgrounds, and athletic fields where the supervision of those children is not as close. And I feel that on the other side of the issue from the side of the sexual predator, being able to take up residence adjacent to a park, a playground or an athletic field puts

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temptation daily in front of them. And that is a concern as well. And that is the primary reason that I am here to offer you my opinion and support for LB265. If you have any questions, I'd be pleased to try and answer them. [LB265]

SENATOR ASHFORD: Thank you, Chief. Any questions of the chief? I just have...and this is...again, I always have to get myself up to speed on these rules. What happens when a Level 3 sex offender moves into South Sioux City, what happens now they... [LB265]

SCOT FORD: They're required to notify the county sheriff of their change in residence, provide the county sheriff, and the onus is on them to provide their new address to the sheriff. The sheriff then reports that to the State Patrol, and the State Patrol turns around and sends out a bulletin to all law enforcement in the area. So if a sexual predator moves into South Sioux City, which is my jurisdiction, they do not report to me, they report to the county sheriff, and then it goes through the process before I'm notified. [LB265]

SENATOR ASHFORD: But you're notified directly. You don't have to go to the system on the computer or the on-line, so you get a notice. [LB265]

SCOT FORD: Yes. They send out e-mail notifications. [LB265]

SENATOR ASHFORD: Just to get some ground, how often does this, with this influx of Level 3 offenders from Iowa, how often in a year's time, do you get such a notice? [LB265]

SCOT FORD: Bulletins? [LB265]

SENATOR ASHFORD: Yeah. How... [LB265]

SCOT FORD: I get probably 20 a month. [LB265]

SENATOR ASHFORD: And that's been going on since the Iowa law passed? [LB265]

SCOT FORD: That's been going on since the sexual registry has been in effect in the state of Nebraska. Now, as a caveat to that I should explain that those are not all new people moving into the state of Nebraska. [LB265]

SENATOR ASHFORD: That's the updating. [LB265]

SCOT FORD: That's the updating of, maybe a person who has been a resident changes residence or moves away, we'll be notified of that as well. [LB265]

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SENATOR ASHFORD: And I think under the new federal rules there's a requirement that there be monthly checking in, I believe, or more frequent checks anyway. [LB265]

SCOT FORD: Yes. We are not at that point yet as far as being notified on a monthly basis. [LB265]

SENATOR ASHFORD: But I think we're going to get some legislation on that issue this time. But thanks, thanks. How long have you been chief? [LB265]

SCOT FORD: About 20 years, sir. [LB265]

SENATOR ASHFORD: Okay. Well, thanks for your work. Any questions of Chief Ford? Thank you. [LB265]

SCOT FORD: Thank you all. [LB265]

SENATOR ASHFORD: Gary. [LB265]

GARY KRUMLAND: Senator Ashford, members of the committee, my name is Gary Krumland, spelled G-a-r-y K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities in support of LB265. I was around in 2006 when this legislation was passed, and I think Iowa was kind of the model that the Legislature looked at not to follow. As Senator Giese said, they had very strict residence requirements to the extent that there was very few places in Iowa that a registered sex offender could live. And they were leaving the state or were going underground, and it's very difficult to find where they were living. And as a matter of fact, even the Iowa County Attorneys Association made several efforts over the years to try and change that so it was more reasonable. So Nebraska took a much more reasoned approach. As part of a comprehensive bill, there was provisions to allow local governments to adopt residency requirements. And it was only...it did not apply to all registered sex offenders, only Level 3 sex offenders who the state patrol had determined had a likelihood of recommitting a crime, and only those who have had a crime against somebody who is under 18. So it was fairly narrow compared to maybe some other states, and it was targeted to those places where children gather--schools and daycare centers. LB65 (sic) adds parts to that so it tries to stay within that original philosophy. But as has been mentioned, children do gather in parks and generally unsupervised, and so that is the reason that we're supporting the bill. [LB265]

SENATOR ASHFORD: Thanks, Gary. Any questions? Senator Council. [LB265]

SENATOR COUNCIL: Thank you for testifying, Gary. Out of curiosity, is there any reason why the League of Municipalities didn't offer any testimony on LB284? [LB265]

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GARY KRUMLAND: This was a bill that came through our process. It was brought by the city of South Sioux City and they requested it, so that's generally why we chose this bill and we think it fits with the philosophy of the original bill, too. [LB265]

SENATOR COUNCIL: Thank you. [LB265]

SENATOR ASHFORD: Thanks, Gary. Thanks for your comments. Other proponents? [LB265]

SUSIE SQUIRES MUNOZ: (Exhibit 4) Hello. I'm Susie Squires Munoz, S-u-s-i-e S-q-u-i-r-e-s M-u-n-o-z, and I am the president and founder of the Watchful Eye Foundation which is located in South Sioux City, Nebraska. I thoroughly 100 percent support any bill that has to do with protecting our children because our children are the future for tomorrow. And I think that anywhere that a child congregates, such as a park...as we all know as parents, we send our children to the parks to play and sometimes that's exactly where predators are. And I think that we need to push forward and see that predators are not allowed to live within the close vicinity of parks or where children are...especially those that are there unsupervised. One of the things that we do with the Watchful Eye is...as you can see in the magazines that I passed out, is in the center section there are sexual predators who have committed crimes against children, meaning those children under the age of 18 years old, in different areas throughout our central location. Those pictures...a picture is worth a thousand words. And a lot of times...especially for people who don't speak English, they can look at a picture and they know that they need to kind of watch who their children is hanging out with. Law enforcement has used these magazines and they've been extremely helpful. Again, I can't stress enough how I would like to see this bill go forward because we do have to protect our children. And in South Sioux City, for instance, last summer there was a sexual predator who lived literally across the street from a fairly large park in South Sioux, and he was arrested in South Sioux or in that park rather for indecent exposure to children and some young adults. So that's just kind of a point that we need to move forward with this. [LB265]

SENATOR ASHFORD: Well, I think this is important work that you're doing in this magazine. [LB265]

SUSIE SQUIRES MUNOZ: Thank you. [LB265]

SENATOR ASHFORD: Any questions? When did you start your organization? [LB265]

SUSIE SQUIRES MUNOZ: It'll be five years in this November. And, you know, those magazines, we give them out free of charge. They're very expensive to publish and we are a nonprofit, so if any of you do have any ideas as to where we can get funding for those...(laugh) [LB265]

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SENATOR ASHFORD: Well, I wonder. We all wonder the same thing. We're all trying to find funding. [LB265]

SUSIE SQUIRES MUNOZ: We give those out to law enforcement, probations. Actually, we keep them in the city halls so that the public can come in and access them. [LB265]

SENATOR ASHFORD: And I appreciate the bilingual nature of them. [LB265]

SUSIE SQUIRES MUNOZ: There's two different issues because we ran out, but one of the issues actually has a little section where you can learn some Spanish, so. (laugh) [LB265]

SENATOR ASHFORD: Good for you. Good for you. Thanks. [LB265]

SUSIE SQUIRES MUNOZ: Thank you. [LB265]

SENATOR ASHFORD: Any other proponents? Opponents? Mel, and if you want to submit a...if you feel uncomfortable reading again you're sure welcome to... [LB265]

MEL BECKMAN: All right. [LB265]

SENATOR ASHFORD: It's up to you. I mean, read away if you want... [LB265]

MEL BECKMAN: Basically my testimony would be similar. [LB265]

SENATOR ASHFORD: Okay. [LB265]

MEL BECKMAN: (Exhibit 5) Thank you. [LB265]

SENATOR ASHFORD: Any other opponents? Neutral? And we'll have Mel's testimony is in written form and we'll accept that. Senator Giese, do you wish to close? [LB265]

SENATOR GIESE: I will and I'll just be brief. I just want to thank the committee and look forward to the support on the bill and just thank Susie and Chief Ford who were here today. They have been on the front lines, if you will, and Susie has been doing this, if I just could put a plug in for her, for the last five-plus years. For a lot of years she did it on her own, no budget, and does a lot of other work in the community. So with that, I would urge your support on... [LB265]

SENATOR ASHFORD: Thank you, Senator Giese. Senator Council. [LB265]

SENATOR COUNCIL: Yes. Thank you, Chairman Ashford. Senator Giese, I

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just...drafting question. Is there any particular reason why there was an entire section added as opposed to just adding the definition of park and adding park to what is currently 29-4017(1)? Is there any particular reason why an entire section was added? [LB265]

SENATOR GIESE: I'm not exactly...I don't know if I'm familiar with that section. The park, I mean, is that your... [LB265]

SENATOR COUNCIL: Yeah. See the existing law says: A political subdivision may enact an ordinance, resolution or other legal restriction prescribing where sex offenders may reside only if the restrictions are limited to sexual predators, extend no more than 500 feet from a school or childcare facility, and meet the requirements of this section. And the proposed legislation adds a whole new section saying the political subdivision may enact an ordinance, resolution or other legal restriction prescribing where offenders may reside only if the restrictions are limited to sexual predators extend no more than 500 feet from a park and they meet the requirement. And the requirements are basically the same. I was just wondering if there was any... [LB265]

SENATOR GIESE: Well, I think that the intent here is to add "park." That was what we were missing and...at least that's my understanding of it, Senator. [LB265]

SENATOR COUNCIL: Okay. Well, yeah. I think the bill drafters went a little overboard on this. Okay. Thank you. [LB265]

SENATOR GIESE: Well, we'd rather err on the overboard side. [LB265]

SENATOR COUNCIL: (Laughter) Exactly right. Okay. [LB265]

SENATOR ASHFORD: I mean, if we can get some extra words in there, let's get them in there. Okay. [LB265]

SENATOR LATHROP: Make it a priority bill. [LB265]

SENATOR ASHFORD: Thank you, Senator Giese. [LB265]

SENATOR GIESE: Thank you. [LB265]

SENATOR ASHFORD: And that concludes the hearings for the day. [LB265]

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Disposition of Bills:

LB82 - Held in committee.
LB284 - Held in committee.
LB265 - Held in committee.

Chairperson

Committee Clerk