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Health and Human Services Committee  
September 28, 2011

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[LR37]

The Committee on Health and Human Services met at 9:00 a.m. on Wednesday, September 28, 2011, in the Omaha Public Schools Board Room, Omaha, Nebraska, for the purpose of conducting an interim public hearing on LR37. Senators present: Kathy Campbell, Chairperson; Mike Gloor, Vice Chairperson; Dave Bloomfield; Tanya Cook; Gwen Howard; Bob Krist; and Norm Wallman. Guest senators present: Health Mello; John Nelson; Jeremy Nordquist; and Pete Pirsch. [LR37]

SENATOR CAMPBELL: Good morning. I am Senator Kathy Campbell and I serve as the Chair of the Health and Human Services Committee. We are pleased to welcome you this morning. This is the fifth in our series of hearings in each of the service areas for the Department of Health and Human Services. We have been to Grand Island, Lincoln, Scottsbluff, and Norfolk, so we are pleased to end this portion of LR37 in Omaha. I want to explain a little bit about LR37 and then we'll proceed with the usual public hearing announcements and introductions of the senators. LR37 was introduced in the last legislative session as a way for us to look at child welfare reform initiative, now known as Families Matter. There are many components to LR37, and the committee is so pleased with the number of people who stepped forward to say how can we help you. There are a series of reports that will be coming to this committee in addition to the hearings that we're having and additional work that the committee is doing as a whole or individual members are doing. The first report has been made public and that was the State Auditor's report, who gave a financial overview. The next series of reports will be at a hearing on October 18 in Lincoln, and on that day we will hear results from the surveys that were given first to the judges across the state who are in the juvenile courts or work with juvenile issues. The second report will come from the Ombudsman's Office which has done the foster parent survey across the state. And the third report will come from Appleseed, who offered to send out a similar survey to attorneys and guardians ad litem across the state. The last report that will come to the committee will be at a hearing in early November, and that report will come from the

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

Health and Human Services Committee  
September 28, 2011

---

Legislative Audit Committee, and they had written a scope of study and accepted LR37 as their number one priority, and that will be the last report to come to the committee. Hearings beyond that date will be determined by the committee and announced. Our report is due to our colleagues in the Legislature on December 15. So with that explanation of LR37, I'd like to have each one of the senators, as is our custom in the committee, introduce themselves, and I always start on my far right. So Senator. [LR37]

SENATOR BLOOMFIELD: Dave Bloomfield, northeast Nebraska, made up of Wayne, Thurston, and Dakota Counties. [LR37]

SENATOR COOK: I'm Tanya Cook from Omaha and Douglas County, Legislative District 13. [LR37]

SENATOR WALLMAN: Norm Wallman, District 30, Gage County and part of Lancaster. [LR37]

SENATOR GLOOR: Mike Gloor, District 35, which is most of Grand Island. [LR37]

MICHELLE CHAFFEE: Michelle Chaffee, legal counsel to the Health and Human Services Committee. [LR37]

SENATOR HOWARD: Gwen Howard, senator in District 9 here in Omaha. [LR37]

SENATOR KRIST: Bob Krist, Omaha, Bennington, and some unincorporated parts of Douglas County. [LR37]

SENATOR CAMPBELL: And to my far left is Diane Johnson who is the clerk for the Health and Human Services Committee. I'd also like to welcome Senator Nordquist who is joining us this morning. I don't see any of the other senators. We are expecting some of the other Omaha senators to join us at different points in the morning, so we

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

Health and Human Services Committee  
September 28, 2011

---

particularly wanted to welcome our guest senator. I'll go through a few housekeeping matters. We have a series of invited testifiers, and I want to explain that what we tried to do in each one of the five hearings was to hear similar testimony from similar categories of people who may impact the child welfare system. So we invited a county attorney, a judge, a CASA, a foster parent. We've had representatives from bio parents, foster youth who have been in the system, providers. So what we have done in each location is to take recommendations from the host senators and then invite them. We will start with the testifiers who are listed, and we would ask you, if you are planning to testify today or if you're on that list, that you complete an orange sheet which is available just as you come in the door, and that as you come forward to testify that you take the sheet over to Diane Johnson, and if you have any handouts for the committee, you can give them to her also, and then to take a seat. I think we're using the group to my left. It would be your right I guess. I would remind you to please turn off or silence your cell phones. It's very disconcerting for speakers to hear something ringing in their ear. When you sit down to testify, please state your name for the record and spell it, even if it's Smith or Campbell, because we find that every recording, we want to make sure it's exactly correct as it is transcribed. And I saw Senator Nelson come in. I want to welcome him. Thank you for coming. So with that, we will start with our first testifier, and we always start with the service administrator from the area that we are in. Today we are having Ms. Diaz. Please come forward. And if you just want to put any materials and give it Diane, that would be great. As she is getting settled, we'll welcome Senator Mello who is making his way across. Welcome. It's good to see our colleagues. Good morning. [LR37]

CAMAS DIAZ: Good morning. [LR37]

SENATOR CAMPBELL: Would you please state your name for the record and spell it for us. Thank you. [LR37]

CAMAS DIAZ: (Exhibits 1 and 2) Sure. Good morning, Senator Campbell and other

Transcript Prepared By the Clerk of the Legislature  
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Rough Draft

Health and Human Services Committee  
September 28, 2011

---

members of the Health and Human Services Committee. My name is Camas Diaz, C-a-m-a-s, and the last name is D-i-a-z. Since July 2011, I have been reporting to Vicki Maca in the Families Matter service areas of Eastern and Southeast. I am currently the administrator responsible for the initial assessment teams and the abuse and neglect ongoing teams in both of these service areas. For three years prior to that position, I served as the child and family services administrator just in Eastern Service Area for all of the child and family services functions. I've been with the department since 2000 when I started as a case manager here in Omaha. As you are aware, Vicki Maca testified at the Lancaster or the Lincoln hearing and gave you some information about some of the updates in the Eastern and Southeast Service Area. Today, I'm going to provide some information and address several topics requested by the committee, primarily about the data used and gathered by the department and the lead contractors. As you are well aware, the Southeast and Eastern Service Areas have undergone some substantial changes in the last 24 months. Since April 16, 2010, the Eastern Service Area, where we're here in Omaha today, has temporarily provided direct case management to one-third of the ESA families which were originally served by Visinet. These families will soon be transitioning to the Nebraska Families Collaborative for case management. The majority of these families will transition to NFC by October 15, 2011. However, any families that are scheduled and are likely to close by the end of December 2011 will remain with the department for case manager consistency prior to closure. However, at time of closure, between now and the end of the year, those families will also transition to NFC for aftercare. The complete transition to NFC will be completed by December 31. Again, the majority, the vast majority will be transferred to NFC by October 15. But so that families didn't have to have another case manager change prior to closure in the next three months, we will be maintaining some of those families until the end of the year. So for the past 16 months, the Eastern Service Area has operationally been managing in two different systems: one system delivering case management as in previous years to these one-third of the families, and then one system also performing oversight of the KVC and NFC management contracts. These dual roles have caused very much role confusion within our staff, with families, with

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

Health and Human Services Committee  
September 28, 2011

---

providers, and with the court system. As we move forward to a system where DHHS monitors case management, it has been necessary to evaluate our current outcome monitoring system, including the data reports and access to information that helps drive decisions and planning. Moving from providing direct case management to contract oversight of case management really does require a complete restructuring, change of culture of our staff, change of how we do accountability and all of our other systems internally and externally. This is still in progress as we learn a lot from other states, from national consultants, and from our own experiences. In the Eastern and Southeast Service Areas, DHHS has a category of staff titled Child and Family Outcome Monitors, aka CFOMs. The CFOM staff are responsible for collecting data necessary to monitor the lead contractors. The CFOM staff are also responsible for review and approval functions of case planning, placement changes, court report recommendations, and case closures. DHHS also continues to maintain review and approval of any activity that requires the restriction of an OJS youth's civil liberties, including detention, secure transport, and revocation of parole. Since we began contracting for case management, this role of the CFOM has changed greatly and is still in a period of reorganization and reestablishment. One example of a recent adjustment occurred on September 1, 2011, when we collocated several CFOM staff within the offices of NFC and KVC. We also now have one CFOM assigned to each courtroom in the Southeast and Eastern Service Areas. While the collocated and court-assigned CFOM adjustment is only within its first month and will take much time for evaluation, we have already seen some positive results. The collocated CFOM is able to immediately review court reports and request any revisions necessary, and can do all of this work face to face versus e-mail communication. The court-assigned CFOM attends every court hearing in that courtroom and is able to report back concerns, positive experiences, and discuss any legal issues that may have surfaced during that hearing. Because the CFOMs are in court each day, they are also able to build relationships and have daily conversations with the court and other legal parties. The collocated and court-assigned CFOMs also collect data related to timeliness of court report completion, the quality of the court report, and are able to help ensure that the court reports are submitted to all legal

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

Health and Human Services Committee  
September 28, 2011

---

parties on time. In addition to the collocated and court-assigned CFOMs, DHHS also has teams of CFOM staff who perform random sample reviews on specific data outcomes. These reviews are aggregated and analyzed to provide feedback to both HHS and the lead contractors regarding set outcomes. As you may know, all states must participate in periodic child and family services reviews called CFSRs. The CFSR is completed by a standard case review tool that focuses on 23 items related to safety, permanency, and well-being. In your packet you have a series of five handouts, and one of those handouts outlines the CFSR and the 23 measures that are included in that review. Our review CFOMs are now trained on performing a review tool of the CFSR and are responsible for completing an internal CFSR review on a set number of cases who are being case-managed by NFC and KVC each month. This data is also then aggregated and analyzed for trends, strengths, and weaknesses. We know that research indicates that there is a strong correlation to improved child safety, permanency, and well-being with frequent and consistent contact with that child's case manager. DHHS is able to aggregate and analyze data regarding the frequency of these monthly contacts. This data can be drilled down to individual case managers within NFC, KVC, and the department. In addition, our review CFOMs also complete random samples on monthly contact narratives to assess for both the quality and quantity of documentation of these visitations. Our CFOM and quality assurance teams also conduct quality and quantity reviews on court reports, family team meetings, home studies, and placement stability. Our system of oversight within the department is still evolving and we are trying to make improvements each day. We have been consulting with Casey Family Programs as well as reviewing how other states have structured their oversight role. We are also reviewing our current organizational structure to determine how best to utilize our resources and expertise. We are committed to ensuring that we have a solid continuous quality improvement system that collects the right data, analyzes the data, and then uses that data to make appropriate changes. Our current case management database is called N-FOCUS, which has been our data system since 1998. N-FOCUS is the statewide database for child protective services' data, economic assistance data, as well as data from the division of developmental disabilities. Having

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

Health and Human Services Committee  
September 28, 2011

---

this data from various programs combined into one computer system allows users to have access to information about any of those other services the family may be receiving to help put together a comprehensive system of care. This provides a more efficient and comprehensive view of the family than using separate databases. The lead contractors, NFC and KVC, as well as the Foster Care Review Board, have access to our N-FOCUS system, with certain limitations built in to protect the privacy of the families served in those programs. NFC and KVC are required to enter certain case management information into N-FOCUS, and then N-FOCUS is able to generate data or reports that range from individual worker performance on key outcomes to systemwide performance on aggregate federal outcomes. I will add that NFC and KVC also maintain independent data systems based on their own unique business and operational needs separate from N-FOCUS. These data management systems allow NFC and KVC to track information important for their operations, such as referral information, claims data, and a variety of other management-related data. In addition to the individual performance outcomes that are reported through N-FOCUS, DHHS is required to submit to a number of federal reports regarding specific data sets. And again, in your packet, you have handouts 2 through 5 which gives some outlines of some of those different data sets. I won't bore you by going through each one of them but that way you have kind of a general idea of some of the different federal reports that we're required to submit through. [LR37]

SENATOR CAMPBELL: Ms. Diaz, could we sort of summarize what you might have left... [LR37]

CAMAS DIAZ: Sure. [LR37]

SENATOR CAMPBELL: ...just because I want to leave sufficient time if there are questions. [LR37]

CAMAS DIAZ: Absolutely. Some of the other points that are included here is just that

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

Health and Human Services Committee  
September 28, 2011

---

we work every week with NFC and KVC to maintain the integrity of that data in those data systems, reconciling the data, working with the Foster Care Review Board, especially recently, to look at the data that is collected and how we can improve on that data that's collected. And our division is currently developing a plan to guide our work and our priorities into the future. This plan will be statewide and will focus on areas that we believe have the greatest impact in our efforts to ensure that children are safe. The next step will involve sharing this plan with our statewide stakeholders to enhance the plan and assist us in developing local and statewide strategies. Thank you for your time and for inviting me, and I'd be happy to answer any questions. [LR37]

SENATOR CAMPBELL: Questions from the senators? We'll start with Senator Krist.  
[LR37]

SENATOR KRIST: Thank you for your testimony and thank you for coming. As it has been an issue throughout the rest of the hearings is money. It's my opinion that the Legislature should have gone ahead regardless of the Governor's letter that guaranteed that you weren't going to enter into any more contracts as a department to satisfy the Central and other areas. We should have extended that across the board so that we took a time-out before we started putting other contracts out there. I am concerned that as I look at the \$30 million and I look at how that contract was let, and it's in conjunction with or in parallel to the way the other contracts have been let, that we are again going down a road that is financially unsustainable. The numbers I see are unsustainable within the area with the contract. I don't expect you to answer the question nor...I mean, if you want to make comment, that's great. But what I would ask the department to do, and specifically Vicki, is come back and show us on paper where the money is coming from, where it's going to, how it's sustainable over the life of the contract so that when we deal with paying the bills that are due to those providers out there that are already owed money, we are now not adding another group to that issue. So your mission, should you accept it or not, would please be to report back to the committee on how that contract was let and where the dollars came from, where they're going to, and in your



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

Health and Human Services Committee  
September 28, 2011

---

opinion, why it is sustainable as opposed to other contracts that are out there. And again, if you'd like to comment, feel free. [LR37]

CAMAS DIAZ: No, I won't make any comments on that at this point but I'll definitely report back to Vicki that that request has been made and we'll provide that information. [LR37]

SENATOR KRIST: Thank you. [LR37]

SENATOR CAMPBELL: Other questions? Senator Howard. [LR37]

SENATOR HOWARD: Thank you, Senator Campbell. And I certainly share Senator Krist's concern. In addition, you've mentioned in the report the importance between the relationship between the case manager and the families and the child. Can you go into that a little more and talk about staff turnover, the current rate of staff turnover, and talk about the caseload size. I hear a lot of different reports about caseload size. I'm sure you know that 16 is the number in the contract for a case manager to be carrying, and I've heard anywhere from 30 to 40 cases that case managers are carrying. So if you could reflect on that. [LR37]

CAMAS DIAZ: I'll speak a little bit about turnover first. We have been struggling both with the department and NFC and KVC with levels of turnover. I think a lot of that due to the instability obviously in this work right now, a lot of pressure, and a lot of lack of clarity with role confusion of staff and not sure exactly what their role is as we've made some of these transitions. As we move forward and tighten up what our role is and what the role of the case managers are, we hope to see that turnover stabilizing. The other thing we've really recognized is the training for staff. When we do exit interviews with staff, some of the key things that they indicate as reasons for leaving is the quality of supervision they received and the quality of training received as well as caseload size. So those are three areas we know that need to be our focus. We have recently started

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

Health and Human Services Committee  
September 28, 2011

---

providing some quality assurance and monitoring of the caseloads of NFC and KVC and their family permanency specialists. It is our intent that those caseloads not be higher than 16. We do know that there are some that are sitting higher than 16 at this point. It's a weekly report that we're now generating and providing to NFC and KVC so we can pinpoint down to the case manager whose caseloads are too high, so that we can make sure those staff have the time available to spend with the children and families that they need to spend. [LR37]

SENATOR HOWARD: Well, if I can say, it sounds no different than the problems that we had with Health and Human Services for decades. Thanks. [LR37]

SENATOR CAMPBELL: Other questions from senators? Senator Bloomfield and then Senator Krist. Oh, I'm sorry, Senator Wallman. I thought I saw your hand up. Sorry. [LR37]

SENATOR WALLMAN: Thank you, Chairman Campbell. Yes, I see billboards all over about we need foster parents, you know? Do we have enough resources available so we can keep foster parents? Or is there a problem with, you know, they're not secure enough to be foster parents, or what do you see the problem there? [LR37]

CAMAS DIAZ: You know, I think we can always make improvements on the amount of resources we have in our communities and in our state. I think foster parents have probably also become frustrated with some of the instability in the system similar to some of our staff, and are struggling with those same dynamics in this last 24 months. I do think that we need to look at our capacity of how many homes we have available for children and definitely focusing on those homes that can provide a family-like setting instead of congregate care setting, and putting resources and effort into making sure those resources are enough to the capacity we need instead of congregate care, except for those kids who really need that. [LR37]

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

Health and Human Services Committee  
September 28, 2011

---

SENATOR WALLMAN: Thank you. [LR37]

SENATOR CAMPBELL: Senator Gloor. [LR37]

SENATOR GLOOR: Thank you, Senator Campbell. Ms. Diaz, thank you for coming here and providing testimony today. I'm always big on issues around accountability in the system and whether it works or how it works. The CFOM teams that are established, talk to me a little bit about those teams, if you would. Are they organized teams located in specific spots of the state? Are they people with that as a specific and only assignment? Are those additional assignments that go to employees who are...I'm looking for some understanding of who the teams are, how they're organized, and how they work. [LR37]

CAMAS DIAZ: Sure. Our current CFOM staff are all previous case managers who have been case managers for the department for prior to being classified as a child and family services outcome monitor. Those teams are now separated out by collocated CFOMs in just the Eastern and Southeast Service Areas. We have approximately ten CFOM staff who are collocated with NFC and KVC in the two service areas. And then we have another ten who are collocated or located at the courthouse that are court-assigned to a specific courtroom, and that's where they spend the majority of their time. In the rural areas of Southeast Service Area, the CFOMs play a dual role. They are collocated and assigned to courtrooms because of the way the judges schedule hearings on specific days. And then the other, the larger subset of CFOMs are review CFOMs, and those are all housed together in Lancaster County and in Douglas County for the two service areas. And those are the staff that don't have approval functions over specific case-specific information, like the collocated and the court. But they're really kind of looking at building a part of a quality assurance team, so they do random sample reviews on specific data sets looking at quality and quantity of reviews, and then funneling that up to a CQI function who can analyze those trends and that data. [LR37]

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

Health and Human Services Committee  
September 28, 2011

---

SENATOR GLOOR: CQI is continuous quality... [LR37]

CAMAS DIAZ: Continuous quality improvement. Sorry. [LR37]

SENATOR GLOOR: So what you're telling me is the CFOM teams are in fact specifically established with individuals who have that as their sole responsibility. [LR37]

CAMAS DIAZ: Yes. [LR37]

SENATOR GLOOR: Okay. Random samples. Who does the determinant on random samples, size, how often? Tell me a little bit about the random sample determinants. [LR37]

CAMAS DIAZ: Sure. We have established protocols within the two service areas about how many numbers of families are reviewed based on the data set they're looking at. So if they're doing a full child and family services review, right now they're looking at about seven per month each--seven families that they're doing a full comprehensive CFSR review on. They're also doing random samples looking at just visitation that's occurring monthly and the quality of that visitation, and on family team meetings. And those are a larger sample size because they're not quite as time intensive to do. But that is their sole function and it's kind of our beginning movement towards that continuous quality improvement system. The CFOM is a newer function when we started contracting out, so we're still evolving what those activities that they perform each day. And under the contract, there are specific outcomes that are being asked of the contractors to comply with, and all of the CFOM activities are based on those outcomes. [LR37]

SENATOR GLOOR: And the outcomes are in our packet? [LR37]

CAMAS DIAZ: Some of them are. There's also...and I brought and can leave what the committee the performance standards that were amended to the newest amendment of

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

Health and Human Services Committee  
September 28, 2011

---

the contract. And I'll leave my copy of that with the committee. [LR37]

SENATOR GLOOR: Good. I'd like to see that. Your random samples also vary...depend upon the number of clients you serve. I mean, they go up and down? [LR37]

CAMAS DIAZ: They do. [LR37]

SENATOR GLOOR: They are a fluid number? [LR37]

CAMAS DIAZ: Correct. [LR37]

SENATOR GLOOR: Thank you. [LR37]

CAMAS DIAZ: Sure. [LR37]

SENATOR CAMPBELL: Ms. Diaz, in the...because my question would have had to deal with having a copy of the performance standards, so I appreciate that you brought those. Does the handout also cover the implementation schedule? [LR37]

CAMAS DIAZ: It does. [LR37]

SENATOR CAMPBELL: Good. Okay, because we are starting to take a look at what those contracts say and what we have in place, and make sure we have everything in place and then we can review that. So thank you. Any other questions? Senator Howard. [LR37]

SENATOR HOWARD: Thank you, Chairperson. You know, they always say the proof is in the pudding. And after doing this for two years, can you tell me that the time that children spent in foster care, the time before they reach permanence, whether it's adoption or return home or what their permanency goal is, can you tell me that time has

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

Health and Human Services Committee  
September 28, 2011

---

been shortened? [LR37]

CAMAS DIAZ: The length of time in care? [LR37]

SENATOR HOWARD: The length of time in care. [LR37]

CAMAS DIAZ: Over time has not shortened significantly on any kind of a sustainable trend line. [LR37]

SENATOR HOWARD: Has the number of adoptions increased? [LR37]

CAMAS DIAZ: We have not seen an increase in the number of adoptions. We've seen an increase in the number of permanencies through reunification. [LR37]

SENATOR HOWARD: Have fewer children come into care? [LR37]

CAMAS DIAZ: No. [LR37]

SENATOR HOWARD: Okay. Thank you. [LR37]

SENATOR CAMPBELL: Senator Krist. [LR37]

SENATOR KRIST: I don't see an opportunity to put this on the record with any other testifier, so. In other hearings we have heard that there has been Nebraska young folks placed outside of Nebraska at incredible cost, \$12,000 a month for three folks that are placed in Colorado from the Scottsbluff area. When we asked the question in the hearings in Scottsbluff and Grand Island and every place else, the answer was that there was no treatment facility available inside the state of Nebraska. Now I guess I spent a little time away from the state but most of my time has been here in the metropolitan area, and with Boys Town and all the care facilities that we have, including

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

Health and Human Services Committee  
September 28, 2011

---

one of the best psychiatric care facilities probably in the Midwest, I find that hard to believe. So I started asking questions about why that is. And in some cases it's the providers of care in the metropolitan area would not assume the responsibility of taking the Nebraska kid because the money wasn't there. Services had been cut, even post, previously when DHHS was handling the program, then we went to the contract process in terms of trying to outsource and privatize, and some of that actually went back to DHHS. Even the services that were provided for pre-contract, have been cut again. Again, you're...feel free to comment on that, but I think that's a travesty and I think that if that's the case, if Boys Town or any of the--and I don't mean to pick on Boys Town--but if any facility in the metropolitan area is refusing to take kids because they're not getting paid properly inside the state of Nebraska, and we are putting kids in Ohio and Colorado and Canada and Minnesota, which we know they're there, that's unacceptable. So that also goes with I guess the tasking, because we've heard those numbers or we're getting those numbers from all the other areas, I'd like to see those from the metropolitan area as well. [LR37]

CAMAS DIAZ: I can tell you that in the Eastern and Southeast Service Areas we have approximately 100 children placed out of state--100 state wards placed out of state. About 40-50 of those are placed in treatment group settings. The remaining are in adoptive homes, relative homes. So that is a very high number of children that are placed out of our state. I think that we do have many of the resources here in our state to serve those children. I think we do have a need to develop additional resources, especially some of those co-occurring disorder kind of placements who can serve children who present with multiple issues. And I do know that funding has been an issue. Medical necessity criteria has been an issue for placement of those children here in our state. [LR37]

SENATOR KRIST: Well, and I would agree, but I would point out that and to make the point that you just made: \$36,000 a month for three kids in a Colorado facility would buy a lot of brick and mortar. [LR37]

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

Health and Human Services Committee  
September 28, 2011

---

CAMAS DIAZ: It would. [LR37]

SENATOR KRIST: Thank you. [LR37]

SENATOR CAMPBELL: Ms. Diaz, I thought it was interesting...oh, I'm sorry, did you want to follow up, Senator Krist? I thought it was interesting that you mentioned the medical necessity issue. This committee is also following that issue as it may affect the child welfare system, but particularly as it will affect children's behavioral health. To your knowledge, is the department relooking at the definition of medical necessity because of the problems that we have with the number of children out of state? [LR37]

CAMAS DIAZ: Not to my knowledge, Senator. [LR37]

SENATOR CAMPBELL: Okay. So we're not...the department isn't seeing a change in that definition yet to your knowledge? [LR37]

CAMAS DIAZ: You know, not that I'm aware of. I guess I can't speak if there's other conversations or considerations, but not to my knowledge. [LR37]

SENATOR CAMPBELL: Because those two issues are becoming intertwined for the committee and they...one seems to be capturing our attention with great importance and urgency, particularly in the medical necessity issue on definition. Thank you, Ms. Diaz, for coming today, and I'm sure you wouldn't mind staying around this morning in case there are additional questions. [LR37]

CAMAS DIAZ: Thank you. [LR37]

SENATOR CAMPBELL: Our next testifier--I'm trying to make sure I have the right agenda here--is Alicia Henderson. Ms. Henderson is the Lancaster County Deputy



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

Health and Human Services Committee  
September 28, 2011

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County Attorney and could not appear in Lincoln, and we were pleased to schedule her in today. While she is making her way, I would like to introduce. Senator Pete Pirsch has joined us. Senator Pirsch, welcome. Glad to have you. Good morning. [LR37]

ALICIA HENDERSON: (Exhibit 3) Good morning, Senators. I was on vacation when we were having the meetings in Lincoln, and I did appreciate the opportunity to be able to come here to Omaha to be able to testify. My name is Alicia Henderson. It's A-l-i-c-i-a, Henderson, H-e-n-d-e-r-s-o-n. I am the chief deputy of the juvenile division in the Lancaster County Attorney's Office. And basically that means that I'm in charge of the lawyers that are doing all of the prosecution of cases in juvenile court: abuse and neglect, law violations, as well as ungovernable kids and truant kids. And I guess the thing that I want to really emphasize here...and, you know, this is your fifth hearing, so you know some of this. But really, from our point of view, those of us who are in the trenches on the ground working with kids, is that kids are not numbers. And to the extent that you are able as policymakers to remember that and keep that in your mind, I really appreciate it. One of the things that I think that...I don't think the press tells you everything that you might need to know about what really is happening to children. So I just thought that I would go through and talk about all the children in the last month who were removed from their parents' care in Lancaster County and for what reasons. It's a pretty easy list. This week, eight children were removed from 15 down to the age of 2, living in filthy conditions, feces everywhere in the house, buckets of urine and feces sitting around in the house, and the parents were using methamphetamine. It came to the attention of law enforcement because one of the children had put his fist--this was a small child, 5 years old--put his fist through a window in the home, and he was giving one story about what happened and his mother was giving another story when they went to the hospital. Last week, a child was present when her mother took pills to try to kill herself, and the child observed this happening. Another child was removed last week because he was afraid to go home because his father will physically abuse him again. The week before that--we're still in September--the week before that an 11-month-old child with two skull fractures, two broken ribs, healing burns on his back, and a ruptured

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Health and Human Services Committee  
September 28, 2011

---

intestine caused by abuse. Same week, 16-month-old child suffers a broken leg, and you probably read about this one in the paper, when the child fell out of the window, second-story window, when his mother was supposed to be taking care of him. The week before that, two elementary-age children being cared for by parents who are actively using methamphetamine. And if you know anything about methamphetamine, you know that's unsafe. Two weeks, two children were removed from their parents because of domestic violence: the father who was threatening to shoot anyone who got in his way of trying to see his children, and the father who was using methamphetamine, which was basically causing psychotic behavior. That's one month of removals in Lancaster County. Now if I went back...I mean, there's just heartbreaking stories. All right, so you know that. But I think we've got to keep that in our minds. My testimony really is going to focus on what I see was problems. I'm going to talk about the problems that I observe every day. Most of the problems I see, of course, are going to be in court. People who are guardians ad litem or parents' attorneys are going to be able to speak more about interactions outside of a court setting. So I would encourage you to ask those questions. The three top observations I have, and it's on my outline here that I've handed out, is lack of basic training and understanding of safety and risk. And I think you need evidence. You don't just want me to tell you or assert to you that that's what the problems are, so I'm going to try to give you stories for each one of these. And what I would tell you is that these is not isolated incidents. These are just ones that we had within the last two months in my office--things that we have never seen before, okay? We had a teen runaway. She was adjudicated as an uncontrollable child. So we call that a 3B case, right, because of her runaway behavior. The case started and we had to put her in a staff-secure facility to keep her from running away. She had run away over 20 times. Eventually she was released after she had been evaluated, to go to a group home. And on...and that was on the 25th of May. We received the court report on the 25th of July, so two months later. That is the first time that my office and the guardian ad litem for this child, that is the person who is responsible for this child, this is the first time that we learned that that child had been on run, missing for six weeks. No one had contacted our office. We can actually do a court procedure, we can do a pickup order to

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Rough Draft

Health and Human Services Committee  
September 28, 2011

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have the child, when she's found by law enforcement or somebody else, be placed again in staff secure for her own safety until we figure out what we can do with the child. While this child was on run, she drank, she used drugs, and got new law violations in yet another county, but was never brought to our attention. That's unacceptable. How can that possibly happen? Another case where lack of basic understanding and training I think causes problems. There's four young children. The mother and father were both adjudicated for trying to parent these very small children while using and selling methamphetamine. The mother was making quite good progress. She was actually in the adult drug court because of her felony case. And the caseworker wrote an affidavit, which is the way to cause a placement change to happen. It's time for these kids to go home; let's not wait for court. Let's put these kids back with their mother, we're all thinking. So we asked a few questions and through e-mails, and we get that information, and Mom is doing quite well and she hasn't tested...you know, eventually we get to the point where everybody agrees that the kids can go back to the mother. This is great. We don't have to wait for court. The father disagrees. The father has one of the children; he doesn't want his child to go to the mother. So it gets set for a hearing. So we're all sitting out in the lobby, as we are inclined to do while we are waiting for court to start, and what happened is, at that time is the first time anyone involved--the guardian ad litem, the mother's attorney, the father's attorney, the other father's attorney, and the HHS representative--the legal guardian for the child, learned that there was another man living with the mother in the mother's home. Now I don't know about you, but isn't it the first thing you would want to know is who is living in the home? Who's there? Well, we find out that the gentleman who is living with the mother is also an addict who is recent recovery and, although he...you know, we find out perhaps later that he's doing well, none of us even know this and the caseworker didn't tell anybody. And we were about to move these children into a home where we have no idea whether it's safe or not safe. That is unacceptable from my point of view. Okay, so we fast forward. We all find this out and we say, Judge, we need to continue this hearing; we need to do a little more investigation. We go back. We come back in, I don't know, two or three weeks later. We come back, and the caseworker has done, um, about this much work trying to figure out

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Rough Draft

Health and Human Services Committee  
September 28, 2011

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whether the father is acceptable. Instead what was happening is the attorneys for the mother, the attorney for the father, did all of the work necessary for the court to know whether this was safe or not. We got to the end of that hearing, and I know there were representatives from KVC and the department sitting in the back of the courtroom, you know, just shaking their heads, going how can this possibly be? The judge basically said, all of the noncaseworkers in this case are doing the case work. The judge actually ended up crafting her own order to move these children into the home so she could provide for safety for these children. Why are we doing that? Okay. [LR37]

SENATOR CAMPBELL: Ms. Henderson, and I hate to tell you this, but we do need to move along here. [LR37]

ALICIA HENDERSON: Oh, I know. And you know, the problem is I think you need to know the stories behind them, and the stories take awhile to tell. So I'll see if I can't get on a little bit faster. Failure to provide pertinent information to the courts and parties. I would like to read from a court order. And, you know, people want to know, is this the same as it was back when HHS was running the show? I think that's a legitimate question. What I can tell you from my experience, I've never seen a court order that reads that like this, before when HHS was the one in charge. Family permanency specialists for KVC was sworn and testified that the father had been living in with his daughter--the 16-year-old, by the way--who he had abused and who he had submitted to domestic violence. The court's order in the case was only supervised visitation for the father. We find out, in court, that the father has been living with the child. KVC worker knew this, and when questioned--and this is in a court order--the KVC worker stated she forgot to include that information. I've never seen something like that in a court order ever. Ever. Not knowing where your ward is for an entire month. That's another thing where a baby was missing for an entire month. They had no idea where the mother was living with the child. You probably read the case about the child who was kidnapped during a supervised visitation by her mother. That was, what, two or three weeks ago that happened. The worker was a KVC worker. And things have been raised, questions

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Transcriber's Office  
Rough Draft

Health and Human Services Committee  
September 28, 2011

---

have been raised, and I can't talk about that case in any kind of detail because of the fact that we are criminally prosecuting the mother, but questions were raised in the paper about where was the visitation worker actually, and why have the visits moved back to the mother's home when the mother had threatened to kidnap the child previously? I think there's huge pressure in the system to reduce the number of state wards, and I'm hearing that as one of the concerns, has always been one of the concerns, we need to lower the number of state wards that we have. And one of the things that I would ask this committee to look at and to hear is...I'm questioning whether or not we have accurate data, and I'll get there in a minute, but I do know that the toddler who fell out of the second-story window, who was 17 months old, there had been eight prior investigations. Three of them were ongoing investigations at the time that the child fell out of the window. Why was that child not removed? Good caseworkers working on that case. Why was that child not removed before the child fell out of the window? See, those are questions you have to ask. And without you having that evidence, it's hard to ask those questions. All right. I don't know if in your packet is this information. It is the Nebraska Annual Program Improvement Plan that maybe Ms. Diaz has given you that. I participated in a plan improvement meeting. And one of the things I think that you always need to be aware of, and I'm probably preaching at the choir here, is that when I'm looking at data, I'm looking for data that starts at the same time across the data points and ends at the same point across the data points. See what I mean? So in other words, if you're going to measure kids returning back into the system, start at one date, end at another date, and then compare all the rest of the data during that period of time. On page 4 of the information that we received on this program improvement meeting, the data points are changing. A decrease between April 2006 and July 2008, a decrease in wards from April to 2008, but then an increase or a decrease, depends on what you want, between July 2009 and July 2010. Keep the data points consistent or you are not getting an accurate measure. All right? So I'm just asking you to look carefully at that. I know one thing for sure: placement stability data for the Southeast Service Area indicates that kids are in more stable placements. That is, they're not moving as often, all right? And one thing that I think you have to dig under

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Rough Draft

Health and Human Services Committee  
September 28, 2011

---

to find the answers to that is, is that accurate or not? I know from working on cases, that we will have a child in a foster home and we will say the foster home situation dissolves. You know, the kid's behavior is so out of control, the foster parent cannot keep the child any longer, right? So we've got to do a placement change. Instead of that placement change occurring and having us notify that the child is placed in respite, we are waiting until--that is KVC is waiting to send us an affidavit until we have a permanent placement for the child to go. So the child himself, from his eyes, is in one home, is moved to a respite home for a month, and then is moved to another home. That is called two placements, because no one is counting the respite placement within the systems that we have private contractors. I do know that in the systems where we don't have private contractors, Northern, Central, Western areas, they have to keep track of each one of those. So in the Western area, you're going to see three placements and that's what it should be. So be careful about the data. Ask those questions underneath that data that you have in these cases. I would encourage this committee to actually do a study. Do other states include OJS youth, or I'll call them kids who have committed law violations, in their state ward numbers? Not in all states. We need to know. Are we trying to solve a problem we do not have? Everybody says Nebraska has too many state wards. Well, if Iowa is counting their state wards as only children who have been abused and neglected, and we're counting children who are abused and neglected, children who are uncontrollable, and children who commit law violations all the same, of course our numbers are going to be larger. Somebody needs to study that. You need to figure out, are we comparing apples and oranges or are we all comparing apples? In my opinion, that needs to happen. I know for sure, in Iowa...I had a case transferred from Iowa to Nebraska. That child was a neglected, abused child. That child was not counted as a state ward. He was not made a state ward because, instead, the court placed the child with a grandparent directly. That kid is still receiving services. The parents are receiving services. All of those things are happening for the good of that family and for the good of that child, but that child is not being counted as a state ward. Somebody has to study that. We have to figure out, do we have a problem or not that we are trying to solve through this effort? [LR37]

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Transcriber's Office  
Rough Draft

Health and Human Services Committee  
September 28, 2011

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SENATOR CAMPBELL: Ms. Henderson, we really do need to finish up... [LR37]

ALICIA HENDERSON: Yes, I am done now. [LR37]

SENATOR CAMPBELL: ...because I want the senators to have a chance to ask you questions. [LR37]

ALICIA HENDERSON: Yes, and I am finished. I really think a very...and I know you've been doing a very careful look, but that's just a suggestion that I have. [LR37]

SENATOR CAMPBELL: Questions? Senator Howard. [LR37]

SENATOR HOWARD: I really appreciate your testimony. Thank you for coming in today. I want to give you the chance to talk a little bit more about caseworker turnover and the high caseloads. You've got this down as your third area, and I think this is a really important topic to get into, because you and I both know that if you've got a number of case managers, this is only going to delay the permanency for the child. [LR37]

ALICIA HENDERSON: And that's absolutely true. The case that I wanted to talk about in regard to that is we all know...I mean, if you think about this logically, if the people who are actually hands-on in charge of the children don't know the history of the family and don't know what's going on with the family, those of us who do, start to clutch on to that family. We want to hold on to them to make sure that everything really is okay. Right? And we can't help ourselves. We want to make sure these children are safe. I have a case that I just did where the mother and the father were, one of them, we don't know who, abused a baby, broke it's leg. We just don't know which one did. And this is a child under the age of 1, I think six months actually, whose leg was broken by one of its parents. We have been doing attempts at reunification. The mother is rather low

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

Health and Human Services Committee  
September 28, 2011

---

functioning. We did a psychological evaluation of the mother. The father was actually doing most of the parenting or...but then he got hauled off to jail because he got a DUI. And so he ended up not being a part of the, you know, plan for awhile, here anyway. And he also has an immigration hold so we don't know when he's coming back. You see how complicated this gets? Fourth caseworker within four months' period of time shows up in court. And fast forward, the mother has now had another baby, and so we've got this baby whose leg was broken, she is a toddler now, and we've got this rather low-functioning mother, and we have this new baby in the home. And we are talking vulnerability. Dad is out of the picture. Mom is in her very first job she's ever had, is living on her own for the very first time, and we're going to go...we're going to reduce the level of supervision. So we reduce...the question is, I asked the caseworker...I mean, this is embarrassing. If I were...no wonder they hate coming to court in Lancaster County, because we're going to ask the tough questions. I literally asked the caseworker, what happened to bring this family into this system? What happened to the child? Her answer: an injury. What kind of injury? "Well, I'm not exactly sure." Okay, the child's leg was broken, right? "Oh, yeah, that's right. That's what happened." Okay. Next question: Have you read the psychological evaluation of the mother? Answer: only the recommendations. She had not read through the entire psychological evaluation. I mean, we've got vulnerable children in multi-issue families. We've got to have stable caseworkers so that we have the ability to be able to work the cases and move them forward. And what I'm hearing is 20-25 cases. Another caseworker burst into tears when somebody asked her how many cases she had, in court the other day. [LR37]

SENATOR HOWARD: I appreciate your reflections on this. As somebody that carried a high caseload for many years, I know no case is easy and no case is simple. And if you have people working cases that possibly don't have the background to do it or the time to read the reports, you're not going to get any services for the family. It's going to go nowhere. So thank you. [LR37]

SENATOR CAMPBELL: Senator Gloor. [LR37]



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Transcriber's Office  
Rough Draft

Health and Human Services Committee  
September 28, 2011

---

SENATOR GLOOR: Thank you, Senator Campbell. And thanks for sharing and for your very passionate way of presenting the information. [LR37]

ALICIA HENDERSON: I'm sorry. [LR37]

SENATOR GLOOR: Not a problem. It helps obviously make the point. I've got... I mean these are very brief questions. Actually one is a comment. The OJS youth not being included as state wards has come up I think at every hearing. [LR37]

ALICIA HENDERSON: Good. [LR37]

SENATOR GLOOR: That seems to be one of those common themes you talked about earlier. And I want to make sure I heard you correctly, the whole issue of state wards, that you believe services should be more readily available without the clients, the children, becoming state wards. [LR37]

ALICIA HENDERSON: What I'm saying is that there are other places where that happens, where children are actually removed from unsafe situations and they are not made state wards but the families are still getting services. There are times when we can manage families outside of the court system. I do believe that, although those people behind me are probably going, yeah Alicia, when was the last time you wanted a noncourt case? But what I'm really very concerned about are children who are in out-of-home placements on a voluntary basis for long periods of time where there are significant issues. I mean I heard from a CASA worker saying a grandfather said he had his child for six months. He's had his grandchild for six months, and you know, he doesn't know what's going to happen on the case. There's nobody representing...I mean, you know, I'm a prosecutor. I want parents to have representation so that if their children are placed out of their care, that there's a reason their children are out of their care. If there's no court involvement, they have no attorneys representing them, and

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Transcriber's Office  
Rough Draft

Health and Human Services Committee  
September 28, 2011

---

HHS can, you know, just do these out-of-home plans and KVC can run the out-of-home plans without there being any oversight, any lawyers representing anyone. For six months of a period of time? That's a long time to be in an out-of-home placement without any oversight. [LR37]

SENATOR GLOOR: Thank you, Ms. Henderson. [LR37]

SENATOR CAMPBELL: Any other questions from the senators? Thank you, Ms. Henderson. [LR37]

ALICIA HENDERSON: Thank you. [LR37]

SENATOR CAMPBELL: Our next testifier is representing the Douglas County Attorney's Office: Nicole Gorley (phonetic). I am sure I'm not pronouncing. Would you just like to give your materials to the clerk. Thank you. I'm sure I'm not pronouncing that last name correctly, so if you would state your name and spell it for us. [LR37]

NICOLE GOALEY: Nicole Goaley, N-i-c-o-l-e, last name G-o-a-l-e-y. Like Alicia, I'm a deputy county attorney in the Douglas County Attorney's Office, supervising the juvenile division for Don Kleine, the Douglas County Attorney. I really don't want to repeat what Alicia said because obviously we're experiencing the same thing. In our area, we have two contracted agencies, KVC and NFC, so it's difficult to...I don't want to lump them into one because that wouldn't be fair, but at the same time I'm not going to be able to give specifics about, in each case, who was involved. If you have any questions, obviously I'd be more than happy to answer them. I tried to just sum up some of my concerns in three bullet points that kind of mirror what Alicia has already stated. I do have great concerns for the legal understanding of the workers that are being asked to manage these cases. As Alicia said, this is court. There are statutes that apply, case law that applies, policies and procedures. And taking into account the turnover, I think it's a very difficult position to have these workers and that we have problems in that

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

Health and Human Services Committee  
September 28, 2011

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area. For instance, termination of parental rights. When it's come a time where a parent is not able to rehabilitate and reunification is not possible, a termination of parental rights pleading is filed. Because of turnover, we have seen new workers who now assigned to a case and where a termination of parental rights has already been filed, changed their mind in terms of I want to work with this parent now; I want to work with this family. That compromises the prosecution of the case, and now we don't have our evidence from the prior workers who were at the point to provide to us best-interest testimony, that it would be in the best interest of these children to have their parental rights terminated. In addition to compromising the prosecution of that case and establishing permanency for these children who may have been in the system two years or more, our office is not always advised that there's been a change of mind or a change in what the testimony is going to be. Defense counsel will be notified. We're not going to testify for the state as to the best interest; we've changed our mind. We find out in a elevator from a defense attorney or a guardian ad litem instead of finding out from the case manager--and that's concerning. With regards to legal understanding, I believe as Alicia pointed out that there's pressure to keep children from coming into the system and there's two different things that are occurring at the front gate. There's voluntary placements that Alicia spoke of but there's also safety plans. I am concerned that there's not a solid understanding of the difference between the two. My understanding of a voluntary placement is a parent has signed something placing their child into voluntary care, that they're a voluntary state ward and that there's some legal custody there. A safety plan is a plan put in place for the safety of the child but there hasn't been any voluntary placement or giving up of any rights by the parent. Yet, we'll receive...Alicia went through September's affidavits. We may received four affidavits for a total of four families in a given hour. Last Tuesday, was chaos in our office with four affidavits, the majority being failed safety plans. And the pressure put on our office to try to figure out the circumstances of each of those families, even though we can contact judges on evenings and weekends, we're going to try to do it when they're there in the building. We didn't know where one of the kids was. We don't have thorough information. An affidavit that's been held up getting to us because it's been waiting to go

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

Health and Human Services Committee  
September 28, 2011

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through the levels from the contracted agency through HHS to our office. Phone calls that we receive with panicked caseworkers and try to assist and figure out the situation, and hearing words of this child is right now at the office of one of the contracted agencies. Is this child a voluntary state ward? No, it was a safety plan. Then how do you have physical custody of this child? Well, we can't find the mother. At this point, that would be a circumstance where you would generally call law enforcement because you have a child and the whereabouts of the parent are unknown. But to pull law enforcement into a failed safety plan when they don't have the rest of the information, puts them in a position that isn't going to help our situation either. If children are in the physical custody of these contracted agencies and state employees but the parent hasn't signed over any rights to them, being that those workers are not law enforcement or judges, and in our state those are the only two agencies that can take protective custody of a child, I have concerns in how that's going to affect our case when we try to prove it in court. These safety plans and the failed safety plans in the affidavits that we're receiving are putting our office in a very close position of almost having to investigate our cases, which is unethical. We are not an investigating agency. That is the role of law enforcement and child protective services. Yet we find ourselves in a position that to be successful in protecting the children in the courtroom, that we have to go a little bit more in that direction, and it is becoming, as I said, a gray area about what is ethical and what is not. The second area is the layers and communication that cause me concerns. The contracted agencies are not the legal guardians of these children, even when they're state wards, because they are contracted agencies. Therefore, schools trying to obtain information on these children, who can they give this information to? Who do they communicate with? Probation and their role in the statute for intake probation and screening and releasing youth, who can they legally release these children to? So many professionals involved in these cases that when you want a question, you have to send out an e-mail to the entire hierarchy to just find out who's on this case that we can call that we can get ahold of. Difficult to get ahold of people because they're at trainings or they're at this or they're at that. I'm in a little bit different position that Alicia in that there's going to be...there's 16 attorneys in the juvenile

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Rough Draft

Health and Human Services Committee  
September 28, 2011

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division in Douglas County, if that gives you an idea of the volume that we're dealing with. I don't visit the courtroom very often anymore because I participate in meetings with Ms. Diaz and the other administrators, trying to resolve some of these issues. And I think that it's fair to say that there is a general good-faith effort on behalf of these administrators all the way down to the workers who care about the system and about these cases. And I have the opportunity to be in these meetings, including 1184 meetings that are statutorily required, where it is tough. We go into these meetings and anyone present at them, and there are several of them here, can tell you tough is an understatement. And we staff these cases and we try to work them out. And I get to see the good faith and the efforts to improve. The other 15 attorneys in my division, they don't get those opportunities. They're in the courtroom all day long and they're frustrated and they're not trusting of what's going on. And it's chaos for them in trying to do their job, and that's my role is to make sure that our job gets done. If there's any questions that I could answer, I would be more than happy to do so, but I think that gives a general impression of how we feel. [LR37]

SENATOR CAMPBELL: Questions? Question, Senator Krist. [LR37]

SENATOR KRIST: In 1996, we passed the then-passed legislation that rolled all these things together and to the Department of Health and Human Services. You heard comments from Alicia before about OJ being removed from the process. Is that your opinion? [LR37]

NICOLE GOALEY: Well, actually I want to make sure I understand the question. I think Alicia was talking about the numbers, whether or not other states count those kids in the numbers, even if they are (inaudible). [LR37]

SENATOR KRIST: Yeah. Besides the metrics, besides the reporting of the data... [LR37]

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Transcriber's Office  
Rough Draft

Health and Human Services Committee  
September 28, 2011

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NICOLE GOALEY: Okay. [LR37]

SENATOR KRIST: ...are we doing a disservice to these kids by putting them all together in one lump sum? [LR37]

NICOLE GOALEY: Including in the privatization? [LR37]

SENATOR KRIST: Right. [LR37]

NICOLE GOALEY: I think the best way that I can answer that is on a regular basis these OJS youth are committing new crimes, violent crimes, and I have the opportunity to see even those police reports where they're charged as adults. And that's disheartening, and so it's not a direct answer to your question, but we are not effectively rehabilitating them, and I...and that's another part of the reason why they're going out of state, because there's not an assurance by the bench that our ultimate youth treatment and rehabilitation center will meet the needs of these youth, and the needs of these youth at least in Douglas County, and the violence...I could talk for hours. [LR37]

SENATOR KRIST: I know. A couple of more questions. We're not hearing from a judge in open testimony this morning, so I'll direct it your way. We've heard in other testimony, and I think it's relevant, that the judges are not getting good information about the child and about the young person or young adult or child because the wrong people are speaking for them in the courtroom. Can you address that for me? [LR37]

NICOLE GOALEY: It's going to be case by case, because I think as we all know, it depends on the quality of the case manager assigned. So there is a confusion in terms of the roles, I believe sometimes, of who is doing what. But the information is lacking I would say more from training in terms of how to prepare a court report, training in terms of what should be all read and completed, and the expectations of the court. Does that answer your question? [LR37]

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

Health and Human Services Committee  
September 28, 2011

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SENATOR KRIST: Somewhat. Are those court reports being prepared in a timely manner to give the judge and the court and everyone that's making the decision or helping make the decision (inaudible)... [LR37]

NICOLE GOALEY: Not under all circumstances but under some circumstances. So sometimes it depends on if your worker is on the ball. Some of them are prepared in a timely manner. Some of them are not. The confusion comes from who is the...we went through this over the past year. Who's the true author? Who is to cross examine,... [LR37]

SENATOR KRIST: Right, so... [LR37]

NICOLE GOALEY: ...the provider or the... [LR37]

SENATOR KRIST: So to that point, doesn't current state statute say that that is a Department of Health and Human Services' employee and not a contract employee? [LR37]

NICOLE GOALEY: Yes. So now I think I understand your question. We have had, yes, this has been a dilemma that has been going on for over a year and I believe why Health and Human Services and Ms. Diaz spoke to having a CFOM present in the courtroom. However, that CFOM is an oversight. [LR37]

SENATOR KRIST: Right. [LR37]

NICOLE GOALEY: They don't have the direct knowledge and information in that report. They didn't write that report. They approved that report. So it remains a concern, yes, about that statutory authority being delegated out. When we're sitting there as a prosecutor, our concern is, who does have firsthand knowledge? [LR37]

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Health and Human Services Committee  
September 28, 2011

---

SENATOR KRIST: To continue to do what we are doing right now, is it your legal opinion that we would have to actually change the statute? Are we in violation of statute right now by allowing people to talk for kids in court that are not supposed to be talking for kids in court? [LR37]

NICOLE GOALEY: I don't want to be disrespectful at all, but I don't know that I should give that legal opinion in terms of the... [LR37]

SENATOR KRIST: You don't want to be a judge? I'm kidding. I don't want to put you on the spot, but I guess to summarize, what we're hearing is the judges are not getting good information because people are talking for the kids that aren't necessarily the people who know those kids the best. They are this macro oversight person, CFOMs, which is a great organization I guess in structure in and in theory, but it's not the person who knows that case, those particulars. And you spoke I guess to the inconsistency when you have turnover, which complicates that issue even more. [LR37]

NICOLE GOALEY: Absolutely, and I don't disagree with you at all. We have to have the person with firsthand knowledge in the courtroom. And additionally, we have to have the legal guardian in the courtroom. [LR37]

SENATOR KRIST: My last question, which is actually...and I don't want to put you on the spot, but you're in the trenches working with these kids. Don't you think it's really important that we define the difference between a safety and a voluntary plan, and that you know those differences and everyone involved with it knows? [LR37]

NICOLE GOALEY: Absolutely. And when you say I'm in the trenches, and I said I'm not in the courtroom, I'm not in the courtroom because I'm in my office so that I can field every attorney that comes back from court through my office... [LR37]



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Rough Draft

Health and Human Services Committee  
September 28, 2011

---

SENATOR KRIST: That's the trenches. [LR37]

NICOLE GOALEY: ...to tell me what just happened, and then to turn on the phone or e-mail and figure it out at all times of the day and night. So yes, I think those things are extremely important. And it's...I'm in a difficult position because we don't get the information unless the plan failed, either the voluntary placement or the safety plan, or I get a call from someone asking for advice or assistance, or what should I do--and a lot of follow-up. So I come by it by chance, sort of, but again we have a statutory obligation to review those, that 1184. And there needs to be a clear definition of the difference because I don't think that is understood, even down to the people, the workers that are trying to implement those two different--three different, because sometimes an affidavit comes--plans for these children. And when you read the affidavits about what they've been through during the course of the safety plan or the voluntary placement or the getting together of the affidavit, it is...they're not a name on a piece of paper. It's a child, it's a person, and it's difficult to read through them sometimes. [LR37]

SENATOR KRIST: Thanks for what you're doing, and thanks for putting up with my questions. [LR37]

NICOLE GOALEY: Well, no. Any time. [LR37]

SENATOR CAMPBELL: I'm going to take one more question. Senator Cook. [LR37]

SENATOR COOK: Thank you, Madam Chair, and thank you for coming out this morning. My question is related to something that you mentioned a few paragraphs ago related to the role of the CFOM in the courtroom. And if you could clarify for me, the CFOM is present in the courtroom but the caseworker does not necessarily access the CFOM to ensure that the order is being interpreted correctly? Because in my mind, that would be a great reason to have the CFOM there. Is that what you're observing in the...? [LR37]

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Rough Draft

Health and Human Services Committee  
September 28, 2011

---

NICOLE GOALEY: Well, but a CFOM isn't an attorney. They're...it's just they're from a different agency. They're from Health and Human Services and the worker is from NFC or KVC. So the CFOM...and Ms. Diaz can correct me if I'm wrong. My understanding is that a CFOM is present in court so that there is a Health and Human Services employee in the courtroom because there has to be a legal guardian present for the hearings, but that that CFOM isn't well-versed, and couldn't be given their case volume, in the cases that are occurring in that courtroom all day long. [LR37]

SENATOR COOK: Okay, in each specific case. I guess my question kind of rises from conversations that I've had with judges about being obliged to do the legal work of the plan together, so. Or the case/legal work to put the plan together. So I was trying to understand why if the CFOM is there, what a wonderful opportunity for each caseworker to ensure that she or he understands what each of the terms of means, etcetera, etcetera. [LR37]

NICOLE GOALEY: Right. But they won't get an order...they'll hear it but many of these hearings the orders are taken under advisement and for the very reason that the judges can become overwhelmed as well with all of the information coming from everywhere and from...so they need to get their thoughts in place, review everything, and then issue and order. So during the hearing, you might not get the findings, so there wouldn't be anything for them to necessarily look to the CFOM and ask for clarification, because those are going to come out, the order, the written order, later that day or the next day. [LR37]

SENATOR COOK: Okay. [LR37]

NICOLE GOALEY: If that makes sense. [LR37]

SENATOR COOK: Yes. Perhaps I'm remembering an example where this was not the

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Rough Draft

Health and Human Services Committee  
September 28, 2011

---

first time the child had been in the courtroom. So I guess the judge was relying upon prior information about that specific situation and crafting something from there. Thank you. [LR37]

NICOLE GOALEY: One follow-up comment to that. I want to make sure that also that you're aware, when we do receive affidavits from NFC or KVC, it's...they are the agencies with the direct knowledge of the safety issue. It's usually immediate. There is a process that HHS has put in place that the affidavit has to be approved by HHS before it can be sent to our office. Now I'm not making a comment on that process at all, but I think it's important for everyone to understand that there can be time delays in establishing immediate safety for a child with every layer that is put in place between a person with direct knowledge of safety and a prosecutor who can get to a judge and get a court order for that child's safety. [LR37]

SENATOR CAMPBELL: Okay. I'm going to...as Senator Howard says, she has a quick question, because I have so many people that want to testify, that we need to move. [LR37]

SENATOR HOWARD: Thank you, Senator Campbell. This is really more of a comment. I want to thank you for all you do. You and I have worked together years ago, and I really appreciate that you've stayed with this and been so serious about improving the system. Hearing all this just makes me sick, because I did this work a number of years ago, and it was hard then and now it sounds like a mess that has just gone south, frankly. I hope you stay with it. I hope you continue to work to make it better. But, you know, when you talk about a CFOM, basically they're just a cover worker who's there. They don't translate for the worker in the court. They're just present. And like you say, that's another layer. So I don't have an answer to this but I think this has really put us back so many years in trying to help kids and families. But thank you. [LR37]

NICOLE GOALEY: I appreciate your time. [LR37]

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Transcriber's Office  
Rough Draft

Health and Human Services Committee  
September 28, 2011

---

SENATOR CAMPBELL: Thank you very much for coming. It's been great to hear from two of the county attorneys offices. In every location we've not been able to have them so I've allowed that testimony to go on. I'm going to get a little bit tighter with the time. And please note the lights, because the clerk is giving you an amount of time. So we're moving on. Mr. Harmon will be unable to be with us today because he has been called to court. Our next testifier is Oscar Delgado. Is Mr. Delgado here? Mr. Delgado is a former youth in foster care. Good morning. [LR37]

OSCAR DELGADO: Good morning. My name is Oscar Delgado, O-s-c-a-r D-e-l-g-a-d-o. I was in foster care for eight years. I recently aged out back in June 23, and I've been a member of the Project Everlast Council for over three years now, so I'm deeply involved with a lot of the things that they do. I was told to come and speak to you guys about the reform, and the main focus of my testimony is going to be youth and youth transitioning from care. Youth that are in care, I mean they don't really have a lot of say, because they're either too young or too naive, immature, (inaudible). If they have something to say, then more than likely it's going to be valuable input. Back in my...you know, when I was younger, I was in foster care when I was 11. I was always speaking up, so my case was going the way I wanted it to. When I turned 16, I wanted to be a guardianship. I got guardianship because I spoke up and wanted to be guardianship. But then that guardianship dissolved a year and a half later. I was put back in care; aged out six months after that. So youth input is always valuable. Even if it doesn't go 100 percent, it's going to send you in the right direction. So it's something to consider during the reform. Another thing is maintaining connections with anybody and everybody, but the more important one is sibling connections. I was fortunate enough to be placed with my older brother and younger sister the whole entire foster care experience, and that just made the whole experience a lot smoother because I had somebody to talk to that wasn't an authority figure or somebody that wouldn't tell somebody, you know, really information that would eventually get me in trouble if that was the case. (Laugh) So connections are really important. An example that we've been

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Rough Draft

Health and Human Services Committee  
September 28, 2011

---

using is a father and a son, you know, like working on cars together, and the son gets put in foster care. He, you know, continues to work on cars but then he ages out of foster care. He is going to go back to his dad because he liked working on cars, but then, you know, the whole missing father/son relationship is going to be something that they're going to have to get over and it can be really awkward. So that's something to consider, too, is connections, sibling connections are the most important ones. And then for youth that are in the process of aging out, a lot of them wind up being homeless, jobless, and don't even go on to secondary education. Again I was fortunate enough to, you know, graduate on time. Well, I graduated ahead of time and went on to college. I'm currently at UNO and I do have a home. I have a roommate in an apartment. But a lot of these youth don't have the support and don't have somebody on their back constantly telling them that they've got to do this, they have to do that, and that's something that should be there. I know a lot of you that are homeless and don't have jobs because they don't have the proper skills. They either get signed up for an independent living class, don't show up because of the support. I mean, you can sign them up but making sure they're there is, you know, the second part of the thing. And another thing is just preparation for anybody and anything. I mean be prepared to give praise when a good thing is done and be prepared to give constructive criticism. Don't just directly down them. So I mean that's honestly all I have to say is just youth in care, valuable input, supportive relationships, and youth transitioning from care, preparation, and then the proper services given to them while they age out. Thank you. [LR37]

SENATOR CAMPBELL: Mr. Delgado, I want you to know that at every hearing we've had, we've had a representative of foster youth, and in every case you've all been greatly articulate and focused and have great testimony. I really appreciate you coming today and I know all the senators do. We've been so impressed with the foster youth who have taken time to come and share their thoughts with us. Questions from the senators? Comments? Oh, I'm sorry. Senator Cook. [LR37]

SENATOR COOK: Thank you, and thank you for coming out this morning. I certainly

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Rough Draft

Health and Human Services Committee  
September 28, 2011

---

appreciate your perspective, actually above some of the other perspectives, because it's directly impacted your real life. Having heard what you've heard this morning and reflecting on your experience in the foster care system, what is the one thing you want to make certain that we are creating in the law that will help you be successful or help other youth be as successful as you have been coming out of the system? [LR37]

OSCAR DELGADO: Well, from what I've heard previously, the main one would be the lack of training that a lot of the people have in the court case. I know from experience previously (inaudible) four or five caseworkers my entire foster care experience. I didn't know my second, third, or fourth caseworkers. My first caseworker wasn't the best one and my fifth caseworker did the best she could but it was such short notice she really couldn't do much. So that would be one of the main important ones. And then the second important one would be, you know, youth aging out of care, making sure that they have the proper things they need to age out. [LR37]

SENATOR COOK: Okay. Thank you. [LR37]

SENATOR CAMPBELL: Mr. Delgado, just a comment I want to mention and for our audience that may not know, in the last session of the Legislature we passed a bill on fostering connections which very clearly said to the department that the communication with siblings needs to be there. So we did put that emphasis into the Nebraska statutes and we will be watching it. It's an excellent point to make. Senator Howard. [LR37]

SENATOR HOWARD: Thank you, Senator Campbell. A quick question. Are you going to UNO on the former state ward program? [LR37]

OSCAR DELGADO: Actually, I wish I was but I'm not. I was "guardianshipped," and then there was a clause in the former ward thing that stopped me from receiving my former ward. And then when my guardianship dissolved, I was given a caseworker, so I thought I was a state ward again and I could apply. I applied. I guess I qualified for it

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Rough Draft

Health and Human Services Committee  
September 28, 2011

---

and then maybe a week after I aged out, my case was re-reviewed and it said that I didn't qualify for it anymore, so I (inaudible). [LR37]

SENATOR HOWARD: Well, that's kind of puzzling. You went back from the guardianship back into being a state ward. [LR37]

OSCAR DELGADO: I guess that's what people have been telling me. [LR37]

SENATOR HOWARD: So you were a state ward when you aged out. [LR37]

OSCAR DELGADO: Yeah, for the six months prior to aging out. [LR37]

SENATOR CAMPBELL: We'll check into that. Thank you, Mr. Delgado, very much for coming today. Our next testifier is either Amy or Curt Harrington. Mr. Harrington is a foster parent. Good morning. [LR37]

CURTIS HARRINGTON: Good morning. Is this on or do I have to turn it on? [LR37]

SENATOR CAMPBELL: No, I think you're fine. Would you state your name and spell it for the record, sir. [LR37]

CURTIS HARRINGTON: (Exhibit 4) Curtis Harrington, C-u-r-t-i-s, Harrington, H-a-r-r-i-n-g-t-o-n. My wife Amy and I have been foster parents for almost 11 years. We have had over 45 children placed in our home, anywhere from 24 hours to two and a half years. We currently have two children placed in our home under the age of five. Using the format that you guys used, our top three observations, the only one of the lead providers that we have had experience with is NFC. With NFC, we have had monthly meetings where the team meetings, every month, they occur religiously and they involve everybody that the parents wish to have involved. We have had monthly home visits where the worker actually comes out to our home and meets with us and

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Transcriber's Office  
Rough Draft

Health and Human Services Committee  
September 28, 2011

---

talks with us and our children about what they need. These things did not occur regularly when we were a department home. We have easy access to all of our workers. We have had issues and we have had things that needed to be dealt with and we have been successful in contacting the worker, the worker's supervisor, and then also when lists of concerns were generated we were able to have experience contacting all of the administrators for NFC. Our experience has been that these people are really working hard and truly want what's best for the kids in our home and all of the kids, but it's a difficult system to manage. The top three issues that we see that are facing us currently with the two placements that we have that are under five, the mom and dad are both involved and they have very unique and distinct cases. Mom's issues appear to be that there has not been enough documented services that county attorneys and judges can make informed decisions on what is in the best interest to provide permanency for the children. So for the second or a third time we are back to providing the same services again to a mom so that they have enough documentation and are able to proceed forward to provide the child with permanency. The issue that we have on the father's side is that he has only been adjudicated to the fact that he was incarcerated. The children were out of care. They returned to his care. They came back out of care due to his incarceration, and the only thing that's being addressed is Dad is being incarcerated. We have young children who are faced now with Dad's time in prison, and that's a huge factor in them going forward and providing permanency. The biggest frustration that we have had as foster parents working with these two kids is that every professional is doing their job. Everybody can look at us and say, I did my job, I have done my job. But we're not going anywhere, you know. Everybody says this is what I did, this is the information I have, and they want to say that there's another part of the department or another part of the system that's not working. Whether it's the state, whether it's Health and Human Services, whether it's the county attorney, whether it's the judge's ruling, the guardian ad litem, the parent's attorney, who is responsible for making sure these cases move forward? One of the things that we want to address is the recommendation regarding children, the child welfare system going forward. It's been said several different times, you have guardians ad litem who are...you have



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Transcriber's Office  
Rough Draft

Health and Human Services Committee  
September 28, 2011

---

county attorneys who don't have faith in the agencies that are providing care. You don't have...they don't know that the services they're getting are the quality of services the decisions that are being made. Our concern is that all parties, whether it be the department, the county attorney, judges, guardians ad litem, lead agencies, service providers, the intake assessment people, the police, or the Legislature, are they all working together in a system that says this is the number one thing, and that's taking care of these children, or are we all caught up in not having the faith and the trust and the confidence in the other sides? And, in essence, that's what these hearings are about. Our point would be, when we do foster care we treat every child like they're our child. They go on vacations with us. They do the things that our kids do. Everything that we do as a family, they are included in. And I don't say that as a way to say we're great foster parents. I say that as a way to say, what would you want to have happen if your kid went into foster care? What type of service provided to you would you want if your kids were taken from you? Or if you had an adult child who lost their kids, what would you expect from all of the professionals involved in the case? And is everybody doing that, and would anybody accept the fact that there are failures in the system? It's complicated. It's this, it's that. It doesn't matter. What is best for these cases? We talked about the CFOM and that...you guys talked about it. That was one of the issues that we had. At our last court hearing, which was in August, we went for the very first time. And everybody walked into the courtroom, and there was a nice man sitting in the back of the room who nobody knew who he was. We found out that he was the CFOM worker. He had a pile of court reports that he was sitting there, and his sole purpose was to represent the department and say, we are present in the court hearing. He knew nothing about the case. He was not introduced. He had no input. When they went around and said, who's here, they didn't even address it. His name never even came up. Now I'm sure that on the court order or court report that his name is there because that's what he is, but everybody in the room kind of knew he's there because he has to be there but he serves no real purpose. The other issue that we have is not only in that role but as the need for these CFOM workers, what do they do? We currently have a young man in our home who needs to go see an asthma specialist. It's not an

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Transcriber's Office  
Rough Draft

Health and Human Services Committee  
September 28, 2011

---

emergency. He's doing fine. We went to our regular provider who said, go to a specialist. We are now waiting for up to three different people who are may be the assigned CFOM worker to give us authorization so that the child can go to the doctor's appointment on Friday. We don't know who the person is. We got an e-mail back from our agency supporter who said, I've contacted these three people; none of them have responded, so we hope that's who it is. Also on educational system, our children are younger if they want to have an assessment. Our concern is that the system was broke before privatization. It's been broke for a very long time. The difference was is when it was broken previously, nobody cared about what the costs are. Now the system is broke and you have lead agencies who have in interest in what the costs are. That's not a bad thing. As a state, as taxpayers, we have to be concerned about what are the costs. But the reality of it is, is the money is not the issue. It's are the services being there that these kids need? It doesn't really matter to me if the kid is the easiest case or the hardest case. They need everything that they can get. Somehow we have to fix the system and the whole system and not just say, go back. The children and the family are the most important concerns. Senator Howard, you addressed it. You said caseloads, training, supervision, stress. It's never changed. What's different now? The only thing that they added ten years ago, eight years ago, was, oh, we're underpaid; we don't have enough money. The same concerns exist now. They talk about the frustration as a foster parent. We're frustrated with the system and the fact that how many people truly care about what's in the best interest of these kids and how many people are just doing their job, and we're the ones in the trenches who everyday this is what we need for these kids. I think I'm out of time. [LR37]

SENATOR CAMPBELL: Anything else, Mr. Harrington? You're very thoughtful to look at the light. Did we skip any major point you wanted to make? [LR37]

CURTIS HARRINGTON: No. [LR37]

SENATOR CAMPBELL: Okay. [LR37]

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Transcriber's Office  
Rough Draft

Health and Human Services Committee  
September 28, 2011

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CURTIS HARRINGTON: And if I did, I forgot it already. (Laughter) [LR37]

SENATOR CAMPBELL: You're very generous. Thank you. Questions from the senators? Senator Howard. [LR37]

SENATOR HOWARD: Thank you, Senator Campbell. And I agree with what you're saying. For me, when I worked in direct service and case management, the foster parents were always a prize. They were always really valued because you are there every day with those children. You're the one that sees what's going on, how they're handling things. You would tell me what's happening. I disagree with you on one point. When I worked in the system, cost was always a concern. Always. I mean there was a budget. It was set. They did not exceed it. We could get clothing orders at that time, which I understand are no more. But what's happening now is then when one of the private agencies says, well, we maybe can't continue to do this because we can't afford to do it, more money is put into that system. If more money would have been put into the state system, imagine what we could have done for kids. [LR37]

CURTIS HARRINGTON: Absolutely. [LR37]

SENATOR HOWARD: It wouldn't have gone to administrative services. One hundred and--or what was that?--\$1.7 million wouldn't have gone out of state. So thank you. [LR37]

SENATOR CAMPBELL: I would like to draw the senators' attention to the fact that we do have a handout from Mr. and Mrs. Harrington regarding a letter that they sent and there's some very good points in that letter. I've just scanned it. Thank you, Mr. Harrington, for providing that to us. I think that might be very helpful as we take a look at the issues. [LR37]

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Transcriber's Office  
Rough Draft

Health and Human Services Committee  
September 28, 2011

---

CURTIS HARRINGTON: Excellent. Thank you. [LR37]

SENATOR CAMPBELL: And I want to join Senator Howard and I know I speak for everyone: Foster parents, we appreciate every day that you give to these children. [LR37]

CURTIS HARRINGTON: Thank you. [LR37]

SENATOR CAMPBELL: Thank you. Our next testifier is Ms. Karen Authier. Ms. Authier represents as a provider. She's listed on our agenda as an advocate which, yes, she is an advocate, but she is also a provider in the system. Welcome. [LR37]

KAREN AUTHIER: (Exhibit 5) Thank you. My name is Karen Authier and I'm executive director of Nebraska children's Home Society and I'm also vice president of the Children and Family Coalition of Nebraska--CAFCON, and I've worked many years as a professional, as an advocate in the child welfare arena. And I want to thank the committee for the invitation to provide testimony on the impact of the child welfare reform initiative and thank you for your leadership in assessing that impact and developing recommendations for the future of Nebraska's at-risk children. Our agency has been in the role of subcontractor with the original five lead agencies and currently we are a subcontractor with the remaining two lead agencies. As subcontractor, we provide foster care, in-home services for children and families, and relinquishment counseling. In addition to our work with the subcontractors, as a subcontractor with lead agencies, we also provide other services across the state, including pregnancy, parenting, and adoption services; postadoption services; prevention programming for teens; and operate a children and family center in Omaha. To put the current reform in perspective, I would reflect on the past in addition to surveying the present. When the state was very young, there was no state child welfare system. There were only private charities and county governments that had legal responsibility and limited funds for care of abused, neglected, and abandoned children. Since 1893, Nebraska Children's Home

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Transcriber's Office  
Rough Draft

Health and Human Services Committee  
September 28, 2011

---

has been a statewide resource for children. I wasn't around then but sometimes it feels like it. Privatization is not new, it's very clear. Now we are just adjusting to a new way of doing business, and that means that the lead agencies are intermediaries between the Department of Health and Human Services and the private agencies that serve as subcontractors and deliver the services. I want to share some observations with you based on some of the questions you had raised in your communication as it relates to lead agencies, issues that we're facing, and some recommendations. First, in respect to the lead agencies, I have several points. I believe that Nebraska Children's Home has solid and productive working relationships with both NFC and KVC and I do serve on the NFC Community Advisory Board. Nevertheless, all entities involved in the reform have experienced disappointment and frustration in our shared effort to meet the needs of Nebraska children and families. Some of those observations as it pertains to lead agencies are that there have been shared challenges. There have been some midcourse corrections and both remaining lead agencies have struggled to respond to an ambitious time line for implementation, changing expectations from the department that did not necessarily match funding allocations, responsibility for outcomes without the authority for case management decisions that impact those outcomes, lack of up-front work with the judicial system, and simultaneous tightening of authorizations for Medicaid services that families need. Lead agency staff have often lacked experience in child welfare and that shows up, sometimes in poor decision-making, sometimes in lack of information about resources in the community and lack of credibility in court. In addition, high turnover of case management staff has meant that caseloads are very high. Many workers lack the knowledge about the children and families for whom they are responsible and there's limited opportunity for relationships to develop between the worker and the child. You've heard examples from others. With that short time frame for startup, lead agencies did not have adequate infrastructure in place to handle payments for work done by the subcontractors. And, of course, when Visinet closed its doors, we received only 70 cents on the dollar as did other agencies. However, both KVC and NFC have implemented changes and are now timely in their payments as is the department which still has responsibility for a percentage of the children. It's important

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Transcriber's Office  
Rough Draft

Health and Human Services Committee  
September 28, 2011

---

to point out that Nebraska Children's Home and the other private agencies continued to pay our foster parents and staff even when we did not receive timely reimbursement from the lead agencies. Secondly, regarding lead agencies, I want to make a comment about dual role of the lead agency as direct service provider and case manager. While both NFC and KVC faced similar challenges in launching their ships, KVC's situation seems a bit more complicated because it made the decision to become a direct service provider in Nebraska as well as assume the role of lead agency. I would have to assume the startup of its own foster care, mental health, and in-home services may have distracted KVC from its work as lead agency, and I think we've seen some of the outcomes from those decisions that have not...have meant that KVC sometimes is at a disadvantage because of the further burden of providing services. Also, KVC's role as a direct service provider does present a potential conflict of interest in decision-making regarding case management and utilization of services. Finally, though, my third point about lead agencies would be that I am optimistic. I do see some signs for optimism, and with our work with NFC on the transitioning of the remaining one-third of the children from the department to NFC in the Eastern Service Area. I've been encouraged by reports that the planning that is underway should reduce the chaos that occurred in November 2010 as children were transitioned. And I also have seen new interest from NFC and KVC in tapping into the expertise of subcontract agencies to improve outcomes for children. So there's commitment I think to making the new system work, and there are some possibilities for creative collaboration, but the proof is still in the pudding, as one of the senators said. We are facing issues and those issues are the role of the subcontractors is still a bit nebulous. We provide the bulk of the services in the child welfare reform that were virtually nonexistent in the design of the reform. We have picked up the ball and picked up the slack when lead agencies did drop the ball. We are often the people with the strongest relationship and the most complete grasp of the needs of the child and the family, but we may not have much input into planning. Our information regarding specific children and family issues is not necessarily communicated to the courts, and then we are left holding the bag when a lead agency does not fulfill its responsibility or becomes insolvent. Two other points I'll make

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Health and Human Services Committee  
September 28, 2011

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briefly--the red light is on--regarding our current situation. There's also been...there has already been a comment on the relationship between child welfare services and Medicaid. I would like to underline that and make it very clear that outcomes in the child welfare system often depend on access to those Medicaid services. So when there are changes in criteria and when the service array diminishes, that impacts what can happen to either get a child back home or find an adoptive placement. And third, I will just touch briefly on we are still concerned about cost shifting to subcontractors, lack of clothing vouchers was mentioned by Senator Howard. There are some services that used to be paid by the state that are no longer paid by lead agencies, and that means that sometimes families go without services they need. Our agency as well as other agencies comes up with funds from donors for summer camps, prom dresses, athletic fees, all that sort of thing that is value-added to the program. But there is some concern on our part that there's a shift of costs to some of the subcontractors. There's been attention to the fact that foster parent retention and recruitment has been a problem. Our program has tripled in size but I think that's because we provide additional services and benefits for the foster parents and support them in ways that they're grateful for, but that wouldn't happen without our donor dollars. Finally, just three recommendations I will make very quickly. The first one is that we need to look forward, not backward. There may be disagreement about some of the decisions that have been made, but the more I think about it, I realize the old piece of wisdom, "once you're a pickle you can't go back to being a cucumber," is worthy to consider in this case because there would be chaos if we were to try to return to the old system. We need to put children at the center of our thinking, agree on a plan, and fix what needs to be fixed. We need to focus on quality and not speed, and that would mean that in my opinion that there should be a slowdown on reprivatizing the remaining three service areas, and I'll make some reference to a point that's been made by others before, and that is that we need to focus on the well-being of real live children rather just on numbers. There's been comment about juvenile justice children in the system. And in reality, Nebraska is one of only four states that does include those children in our numbers, and that does impact and make the system look worse than other states when it probably is not. So I want to thank you for

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Health and Human Services Committee  
September 28, 2011

---

this opportunity to present my opinions and end with a statement that as I was preparing this I realized that it has been feeling like we have been pushing a heavy ball uphill for a long time, but the alternative is to let the ball roll backwards and over the children that we serve. So thank you, and I'm certainly open to questions. [LR37]

SENATOR CAMPBELL: Thank you, Ms. Authier. Questions from the senators today?  
Senator Krist. [LR37]

SENATOR KRIST: And I apologize to the senators who have been at all the hearings all around the state, because they've heard this at every one: We can't go backwards. The system has been dismantled, it's broken, we've lost providers, we've lost care. We have kicked people in the teeth that have raised money to do things out of their own pocket, as you suggest, the value-added things that are out there. They're not there anymore. We need to restore our confidence in the system. We can't go forward because the system is broken, and we need to spend the time and that's what this is all about. And most importantly to the point of it is a child, it is not a number, we can't stand still, because these are the things that are haunting us on a daily basis. The state put an incredible amount of burden on the nonprofits to raise money and do the state's work. [LR37]

KAREN AUTHIER: Yes. [LR37]

SENATOR KRIST: And it is my own opinion that we need to do everything that we can to restore confidence in the system, and that means paying you more than 70 cents on a dollar for what's been owed to you or making sure that the current contracts are sustainable and that we're not entering into another dark hole. So I would like to publicly thank you and other organizations like yours for doing our work for us. And I think the culmination of all the studies that are being done this summer and in the interim will result in action in January, so thanks for the what you're doing. [LR37]



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Rough Draft

Health and Human Services Committee  
September 28, 2011

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KAREN AUTHIER: Thank you, and if I could just add a comment. Thank you for all you have said. I think that what we are also asking for is a voice in what happens; that we do know, at that in-the-trenches level, some of what is needed but, because the contract is between the department and lead agencies, we may not be involved in any of the discussions. [LR37]

SENATOR KRIST: Thanks. [LR37]

SENATOR CAMPBELL: I'd just like to comment that I appreciate Ms. Authier very much. We've worked together for too many years than we'd like to admit to. But one of the things that I'd like to say to you and to the audience that the committee has seen in these five hearings is almost a completely filled room at every single one of them and the commitment of Nebraskans from border to border on this issue and to protect children. They're emphasizing to us your point: the children are what's important here and not the numbers, without a doubt. In your testimony, you do refer to the problems with Medicaid. Have we begun in the private sector to begin looking at tracking and what's happening to these kids as they are turned down and said, no, we can't use Medicaid for that any long? Where are they going? [LR37]

KAREN AUTHIER: And we are not a provider of Medicaid services but we refer to Medicaid services and our families depend on those, and so we don't receive the turndowns but we are aware that children are...I think as I had pointed out, there are two issues. One is that because of services not being authorized, we are really at risk for losing a lot of those services that are out there. It's already happened. And there are levels, whole levels of services that are disappearing. And treatment, residential treatment and some of the programs that are necessary for a certain segment of the population, we are having great difficulty recruiting families who will care for truly troubled teenagers, yet we know that those truly troubled teenagers may not meet the criteria of the medical necessity the way it is interpreted by Medicaid. So that is a huge issue. [LR37]

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Health and Human Services Committee  
September 28, 2011

---

SENATOR CAMPBELL: And I want to thank the providers that have been working on that and opened up a dialogue with the department and with a number of people. We are far from solving that issue I think. [LR37]

KAREN AUTHIER: Yes. [LR37]

SENATOR CAMPBELL: Any other questions or comments from the senators? Thank you, Ms. Authier. [LR37]

KAREN AUTHIER: Thank you. [LR37]

SENATOR CAMPBELL: Our next testifier is Carolyn Rooker. Ms. Rooker represents an advocate organization. Good morning. [LR37]

CAROLYN ROOKER: (Exhibit 6) Good morning. My name is Carolyn Rooker; that's C-a-r-o-l-y-n, Rooker as in booker, R-o-o-k-e-r. I am the executive director of Voices for Children in Nebraska, and as many of you have worked with Voices for Children in the past, you know that Voices for Children is very passionate about fairness and justice and safety for Nebraska's children. The very reason my predecessor founded Voices for Children in Nebraska, 24 years ago, was that many systems that were created to help children were actually unintentionally harming them. I feel like today we're very much experiencing some of those same things. So with that being said, I want to start off by thanking you, Madam Chair and members of the Health and Human Services Committee. I want to applaud you for your efforts with LR37. I really strongly believe that your dedication and commitment to the process by looking at this issue with a three-pronged approach of statewide hearings, the fiscal, and performance audits, will enable all of us to really look, see, tell the truth, and take authentic action as we move forward. After having been at many of the hearings, I'm quite certain that this committee has heard much about what isn't working and whose fault that is. Depending on who's

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Health and Human Services Committee  
September 28, 2011

---

speaking, the fault lies in different areas. You've heard countless stories from biological families, foster parents, providers, guardians ad litem, CASAs, the department, judges, county attorneys, advocate organizations, lead contractors, and the general public. I must say that it must be overwhelming and difficult to sort all of this out. The child welfare system across the states are difficult to understand, to manage, to fund, and even more difficult to measure. It's hard for us to compare state-to-state outcomes because each state has different policies that direct their child welfare practices. What we do know is that what we've done in the past for our state's most vulnerable children has been fraught with poor outcomes and has given us the distinction of having one of the highest removal rates in the country. It is imperative to remember that this was the basis for considering the movement towards privatization or what we now call reform. All efforts over the past two years were aimed at trying to find someone who could do it better than we've been doing it. From my perspective, an additional promise early on by the initial supporters of privatization was that private companies can do it bigger, better, smarter, faster, and cheaper. While that may be the case in traditional public/private partnerships, that has never been the case in the child welfare arena. Today, Voices for Children's testimony will primarily stay above the fray and the fog of the current confusion in our attempt to provide a perspective with clear solutions on how we can move forward. The document that we have prepared for you provides strategies for moving forward. And let me be clear: Voices for Children in Nebraska has never been about who is doing the work but how it is done and the outcomes for our most vulnerable children and families. I have several observations that I had planned on sharing today, and given the time constraints I would really hate to have those observations muddle up the work that we've done in preparing a document towards solutions. I'm happy to share some of those observations with you at another time, either today after the hearing, later this afternoon, and/or in your offices at a time that it's convenient for you. Since 2009, Nebraska has been struggling to reform its child welfare and juvenile services systems. The reform is primarily focused on privatizing service delivery and case management as a way to improve care for children and families. We know that this reform hasn't succeeded. Nebraska has lost services across our state.

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Transcriber's Office  
Rough Draft

Health and Human Services Committee  
September 28, 2011

---

Children and families and employees have gone through huge periods of transition and uncertainty, and Nebraska has not seen substantial improvement in its child welfare measures. From Voices for Children's perspective, the primary challenges associated with reform has been its lack of focus on children and families. While we are not opposed to privatization, Nebraska was foolish to think that handing an underfunded broken system to the private sector, without focusing on fixing its flaws in a meaningful way, would have immediate significant impact. There are four major steps that can make a significant impact on our child welfare and juvenile services systems, and this gets to the document and the recommendations that we have prepared for you. You may not be able to tell what my father did for a living, or maybe you will, given the construction analogy in this process. As I've thought about this, I've thought about an old song a long time ago in church that we used to sing: The wise man builds his house upon a rock and the foolish man builds his house upon the sand. Unfortunately, if we're going to use the building a house analogy, we had a dilapidated house that was struggling, our children were cold and they were suffering, so we decided that we were going to fix that. Unfortunately, we did so quickly, without maybe involving all the important players, and we started building a house on the sand. So with that analogy and in line with our proposal, what we would like to propose to this committee is four key strategies to moving forward. (1) We must have a strong foundation, and that strong foundation is built on prevention and family preservation services. A lot of these kids could be kept from coming into the system if we were able to provide meaningful wraparound services in the form of perhaps home visitation. There are a lot of national studies that prove that evidence-based home visitation programs can actually prevent child abuse and neglect by getting in with those vulnerable families early on. And there's a lot that can be said about that, but in the essence of time I'll keep moving forward. (2) A well-designed floor plan that would include a complete array of juvenile justice services. (3) Code enforcement, which is oversight and accountability. I have to say, Senator Krist, that I echo your concerns with the lack of transparency in terms of accountability and oversight of how the money is spent. I've said since day one, which was, okay, only nine months ago, but from day one, how do we really know what it costs

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Rough Draft

Health and Human Services Committee  
September 28, 2011

---

to serve these kids? I've asked for repeated information, and what I keep hearing is Liz Hruska can't even get that information; how do you think you're going to get that information on how the dollars are spent for our children? So it's very complicated, but we need some sort of oversight and accountability. I love the concept of zero-based budgeting. I think that makes sense. If you don't spend the money in the program it was allocated for, give it back or decide how you're going to spend it in the upcoming year. And finally, I would lead with the issue that you really need an experienced general contractor to lead all of this in my house analogy. That's leadership and collaboration at the top level. We've never done this before. Other states have. There's lots of information out there on where the pitfalls are and where things can go awry, and I think we could be a study on how we've kind of hit every single one of those land mines. That doesn't mean we don't have good people that care about what's happening. It just means that unfortunately it happened very quickly and without a thoughtful, well-designed plan. And I think that moving forward it is imperative that we will keep using the same thinking that has gotten us where we are today if we don't have strong leadership at the highest levels. We must get someone in here who's done this work before and who can lead us through this uncharted territory. So in summary I would say again, thank you for all the work that you are doing, and I would say that from my perspective and from my observation it has been the way in which implementation has occurred with reform and not necessarily reform itself, for we all agree something different needed to happen. So as my younger staff teased me when I said, gosh, we are high-centered. I made that quote without getting scripted from my communication person. She said, what do you mean by high-centered? So I thought, well, is that just like a, you know, Texas girl analogy, or is that just like an old lady analogy? I'd rather assume it's a Texas analogy than old lady because I don't want to think about that. But we really are high-centered. It's...we can't go back and it's very difficult to go forward, but we must do something. And people say, so do we go back or do we continue with privatization? We're making this an either/or thing. It doesn't have to be either/or. I think there could be a third or fourth or fifth option, and that could be take all this information from the process of LR37, learn from our mistakes, and chart a meaningful course

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Rough Draft

Health and Human Services Committee  
September 28, 2011

---

involving all the stakeholders. Value and respect our lead contractors for the experience and expertise they bring. Give them a meaningful case rate. Do you realize if we could do a case rate methodology, we could really explain to an average person on the street why child welfare costs what it does. Well, guess what? We have this many kids in the system. We know there's an average of we have those who need a little bit of help and we have those who need a lot of help. So we average that out and this is where we are. The states that have been successful in doing this, do have a case rate methodology, and I think that would really prevent the perception that the lead agencies keep coming back and asking for more money. It would really level the playing field. But I digress. In summary, again I will say one more time, I think the way that all of this has been implemented has been part of the challenge, and I don't want us to forget why we went down this road in the first place, and that's that we were not getting the results for our children's most vulnerable population who really and truly are our future. I'd be happy to take any questions. [LR37]

SENATOR CAMPBELL: Questions from the senators? Senator Howard and then Senator Krist. [LR37]

SENATOR HOWARD: Thank you. Thank you, Senator Campbell. A quick comment. Thanks for the comment on my early intervention program. I think that really is critical to keep kids from getting hurt and coming into the system. We heard earlier the numbers continue to increase. Let's do something proactive. I think the bill we worked on in 2005 was wonderful. LB264 is making some real headway in that direction, so thank you. [LR37]

CAROLYN ROOKER: Thank you for your leadership in that area, and I would also say that there have been amazing outcomes in that pilot project, and that would be a good example of not rolling out something to everywhere all at once but something that has a history of actually having meaningful outcomes that could be replicated across our state and even the playing field for our rural communities who are really having a hard time

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Rough Draft

Health and Human Services Committee  
September 28, 2011

---

accessing services. So thank you for your leadership on that back in 2005. [LR37]

SENATOR CAMPBELL: Senator Krist. [LR37]

SENATOR KRIST: I could go into my separation of branches of government speech and talk to you about how I think that the Legislature has a certain responsibility, and once the money is allocated I think we should take responsibility for what we gave people responsibility for, which leads back to your zero-based budget which I brought up at several other of the hearings. There will be push back inside the body to do zero base, but there will be push back between the branches of government. But what you suggest and what I will say publicly is if you know what it costs and you sign up to do what the right thing is and you hold your costs down, there isn't one citizen out there that's going to say, I don't want to pay for the kid, being a reasonable cost. It's when you can't tell where the \$17 million or the \$20 million or the \$30 million is going that you have these kind of issues. [LR37]

CAROLYN ROOKER: Exactly. [LR37]

SENATOR KRIST: So that will be part, I'm sure, of what will be the result of all of these studies. And again, in January, I think there will be some discussion about holding people accountable for money that's given for specific purposes and how much money things...what is the actual cost. Thank you for your testimony. [LR37]

CAROLYN ROOKER: You're welcome. [LR37]

SENATOR CAMPBELL: Other questions or comments? Thank you, Ms. Rooker, for coming today. [LR37]

CAROLYN ROOKER: Thank you. [LR37]

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Rough Draft

Health and Human Services Committee  
September 28, 2011

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SENATOR CAMPBELL: The next testifier is Ms. Nancy Wilson who represents the CASA program. Is Ms. Wilson here? I do not see her. Okay, our next testifier is Melanie Williams-Smotherman who represents the bio parents. Good morning. [LR37]

MELANIE WILLIAMS-SMOTHERMAN: Good morning. It is still morning, isn't it, I think. [LR37]

SENATOR CAMPBELL: It is. Would you state your name for the record, and we probably ought to spell the name. [LR37]

MELANIE WILLIAMS-SMOTHERMAN: (Exhibits 7-10) I've done that a lot. Good morning, Senator Campbell and members of the Health and Human Services Committee. My name is Melanie Williams-Smotherman, and that is W-i-l-l-i-a-m-s hyphen S-m-o-t-h-e-r-m-a-n. I am cofounder and executive director of the Family Advocacy Movement, which is a grass-roots collaborative made up of families, advocates, and professionals who call for more competent and accountable child welfare laws, policies, and practices. And before I get into what I have written, I wanted to mention a couple of things that weren't in my testimony that have come up, and one is, Senator Campbell, your article that you sent out which was very well appreciated because it does speak to something that I was able to bring to the committee today. It's really a gift by, amazingly enough, Congress. And that is child welfare waivers have finally been approved for all states in our country. And if I were to raise one primary solution today, it would be to change the funding incentives, the financial incentives, and use some of this waiver, this flexibility that has before only gone to paying for foster care, and use some of this to help with the family preservation piece, help to keep children in their homes. And now we have this opportunity. The only state in our country who has taken advantage of this in the past didn't have the law. They had to fight for it, and that as Florida. And the reason I'm raising this is because the article that you sent, that you shared with everyone, discusses a reduction in removals of children and more children served in their homes. The premise was kind of based upon the idea of



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Rough Draft

Health and Human Services Committee  
September 28, 2011

---

privatization getting the credit for that. I believe that's faulty. Florida has had this waiver where they have put a lot of time and money and effort into family preservation, and used this federal money to do that. So I'm encouraging us, and I know there will be just like, you know, we all know, there are different interests working and there will be fights. But we need to at least look at it. It's...for people in my position where I really do advocate the most for keeping children with their families, statistically the best outcomes, this is our gift, so. Also I wanted to thank Senator Krist. I was at the September 7 hearing and was nodding vigorously, as I tend to do--I can't control myself. But I really did appreciate a lot of the things that you said. I am, for lots of reasons, for a zero-based budget, and I think that the reason for that is because what that really is, is accountability, and we are all about focusing on accountability. I also am interested in talking to you at some point about pre-1996, because I've only been involved with this fight for two years, but it's a very personal one to me and I'm not going anywhere, so I'll be here for a while. The majority of our member families, some of whom are here today, have been unnecessarily harmed by the very system that so many other testifiers have described as lacking transparency, oversight, and competent case management. Even State Auditor Mike Foley presented troubling commentary when he not only expressed great frustration over the apparent attempt by DHHS to avoid oversight by his office, he even suggested possible statutory violations. We complain about these same things too, only we aren't just talking about financial mismanagement. We're talking about the destruction of families, the loss of children, and the trampling of civil liberties. You have heard desperate families cry out for help, requesting better review and more independent oversight of their cases. As Attorney Jon Braaten told you three weeks ago, there is dysfunction. I think he used the term "embarrassing" when he was talking about coming into juvenile court. For families, it's devastating. We see deliberate harm through negligence, retaliation, abuses of power, denials of due process, the lack of representation by so many of the handpicked court-appointed attorneys and the so-called therapists who are hired by the department to offer their titles in support of DHHS case plans and make it all appear for court as though there are the proper professional checks and balances. We've seen for ourselves and heard even more

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Transcriber's Office  
Rough Draft

Health and Human Services Committee  
September 28, 2011

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about the covering up of foster care abuses. Make no mistake, the Nebraska Department of Health and Human Services runs the show with massive resources and well-appointed attorneys, along with the collaboration, some have said collusion, of county attorneys, guardians ad litem who often make no effort to even meet the children they are paid to represent. It's easy money. And what of juvenile court judges who choose a handful of Facebook friends that include the very people working against the family over whose case the judge presides? This is what is actually happening, and we need to be able to have a venue to explain these things. And this is why I really appreciate your doing the LR37 hearings. In this regard, it doesn't really matter whether the department or a private agency does the grunt work of case management and service coordination, except for the concern over even more circular finger pointing and even less public transparency and accountability. And by the way, families don't consider most of what is forced upon them to be services. Whenever we hear that word we cringe, because they are obstacles too often. They're presented and managed as punitive measures, as barriers to reunification, as tools to destabilize families and cause parents and couples and children to fail. Two public testifiers with us today are former caseworkers who have chosen to speak publicly about how some of this happens. One has already publicly exposed how she quit the department when she was instructed to commit perjury in court against a family. We also are visited by a couple brave licensed mental health practitioners from North Platte, Lincoln, and Omaha, who share what they observed from their professional perspectives. The broken system that families experience daily is no accident. It's not simply due to innocent causes or exceptional circumstances, like overcrowded caseloads. While that is a reality, that's not what we see as the primary problem. We know workers are overloaded with cases because that is a direct side effect of taking too many children from their homes. It's due to the department crudely sweeping up everyone in the same net, keeping them trapped, even the innocent, by the bureaucracy's standardized check boxes and forms with meaningless copy-and-pasted text that is only there because the statutes require that it's there. And the same mechanism that tramples the rights of the innocent and not-so-guilty also misses the much rarer but devastating cases of real abuse. And I

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Rough Draft

Health and Human Services Committee  
September 28, 2011

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know we heard County Attorney Henderson today talking about the most egregious cases that she sees. This is all she focuses on. But in the scheme of things, it is not representative of the majority, and that's what we need to keep our minds on and stay focused on, what is really the majority. One of the materials within the packet I handed out before my testimony includes official statistics made available by DHHS each year showing that the increase in reports and calls about alleged child abuse or neglect is not the number we should be looking at. That number is influenced by public campaigns and legal requirements of mandatory reporting for any inkling that something is potentially wrong. And with the economy, the poor are getting poorer. And Nebraska has written poverty into its neglect laws, and ever more families are vulnerable to being unjustly and unnecessarily caught up in juvenile court and the unhelpful intrusion by state officials. What we need to be looking at is the number of cases eventually deemed unsubstantiated. That would be thousands. A whopping 75 percent of all cases investigated are deemed unsubstantiated. But they have had their children traumatized, their family lives disrupted with impunity. The excuse of erring on the side of caution does not fly when caution only hints at suspicions of harm, but the forced separation of innocent children and their families is a guaranteed harm, which is done in Nebraska at one of the highest rates in the country. And after children are torn away from everyone else they know and love, they are forced into compliance. They're labeled as bipolar, ADHD, ODD, RAD, any one of those impossible to prove or disprove diagnoses by a practitioner who will do anything to nurture that DHHS relationship. We see it all the time. Those children are treated to dangerous psychotropic drugs. We've seen it as early as six years old here in Douglas County, and it may be even earlier, I don't know, because it's hard to get information. Finally, we get to face even more disappointment from the supposed last line of checks and balances, and I know this is going to be very unpopular with people in this room, but we have to say what we are experiencing. It's by way of the Foster Care Review Board and the state Ombudsman's Office, each which have shown families and advocates a darker side that the public does not readily see.

[LR37]

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Transcriber's Office  
Rough Draft

Health and Human Services Committee  
September 28, 2011

---

SENATOR CAMPBELL: Ms. Smotherman, I'm sorry. I want to get...make sure you have a chance to get to the last part of your recommendations and then leave time for questions. [LR37]

MELANIE WILLIAMS-SMOTHERMAN: Okay. I would like to say, and I'll summarize this because, you know, I might not be able to read it all but it's important to get out, and that is that the termination of parental rights that happens and it's referred at 15 months is happening on top of all of these dysfunctions that we're talking about. There is an assumption that when parents get to that place where they're faced with losing their children, there has been a rigorous, competent study and every has done their jobs and the state hasn't drug its feet and there haven't been multiple continuances caused by the state workers not following the court orders that they recommend, and so parents and children are faced with losing each other forever. But on top of that, the state--and I believe this is in state statute, which I would ask you please to relook at it--the state then assumes the authority to remove any future children from that mother without having to face having to provide reasonable efforts or even show cause for harm just because of the termination, the prior TPR. That is really egregious. Our recommendations... [LR37]

SENATOR CAMPBELL: I know you will.. [LR37]

MELANIE WILLIAMS-SMOTHERMAN: Okay...change the financial incentives. Right now, millions and millions of money come in from the federal government to this state to support foster care and adoptions. With this child welfare waiver, it won't touch the adoption piece but it provides the flexibility for our state to use some of that money to actually start focusing on the causes for child removals and prevention and wrapping that family in services, if that's required, to prevent removal. I think it is very misguided to think that the state is always, by removing children, serving that child's best interest. It's traumatic to be removed from a home. And if that child is not in absolute physical danger or immediate imminent danger, there has to be some process that's competent

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Transcriber's Office  
Rough Draft

Health and Human Services Committee  
September 28, 2011

---

enough to not put a child and family through that--and we don't have that. And another recommendation is to find ways to build into legislation or to enforce legislation that ensures civil liberties without exception. We cannot protect children and at the same time violate everyone's rights and say that we're doing a good job. You can't have...you can't make those two things opposed to each other. You can protect children while preserving civil liberties, and that's what we're asking for. So I guess that's good, and I'm happy to answer any questions if you have them. [LR37]

SENATOR CAMPBELL: And thank you for bringing all of the material together. Questions from the senators? Senator Bloomfield. [LR37]

SENATOR BLOOMFIELD: Thank you for coming in today. I think I finally heard from you what I feel has been sorely lacking. [LR37]

MELANIE WILLIAMS-SMOTHERMAN: I'm passionate too. (Laugh) [LR37]

SENATOR BLOOMFIELD: Just because the state says we're from the government and we're here to help, it "tain't" necessarily so. Is that kind of where you're leaning? [LR37]

MELANIE WILLIAMS-SMOTHERMAN: Could you say it one more time? I couldn't hear everything. [LR37]

SENATOR BLOOMFIELD: Well, throughout these hearings we have not heard a lot about parental responsibility. It's always been the state needs to be doing this different or this better. I guess I'm not comfortable with the point that the government should be in charge of our children in all cases, and it kind of sounds to me like that's where you're coming from. [LR37]

MELANIE WILLIAMS-SMOTHERMAN: I agree. What we're faced with though is the reason that we're here is that government is involved. Government has come into the

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Health and Human Services Committee  
September 28, 2011

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homes of families, and as the statistics that I passed out show, the majority of those are unfounded. So government has assumed that role. What we are asking for is to take the cheaper route and the one that has better and more proven outcomes for children and families. You know, Richard Wexler from the National Coalition for Child Protection Reform says it best when he says you cannot take a swing at parents and not have that blow land on the child. We need to find a way to value families in this state and to recognize the actual causes and root problems that may be causing some of this, but realize that many of the people caught up in this system are innocent. And that is never thought about, that's never considered. [LR37]

SENATOR CAMPBELL: Senator Cook. [LR37]

SENATOR COOK: Thank you, Madam Chair. And thank you for coming this morning. I have a question related to your testimony that says 75 percent of all cases investigated are unsubstantiated. Could you offer me a definition, maybe probably a broad definition of what unsubstantiated means, and whether or not that statistic is over all, throughout the country, or within the state of Nebraska. [LR37]

MELANIE WILLIAMS-SMOTHERMAN: Thanks for asking that question. I don't set the terminology. I study it as well as I can, and different words are used in different states. So there is indicated, there's substantiated, there is founded. There are lots of different words that are used and different criteria are used to determine, to filter out. In our state, substantiated, from my understanding is agency substantiated, which means that the Department of Health and Human Services has found reasonable enough belief that there is guilt for either the abuse or the neglect, founding for the abuse or neglect. Which means that the unsubstantiated would be they...and I know that the argument is we just didn't have a strong enough case. Well, you know what? That's what we have to rely upon in our country with civil liberties and the laws is a strong enough case to prove guilt. So much is done in this system with child welfare removals, terminations, that do not live up to the standard that one would expect should be lived up to for making such

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Health and Human Services Committee  
September 28, 2011

---

life-changing decisions for people--and that's not happening. So I'm happy you mentioned that. The other thing is the figures of 25 percent substantiated and 75 percent...is considered the absolute lowest figure. I mean it's really higher. When you study the NIS-4, which I would love to sit down with senators and look over, because we have a project going right now where we are studying all of the latest statistics and analyzing those. The NIS-4 is something that is done every few years, not every year like the child abuse and neglect statistics, and that paints an even more gloomy picture about the number of innocent people caught up in the system. [LR37]

SENATOR CAMPBELL: Senator Wallman. [LR37]

SENATOR WALLMAN: Thank you, Chairman Campbell. Yeah, thanks for coming. Where as a state, you know, the law enforcement does this, and that's pretty traumatic for families like you pointed out. Do you have a criteria where you think actually is abuse to children? Would you say a mother or a father who uses drugs, would that be abuse to the child, do you think? [LR37]

MELANIE WILLIAMS-SMOTHERMAN: I think that there are a wide range of answers for that, because it would depend on the circumstance. I am very shy about lumping everybody together into one place, because there are variables that make a difference, and that is why the system in court, when people are brought into court, really needs to be more rigorous than it is. People need to have a voice. They need to have proper representation. And the parents that call the Family Advocacy Movement are absolutely desperate, absolutely love their children. Their children should never have been removed from their home, not that there isn't a problem in some cases. Some cases there isn't. It's false allegation. But the system treats everyone the same and it is the same with drugs. I don't believe that users of drugs can't be rehabilitated. I've seen parents who have turned their lives around, gotten master's degrees, and they never have gotten their children back. [LR37]

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Rough Draft

Health and Human Services Committee  
September 28, 2011

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SENATOR WALLMAN: Thank you. [LR37]

SENATOR CAMPBELL: Other questions? Senator Howard. [LR37]

SENATOR HOWARD: Thank you, Senator Campbell. Would you agree that the case manager has a lot of power in these situations, and that the training and the experience, let's say the seniority of the case manager, makes a big difference in the decision-making? [LR37]

MELANIE WILLIAMS-SMOTHERMAN: I think that the case manager has as tremendous amount of power. I think the county attorney and the case manager together have a lot of power. I'm not sure, you know, if there is one that outweighs the other at different times, but I do know that the weight of the Department of Health and Human Services is powerful. It's powerful. [LR37]

SENATOR HOWARD: Well, add to that then if there's a high turnover and people that are coming in, high number of people that are coming in and learning to do the job, how do you see that affecting families? [LR37]

MELANIE WILLIAMS-SMOTHERMAN: I get complaints all the time about confusion, frustration, and a lack of connection. And, you know, when Vicki Maca was speaking to the committee on September 7, and saying that it is the caseworker who knows the children the best, it is the caseworker who knows the family the best, I was sitting there going, how can anyone say that, when we hear so many people saying the opposite. It is really the parent who knows the child the best and knows the family the best. The family rarely has the voice. They're assumed guilty. Even if a family is assumed guilty...and, believe me, false allegations happen all the time for many reasons. But even if that were the case, we have a democratic court system in this country that presumes innocence, not guilt, and we need families to have proper representation that has an interest in representing and not just again nurturing relationships in their



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Rough Draft

Health and Human Services Committee  
September 28, 2011

---

careers--and that's what we're seeing. [LR37]

SENATOR HOWARD: I would say it's important to balance that with the experience of the case manager and the safety risk to the child remaining in the home. [LR37]

MELANIE WILLIAMS-SMOTHERMAN: True. [LR37]

SENATOR HOWARD: Okay. Thank you. [LR37]

SENATOR CAMPBELL: Any other comments or questions? Thank you for coming today and bringing your information. [LR37]

MELANIE WILLIAMS-SMOTHERMAN: Thank you. [LR37]

SENATOR CAMPBELL: Our last invited testifier this morning is Julie Dake Abel--and I'm not saying that right, I know. [LR37]

JULIE DAKE ABEL: That's okay. [LR37]

SENATOR CAMPBELL: Could I have a show of hands of those people who wish to testify? Okay, could you keep them up? One, two, three, four, five, six, seven, eight. Okay. We'll do our best to get you all in. What I would like to encourage you is that if you brought written testimony with you today, that you do not feel that you have to cover that whole thing but cover, like, the major points with us. So we'll do our best and we will probably start over on this side and then work our way over. I guess I do need you to state your name and read it into the record. We'll make sure that it's the right pronunciation. [LR37]

JULIE DAKE ABEL: (Exhibits 11-14) Sure. My name is Julie Dake Abel, D-a-k-e A-b-e-l, and I'm executive director of NAPE/AFSCME Local 61, the union that represents the

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Health and Human Services Committee  
September 28, 2011

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majority of state employees including the child welfare workers or the CFOMs, those that are left anyway, that work for DHHS to care for our children. I appreciate the opportunity to be here today. First off, NAPE/AFSCME must thank State Auditor Mike Foley and his office for the impressive comprehensiveness of the audit in this matter. His thoroughness has brought to light most of what the union and state employees already suspected was happening with DHHS. That brings us to, what do we do we now? We understand that you as legislators have approached this undertaking with much reservation, with some of you fearing that you would be micromanaging. We do not believe that to be the case. You're expected by our constitution to do just what you are doing and we know that you are devoting hours of your lives to ascertaining how a bad situation in Nebraska finds itself in and what you can do about it. To that end, NAPE/AFSCME Local 61 has directed me to convey to you observations and recommendations from those citizens that have been entrusted this sacred trust, only to see it stripped from them and that now this has metastasized into wholesale dysfunctionality. I would like to note that the state already had qualified childcare specialists and had already invested over \$12,500 per child welfare employee. That investment ensured every employee that worked for the state in the child welfare system had the training and expertise to care for the children. Now, unfortunately, they have thrown that away, that investment and expertise. However, I don't want to duplicate what has been said here today. I would like to say that in an effort to move forward, we do have several exhibits that we would like to be included in the public record. First is a copy of Article IV, Section 19, of the Nebraska Constitution mandating that you exercise general management, control, and government of the services that Nebraska has instituted for child welfare over the past decades of work. Second is a handout, is a report from the state of Texas that compares both of the poster children for privatization of Florida and Kansas and the problems they found and the lessons they've learned. We have also sent this via e-mail to all of you and wish for you to at least try and read the executive summary which we believe you will find consistent with what you've been hearing in meetings with your constituents as you've traveled across the state. Third is LB980 that was introduced and prioritized by Senator Wallman back

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Rough Draft

Health and Human Services Committee  
September 28, 2011

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in 2010. Based upon all that is happening in the system, we would offer some recommendations for your consideration. First, as a result of this experience, we believe it's time for the Legislature to clearly define what can and cannot be contracted out for profit. There needs to be a line drawn in statute that recognizes that certain essential government services that are the core responsibilities can't be contracted out. We actually have some language that we believe would be a start on that effort, and I will just let you read that later. Next is LB980 that I've referred to. Existing statutes regulate the responsibility of the department to do a cost-benefit analysis. And unfortunately, those have proven to be inadequate. The Department of Administrative Services perverted the statutory requirements that this Legislature enacted by creating a justification study after the decision to privatize had already been made. The worst feature of this debacle was the total disconnect by DAS of the value of the human infrastructure that had to be built over decades. However, we believe that statute is a good one and can be improved in the best interests of the citizens of the state with the additional changes that were contained in LB980, introduced and prioritized by Senator Wallman in 2010. Finally, we are pleased that you have your performance audit staff reviewing the situation, and we recommend the Appropriations Committee not expend taxpayer money to finance the continuation of a failed venture. Actually this provides the most direct and clear-cut method to change course. The Legislature approves the money. It is time that the Legislature chooses to fund the appropriate delivery of child welfare services consistent with the responsibility that we have as a state set forth in our state statutes. I would like to thank this committee wholeheartedly, in particular, Senator Campbell, for allowing me to testify today and for so many of you, such as Senator Howard, who realize how incredibly urgent it is to act upon this mess that we now have. It's a crucial undertaking in making sure that our children are properly cared for and that appropriate oversight is occurring. Thank you. [LR37]

SENATOR CAMPBELL: Are there questions from senators, or comments? Thank you very much, and thank you very much for the handouts also. A number of the senators I think had already taken a look at a portion of the Texas study. I would hope that all of us

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Rough Draft

Health and Human Services Committee  
September 28, 2011

---

would take a thorough look at it, because it is very well done. [LR37]

JULIE DAKE ABEL: Okay. Thank you. [LR37]

SENATOR CAMPBELL: Oh, I'm sorry. Senator Howard. [LR37]

SENATOR HOWARD: Thank you, Senator Campbell. I want to really thank you for working with the employees. I think this was a terribly difficult situation for them from the beginning of this child welfare reform, this privatization. It's really hard to expect employees to be loyal when they are treated so poorly by the system. [LR37]

JULIE DAKE ABEL: Yes. Unfortunately that has been the case. [LR37]

SENATOR CAMPBELL: Thank you very much for coming today. [LR37]

JULIE DAKE ABEL: Thank you. [LR37]

SENATOR CAMPBELL: Okay, we will start with the public testimony and I will remind the public testifiers that they have three minutes. We have a light system and you have seen it in play, and then you see me kind of get nervous. When that yellow light comes on, you have one minute left. So we will start with the first testifier and we'll start with the gentleman and then we'll work this way across the room. So if you're going to testify, you might want to, you know, come down, make sure you have your orange sheet ready to go. And with all of these testifiers, we will definitely need you to state and spell your name into the record. Good morning. [LR37]

TED DeLAET: (Exhibit 15) Good morning. My name is Dr. Ted DeLaet, T-e-d D-e-L-a-e-t. I'm a psychologist in full-time private practice in Omaha, and I'm here today to testify as the director of professional affairs and authorized spokesperson for the Nebraska Psychological Association. We thank Senator Campbell and all the other

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Health and Human Services Committee  
September 28, 2011

---

senators on the committee and elsewhere in the room for their efforts and attention to this very important matter. We're here with positive focus to move forward, because we know there are real issues that require real and prompt solutions, and on behalf of myself and other psychologists, we're here to offer our support for that. Very quick. Life experience is couched into some of the contents that are in the packet, which I'm only going to very briefly highlight on just about three or four points, is that in 1994 I participated in the development of a capitation at-risk contract for the Medicaid managed care. And I still have a copy of that two-volume, almost 2,000 page document, so I think I understand what needs to go into understanding capitation--and got baptism by fire from some national experts on that. And unfortunately, some of the same issues that were present then appear to be present today. Referring to my handout, there are three or four points that I wish to bring to your attention which may be somewhat of a different focus than what you've heard earlier, and we do support a lot of the other issues that have been previously raised. One of the things that hopefully been an unanticipated outcome is a blurring of what is a case management decision and what is a medical necessity decision. It's very important that those issues are clear. We've heard a number of things about medical necessity, about diagnosis, about who gets to make what decisions and so on. We understand and support that improving case management services, the coordination between providers of healthcare with case management and other entities involved with this remains huge. And we understand that there are issues with that and there are issues that appear to be case management decisions that are probably, in retrospect, medical necessity decisions. A second point has to do with the ever-changing utilization management practices of what's necessary to diagnosis and treat people. It was interesting earlier today when there was a statement that the medical necessity criteria has not been changed. I will absolutely tell you that utilization practices or interpretation has changed radically since July 1. And as a very quick reference to that, I have a recent case of a court-ordered evaluation of a parent where there were concerns raised by a guardian ad litem of parent impairment and ability to be able to function and get her child back. I was initially denied any psychological testing of the parent by Magellan. After a peer-to-peer, I was authorized

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Health and Human Services Committee  
September 28, 2011

---

one unit. After going to the lead agency for additional services, they thought I might be able to get another 30 minutes, and that would include...and that's just not sufficient to address the interests of the court in that matter. There are other issues about capacity and providers of being understaffed and the risk of services going out. It's important also to understand that there is a significant evidence-based practice out there which has either been selectively applied or ignored in a number of areas. To raise your emphasis on two points: References earlier were made to attention deficit hyperactivity disorder and bipolar disorder. These are two very important diagnoses for treatment and accurate diagnosis and speak to the other outcomes in terms of how many kids can be maintained in the home, etcetera, etcetera. Misdiagnosis rates range in upwards of 50 percent or higher. With proper training and having the right people, which hopefully will include doctoral-level psychologists, we can increase those diagnostic accuracies significantly. If we are going to fix the problem, we have to understand accurately what the problems are. And we've included a few references about what evidence-based practice should be, which includes a reference to the American Institute of Medicine and their 2000 policy, and also the American Psychological Association policy on the same matter from 2005. We see a lot of potential for improvement and a lot of that needs to be done quickly, and we're here to support the efforts of the committee, HHS, and others to try and improve that. [LR37]

SENATOR CAMPBELL: Dr. DeLaet, thank you very much. You have brought forward quite an extensive packet for us to take a look at, and I'm sure if the committee has any follow-up questions when we leave and have a chance to look at the whole packet, we can feel free to contact you for further clarification, because you've given us a lot of information in here. And I'm particularly interested in all your comments with regard to Medicaid and medical necessity. Any questions or comments from the senators?  
Senator Krist. [LR37]

SENATOR KRIST: Did I understand you to say that a court-ordered evaluation was denied by Magellan? [LR37]

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Health and Human Services Committee  
September 28, 2011

---

TED DeLAET: And there were two levels of answer from Magellan. Initially I did a medical necessity initial interview of the client. Submitted a request, and that was initially totally denied for purposes that it was court-ordered and not medically necessary. I had requested a peer-to-peer review with a psychologist, and after that they said, well, we'll do one hour of personality testing is authorized. I raised serious questions about the mental or cognitive abilities of the parent, which appeared to be impaired at first blush, but I didn't really understand, and that was deemed to be unnecessary or not medically necessary to evaluate. So those are the kinds of situations as a provider we deal with on a regular basis. [LR37]

SENATOR KRIST: What is your recourse back in the judicial system and can you go back to the courts and say, without a court order, Magellan is not going to allow me to go forward? [LR37]

TED DeLAET: In responding to the court's needs, usually we submit a report where I list the limitations of the report and recommended further assessment to further answer the questions of the court or others might have. [LR37]

SENATOR KRIST: Okay. Thank you, sir. [LR37]

SENATOR CAMPBELL: Thank you very much for bringing your information forward. [LR37]

TED DeLAET: Thank you. [LR37]

SENATOR CAMPBELL: Thank you, Dr. DeLaet. Our next testifier. Over here. Good morning. [LR37]

ELIZABETH ROBBINS: Good morning. [LR37]

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Health and Human Services Committee  
September 28, 2011

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SENATOR CAMPBELL: And your name? [LR37]

ELIZABETH ROBBINS: My name is Elizabeth Robbins, E-l-i-z-a-b-e-t-h R-o-b-b-i-n-s. I am a bio parent. I have been in the system two times with my children. I tested positive for methamphetamine in 2005 while giving birth to my daughter. She was then taken from me and I was given a chance to participate in the Zero to 5 treatment program, working with DHHS. I did outpatient treatment there and addressed my drug use, although I also had an alcohol problem that I never addressed at that time. I was only willing to do what I needed to do to get my case closed, basically, and to get my daughter back. It closed out after 13 months. And two years later, October 2009, all three of my children were removed from my home. My life had become unmanageable. I was mentally, spiritually, emotionally broken. The state once again, they took my children, they put them into foster care due to my alcohol abuse and my drug abuse, and there was also some domestic violence. I ended up giving up at that point. I just didn't think I could go on fighting for them. Judge Johnson convinced me to go to the Stephen Center HERO treatment program, which was a nine-month intense treatment program for drugs and alcohol, which I am so grateful for today. It was a chance for me to work on me and to fix me so I could get my children back and be healthy and show them a good life. Something happened when my NFC worker walked through the doors at the Stephen Center. My entire outlook on my recovery changed. My desire to fight was so much stronger. Right away, we started working on the reunification plan. She was able to answer a lot of my questions for me that I had no idea about. I met with Rachelle (phonetic) at least once a month. We worked together on a more personal level rather than me feeling like my family was just another case number to them. Things started to progress pretty quickly. My son started receiving therapy, which I had been fighting for all along. My voice was being heard and my feelings were being validated. My NFC worker helped me walk through the transition of my children returning home, and I'm basically here to just say that with someone like my NFC worker that empowered me and believed in me, it kept me...it just...it kept me going. I



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Rough Draft

Health and Human Services Committee  
September 28, 2011

---

have now been given a wonderful opportunity to work with other families similar to my own as a family mentor at Family Professional Partnership Solutions, and for that I am very grateful. I have now been sober going on two years, and I am able to give my children a better life. [LR37]

SENATOR CAMPBELL: Questions for Ms. Robbins? Thank you for your courage to persevere. [LR37]

ELIZABETH ROBBINS: Thank you. [LR37]

SENATOR CAMPBELL: Our next testifier. You're doing just fine. [LR37]

LESLIE BYERS: (Exhibit 16) Good morning. My name is Leslie Byers, L-e-s-l-i-e, Byers, B-y-e-r-s, and I'm with the same organization that Elizabeth is with, Family Professional Partnership Solutions, and we provide family members, both our lived experience and systems training to help families navigate the system, to learn how to overcome their challenges, to develop skills and self-efficacy so they don't get back into the same issues and problems that brought them into the system, and to learn how to develop sustainability of safety, permanency, and well-being. As a family member, my husband and I struggled for years to get access to the proper services for our daughter's mental illness, which daily threatened the safety and preservation of my family. Ultimately, we succumbed to the only option that was available at that time, and that was custody relinquishment. And we did that for the sole purpose of getting proper care for our daughter. She did get the proper care but unfortunately it came with a lot of pain, a lot of shame. And today our family is whole, but we are not without the deep emotional scars that came as a consequence of that. My family's involvement with the system goes from 1996 to 2002, in which my daughter was cared for in out-of-home placement on two separate occasions, as well as numerous other levels of care. I formally began my work as a family professional in 2003. Because of my dual experience and roles, that being a family member as well as now a family professional, I would like to parallel my

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Health and Human Services Committee  
September 28, 2011

---

experience then versus the experiences and support of today's families. As I said to you, in 2002 I had no other choice other than to relinquish custody to get access to services for my child, and that also included us being involved in the court system. In the system of today, I wouldn't have to do that. I could receive services through a voluntary noncourt arrangement. Let me tell you that court involvement, as I'm sure you know, does include a lot of additional burden--you talked earlier about the OJS cases. It includes a lot of additional burden to the system by way of cost, by way of time. For parents who aren't neglectful or abusive but are nonetheless put into this system which just beats up good, loving, caring families, and it really risks the preservation of families and I believe is totally unnecessary. Another thing I've seen in today's system is a greater prevention of removals, and that is because there's a greater focus on the in-home safety and a greater focus on that prevention and the family preservation focus. Please don't hear me say that I don't believe in removals. Removals are necessary. But we are thinking a lot more differently. We are looking at different ways of providing those very same services, because even if you have to remove, you are causing great harm to that family. So we are thinking about that with a lot more focus and due diligence. In 2002, when a family's case closed, such as mine, we were left with no ongoing support. I remember when the judge pounded the gavel to pronounce that we were once again our daughter's own legal guardian, it was everything I wanted but at the same time I was so scared. I was scared because I knew that we no longer had those supports that were so critical to enabling that we could sustain that recovery and that well-being. But today, families have 12 months of aftercare to provide that safety net during that very vulnerable time when they're no longer getting the formal services but they still need that help to sustain that recovery nonetheless. So I'd like to point out those three key factors that I see: the prevention of removals, the ability to work with the system without being court involved, and that aftercare support. So as we look at the challenges, please look at the things that are working very well. Thank you. [LR37]

SENATOR CAMPBELL: Questions for Ms. Byers? I should note that Ms. Byers is also a published author about the story regarding her daughter, which is a very touching book.

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Transcriber's Office  
Rough Draft

Health and Human Services Committee  
September 28, 2011

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[LR37]

LESLIE BYERS: Thank you. [LR37]

SENATOR CAMPBELL: Thank you. Next testifier. Good morning. [LR37]

PAMELA MYLES: (Exhibit 17) Good morning. My name is Pamela Myles, P-a-m-e-l-a, last name spelled M-y-l-e-s, and I am a bio mother. Senators of the Health and Human Services Committee, I am not in agreement with the fact that the Lancaster County Juvenile Court hearing for my infant child was postponed today in order for the prosecuting attorney, Alicia Henderson, to speak at this meeting in Omaha. Every day that my newborn baby is separated from me is another day when he is not allowed to bond and I am not allowed to care for him. This delay also makes my case go on even longer, a practice that is most often beyond a parent's control. It is what is used to justify termination of parental rights, which is what DHHS and Alicia Henderson did to my family. I feel that my case starting from 2006 has not yet been truly heard, and that it is because my court-appointed attorney and the Department of Health and Human Services and other state of Nebraska officials have neglected competent investigations and due process. It seems no one cares about the truth. These people have also neglected my children, who have been forced into 11 different foster care homes during the past five years. My oldest daughter Breia, who is now almost ten, has been molested in state care and nothing has been done about it. My son Trevon resides in an institution in York, Nebraska, separated from his sisters. And the state is giving him a drug that is not supposed to be administered to children under the age of 17. He has been taking this medication since he was 8 years old, and he is now 13. My children were separated from me when they were young, and reunification appeared to never be the plan, even though I was compliant with what they asked. Since the termination of parental rights, they have refused to allow visitation. I haven't seen my children in over a year and a half, even though my case has been in appeal, which the appeal just came up this month. I just gave birth to a beautiful baby boy named Elijah a little over a month

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Health and Human Services Committee  
September 28, 2011

---

ago on August 16, and he was immediately taken by HHS directly from the hospital. The only justification making this possible is the prior TPR for my older three children, a terrible injustice in its own right. Since he was taken, I have only been allowed to see him a few times each week, four days out of a week for three hours, even though I am a nursing mother. A KVC worker has refused to allow my visits in my own home even though they came out and inspected, as I have requested, apparently because the county attorney doesn't want it to happen. The county attorney, Alicia Henderson, and DHHS are expected to argue against the need for reasonable effort for reunification with my baby, even though I have never harmed him, because Nebraska statute allows them to do this. This would break my heart. It would only make an orphan of my baby, who I love with all my heart, and I love all my kids. Please help me bring my family back together. If I was not a caring mother, I would not be fighting for this long, and I would not have asked God for the strength to continue to fight for my family. Sincerely, Pamela Myles, Loving mother of Trevon, Breia, Raven, and baby Elijah. [LR37]

SENATOR CAMPBELL: Questions from the senators? Thank you very much for your testimony. I just have one question for you, Ms. Myles. Was the attorney that you have the same attorney in all the cases that you were involved in the court? [LR37]

PAMELA MYLES: No. [LR37]

SENATOR CAMPBELL: Your attorney. [LR37]

PAMELA MYLES: No. I've had four attorneys and I've had probably about six caseworkers. [LR37]

SENATOR CAMPBELL: Four attorneys and...I'm sorry, could you repeat the last... [LR37]

PAMELA MYLES: Six caseworkers. [LR37]

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Health and Human Services Committee  
September 28, 2011

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SENATOR CAMPBELL: Thank you. Were all of the attorneys court-appointed? [LR37]

PAMELA MYLES: Yes, they were. [LR37]

SENATOR CAMPBELL: Okay. Did they all come from the public defender's office or contracted attorneys? Do you know, Ms. Myles? [LR37]

PAMELA MYLES: I'm not sure. I've never been in trouble a day in my life so I don't understand a lot of the stuff that's going on. And the only help that I've had is my therapist, James Holt, and Melanie Smotherman, the Family Advocacy Movement worker. [LR37]

SENATOR CAMPBELL: Was there a CASA worker involved in any of the... [LR37]

PAMELA MYLES: Nobody. I haven't had anybody on my case. All of the workers just chewed me down like I was not even human. [LR37]

SENATOR CAMPBELL: Thank you for taking the time to come today. Next testifier. [LR37]

DEBORAH FAULKNER: Good afternoon. My name is Deborah Faulkner, D-e-b-o-r-a-h, Faulkner, F-a-u-l-k-n-e-r. I'm with Nebraska Family Support Network. I'm a family partner. I am reading a letter from a client who has just been reunified, and she asked me to read this letter on her behalf. She's a working parent. On August 11, 2009, my children were removed from my home due to allegations that my children's grandmother made. She reported that my boyfriend at the time chained one of my sons to a dog chain and put my other son in the dryer. We were both issued tickets for child abuse and neglect. Two weeks later, all charges were dropped before I even appeared in court. When I finally had an appointment to see a caseworker, I showed proof that the

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Health and Human Services Committee  
September 28, 2011

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grandmother was only after my son's SSI and state benefits. I had papers showing she forged school transfer and placement papers to show Social Security that they lived with her. They did not. I went through four caseworkers and three family support workers. Two workers were taken off the case due to conflict of interest with the grandmother. One was kicked off because she was basing my case on her personal beliefs and feelings. In January 2010, the state still had not provided me with assistance or given me any idea how to get my children home. In April 2010, I got a caseworker from KVC. This case was referred to our agency by KVC, who started the process of reunification. During that time, my children's dad had gotten out of prison and obtained a public defender who helped him become part of the case. He had not seen his kids in two years, but he was granted supervised visits. He did supervised visits for two months and was allowed to get temporary custody. My public defender and the county attorney both argued that this was not a good idea. Grandma and dad lived together and she had a pending federal case for selling crack cocaine. Both grandmother and dad were three-time felons with no job histories. On July 27, grandmother turned herself in, which left the kids with their dad. The next day, dad was arrested for possession of crack cocaine, and booked. Now everyone, workers, have started looking for the kids. They visited dad in jail and he stated that he wasn't going to give them back. They threatened him with charges, but he still insisted that he wasn't going to return the children. We managed to get the kids back a couple of days later. They had been left at the home alone for days. When they were returned, their hair was tested and it was positive for cocaine. October 31, 2010, my five-year-old tragically passed away. The family they were living with decided to take a vacation. My children were then split up into two different respite sites. My son was very ill, and while they were on vacation he passed away. The foster family said they will return as soon as possible. It took them a week to return. That family neglected to take my son to the doctor before they left town. The doctor said that he had an asthma attack that had been aggravated by an untreated severe cold. His death could have been prevented if he had seen a doctor before they left. After all these events occurred, my children were still returned to that home. I thought by law that any time someone dies in state custody an investigation is

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Health and Human Services Committee  
September 28, 2011

---

supposed to be held. My children were consistently mistreated in that home, the home that they had been returned to. They weren't allowed to drink juice, milk, or even have any sugar products. They were forced to do push-ups for punishments, and they were allowed limited baths. They were eventually removed from that home because of alleged child abuse. My children's therapist tried multiple times to get my kids removed from that home. She became our savior. The Foster Care Review Board contacted me and said the children should have been removed long before my son passed, and an investigation should have been done. The state claimed that they had my children's best interests and safety in mind, yet that was far from true. I feel that with a little guidance I would have treated my four children ten times better than what the state did. But because of this mishap, I've lost my child due to unfounded allegations, and I don't want to see another family experience the grief and hardship that I face. Safety and protection? How about loss and sorrow? Thank you. [LR37]

SENATOR CAMPBELL: Thank you for taking time to read the letter into the record. Any questions? Okay. There were no questions. Thank you. Anyone else in that section? Did I get everybody there? Yes, ma'am. I can still say good morning. [LR37]

TAWNI STEWART: Good morning. My name is Tawni Stewart, T-a-w-n-i S-t-e-w-a-r-t. I am a former child protective service worker in Lincoln County, North Platte, Nebraska, several...probably about 15 years ago. I have also been on the other side of the fence with the Department of Health and Human Services, and I have really struggled on what to say today. But in listening to this other testimony, I feel like I have something unique to bring to the table. I feel like...I'm going to tell you my story very quickly. I was a former CPS worker, and then my family got involved with the state, with the department, as a family after my employment with CPS, after that was all done. I am the reason that my family was...it was brought to my attention by my younger child. I was concerned about his safety and well-being, so I as a parent had to turn my older child in. I was asking for help. I knew what was coming. I had an advantage over a lot of these other parents because I knew some of the ropes. I knew what to expect. So I had some things in

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Health and Human Services Committee  
September 28, 2011

---

place before I ever contacted a doctor. I had contacted an attorney. I told him what was going on, and then I took my son to the doctor. My child was not harmed physically. He was okay. But as a parent, I felt like I needed to do that. I needed to do that to ensure the safety of all of my family. When Social Services did get involved, in the case plans they accused me of minimizing the situation, that I was in denial--and I am the one that brought it to their attention in the first place. My son was, after nine months of fighting and depleting all of our financial resources for an attorney, they finally accomplished a goal, which was to remove my child from our home and put him in a high-risk facility in Lincoln, Nebraska, against the recommendations of a therapist where he was evaluated in North Platte and was suggested and recommended that he stay home and have counseling there at home, and that he was at very low risk to reoffend. Against those recommendations, Social Services still spent nine months harassing my family until we ran out of resources to fight back. And then I had...and my son at the time was ten years old, ten years old. He was abused more by the system than he was ever or had ever done anything to deserve that in our home. And I was one of the lucky ones. My son was only out of the home, this might sound like a lot to you, but in most average cases children are out of their homes for more than two years. And I know that because I'm now an advocate, and I feel like that is why my family went through what we went through, to put me in this position today. I have empowered people. I have empowered families. I feel like prevention is the key, which is not something that we've heard a lot about today. I have empowered families to prevent them from going into the system, which is the cheapest, fastest way to keep families intact. And I'm not saying, you know, and I don't want you to think that I'm saying that every case is not justified. I know there's a reason and there is a need for Social Services and children being removed from their homes, you know. But I also know that there is a lot of cases...I am an educated...I have a bachelor's degree in psychology. I have had state jobs, positions. I'm not a drug user. I'm not an alcoholic. I never have been. I'm a normal mother of three children. That's the only one that has ever been in trouble. He was out of the home for nine months. The caseworkers kept wanting to change his case plan. We would meet all of the goals of the case plan, which is another fortunate advantage that I



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Health and Human Services Committee  
September 28, 2011

---

had, because at the end of the six months and we had met the case plan requirements, I said: No more. We've met your plan, we've met your goals, we're not changing the goals now and having him in care for another six months. And we were talking earlier about reports not getting to the judges. That happened in my case. Our counselor, God put a good counselor in our corner at that residential home, and she told us from the very beginning that he did not belong there, that he should not be there and she was going to help us get him home--and she did just that. She sent a report at the first six-month review hearing--that the judge never saw. When we told her this, the next time, three months later, she sent the report directly to the judge. And when the caseworker called me and said that they were going to change the goals, I said, the judge already has the request for dismissal on his desk. I said, we'll see you in court. Which, of course, then they went ahead and dismissed the case. But to me, you know, we're talking about Department of Health and Human Services having the best interest of a child. That was not the best interest of my child. They blatantly went against a recommendation from a licensed psychologist and insisted on our child being taken out of our home and tore our family apart. And that's not something you get over. Nine months, one year, two years, five years, it's always there. I have... [LR37]

SENATOR CAMPBELL: Ms. Stewart, we... [LR37]

TAWNI STEWART: I'm sorry. [LR37]

SENATOR CAMPBELL: I want to get to any recommendations you have or final point. [LR37]

TAWNI STEWART: I think that we need to figure out a way to empower the families, give them information. You know, when I first started with CPS, I was told in training in Lincoln, Nebraska, to take advantage of the fact that parents don't know their rights; the majority of the families do not know their rights and to take advantage of that--and they do. I empowered my children when they went to school. I informed them that Social

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Rough Draft

Health and Human Services Committee  
September 28, 2011

---

Services would be coming and there would be women there to talk to them or men and that they did not have to speak without their parent present. I think children in the schools need to know this. That's abuse in itself when the children are, you know, they're in school and these officials come. The teacher says you have to go to the, you know, to this private room with these strangers that you don't even know, and then they make them feel like they have to talk, you know. Again, that was an advantage that I had that I knew to tell my children that they would be coming, you know, and what to do in that situation. But a lot of these families don't have that. They don't know that they can't just barge into your house and search your home without the proper paperwork in place. [LR37]

SENATOR CAMPBELL: Are there any questions for Ms. Stewart on her testimony? Thank you for coming today and sharing your experience. [LR37]

TAWNI STEWART: Thank you. [LR37]

SENATOR CAMPBELL: Okay, I think I have everyone here. In the middle section, testifier? I think I only have one testifier left, is that correct, from what I wrote down? Okay. I'm going to come back to the Foster Care Review Board because they were not on the schedule today, and so I'm going to come back to you at the end probably. Okay. Yes, ma'am, would you give your name for the record, please. [LR37]

JEANETTE KENNEDY: My name is Jeanette Kennedy, J-e-a-n-e-t-t-e K-e-n-n-e-d-y. I'm a biological parent and I have three children. Their father is currently serving eight to ten years for sexual assault and domestic violence against my oldest child and myself. We were put into the system in July 2009, which has been just over two years. Since then, we have discovered that my son has Asperger's symptoms and they have sent him to several therapists and for several evaluations to get it to the point of being diagnosed with full spectrum autism. With the stress that has been put on him over the last two years, he has spent over a year in shelter care. He has currently broadened

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Transcriber's Office  
Rough Draft

Health and Human Services Committee  
September 28, 2011

---

OCD symptoms, social symptoms, and lack of social skills and educational issues. My other child, my youngest, upsets really easily because she just wants to come home. The system has told me that since it has been two years that I will...that reunification is no longer in the picture and that I am to tell my children that there is no longer reunification in the picture. I have dealt with and been dealing with HHS, building code enforcements, Health Department, (inaudible), the court system, and the school systems. I'm not currently able to obtain a divorce with any assistance, as we are still involved in family court and due to custody issues and housing issues. My husband has finally relinquished parental rights, so I am currently looking forward to closing that part of my life with a divorce. My family has been very active in volunteering and being together. I spend most of my children's time, though they are in foster care and/or shelter care, we have spent most of their daily time with me as a family as best we can, excluding the time of being able to tuck them into bed at night. I am told the reason my children can't come home is that my house is no longer code or safe...up to code or safe. However, I have been unable to locate any assistance via a state voucher or rental property, as I am currently a co-homeowner. I have lost my job, my friends, my financial security, and as I said, the ability to tuck my children in at night. My children feel that this is all their fault, that they have lost their home, their friends, their social lives, their pets, and their freedom. And my greatest fears have come to light in recent months that no matter how hard I have worked toward the goal of reunification, which currently going to be impossible because they say that is no longer in the picture. I have worked with several entities excluding Health and Human Services who have stated that they have assisted us. However, where is the assistance? We are still in the same place we were in the beginning with no end results. I have done improvements to my home in attempting to bring it up to code and/or their supposed safety to bring my children home. [LR37]

SENATOR CAMPBELL: Are there any questions for Ms. Kennedy today? Thank you for coming and telling us your story. [LR37]

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Rough Draft

Health and Human Services Committee  
September 28, 2011

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JEANETTE KENNEDY: Thank you. [LR37]

SENATOR CAMPBELL: Okay, our next testifier. Yes, ma'am. Could I have a show of hands? I know I have the Foster Care Review Board. I know you are in the back. Anyone else? Okay, one. Okay, we'll take the lady in the back and we'll finish up with the Foster Care Review Board. [LR37]

EVANCE PHILLIPS-SOASH: I'm not sure if it's...it's afternoon. Good afternoon, Senators and Health and Human Services. My name is Evance Phillips-Soash. I've been fighting since... [LR37]

SENATOR CAMPBELL: Could you...I'm sorry, we do need you to spell that one. [LR37]

EVANCE PHILLIPS-SOASH: Oh, I'm sorry. Evance, E-v-a-n-c-e, Phillips, P-h-i-l-l-i-p-s... [LR37]

SENATOR CAMPBELL: Thank you. [LR37]

EVANCE PHILLIPS-SOASH: ...last name is Soash, S-o-a-s-h. [LR37]

SENATOR CAMPBELL: Thank you very much. [LR37]

EVANCE PHILLIPS-SOASH: You're welcome. I'm not sure where to start. I've heard so much this morning, I'm just...it's an echo in my life what I'm going through. Basically it began April 8, 2010, with my two grandsons that I've been raising since birth. These boys...I was there at the delivery, I cut the umbilical cord, and I named them. Just didn't have the labor pains or push them out. My daughter at the time was in Uta...not Uta Halee, but Geneva with her first child, and I took him and brought him home thinking that I would have this child maybe for a couple of years until she got herself together, and it didn't go like that. A couple of years later, she had another child and I took him

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Transcriber's Office  
Rough Draft

Health and Human Services Committee  
September 28, 2011

---

too. So these two boys I've been raising, and I had a situation in my home where I needed to take the boys out, just loud tones that I didn't like, and I had the boys to go stay with their mom. They were taken from the school, CPS stating that...they had several reasons when we got to court. First, they didn't know that I was a legal guardian. Then they allegedly...they said that my daughter was soliciting herself with her children. Then it was...there were several reasons. Anyway, we've been going through this since 2010. My husband and I have done everything that we are supposed to do. At the latest...we're having semi-unsupervised visits several times a week, and I'm supposed to allow them to come into my home and search my entire house to make sure that my daughter is not hiding in a closet somewhere because the daughter is not supposed to be around her children. And that I don't exactly know how I'm going to work that out with Omaha being such a small town because you just run into people everywhere, at the grocery stores. I'm thinking about Christmas and Thanksgiving when we're all sitting around the table, are we not supposed to be involved in these family get-togethers because my daughter might be there, their mother? Our lives have been torn apart. My grandsons have been in 13 foster cares. They have been...the oldest one has been hospitalized each time he was moved from a foster care and he was moved because of abuse and neglect. I'm being charged with neglect. But these people have put bruises on them, marks, black eyes, scratches. He was grabbed by his throat one time and threw up against the wall and hit in his chest. One foster mom put her fingers in my oldest grandson's mouth, corners of his mouth, and pulled it out like this. These kids have been so abused, so hurt. And it's almost like an attack on me. I say, if it's an attack on me, attack me. Don't hurt these innocent children. They haven't done anything. And people don't care. The thing, though, is that these children are going to grow up and they're going to be in charge of this, our lives, you know, this world that we live in. And they're human beings. And it's just been so much that's gone on, and I just...I want to say that the oldest one was in an RTC for over three months. And these children have been put on all this medication. He was put on so much medication that he had to wear a diaper at one time. And that changing with the case managers? We've had four of them. That's to make people...I think to confuse them. I'm not very confused because

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Rough Draft

Health and Human Services Committee  
September 28, 2011

---

I'm a nurse. My last job--I stopped as when this thing all started--I was an assistant director of nursing, and I used to be a family support worker back in the '80s so I've had some dealings with CPS. I don't know...but somebody does need to find out why is it that they can point the finger and not really find out what's going on. They're tearing lives apart. I don't know if my grandsons are going to be okay anymore. I really don't know if they're going to be okay. One is catatonic almost and he's lost about 20 pounds, like I said, since he's been in the system. This is the one that was six years old when he went in and he's seven now. The nine-year-old is...I don't know, it's not good. It's not good. [LR37]

SENATOR CAMPBELL: Ms. Phillips-Soash, I'm going to go to any questions that the senators might have. [LR37]

EVANCE PHILLIPS-SOASH: Yes. [LR37]

SENATOR CAMPBELL: Did we cover everything in your story pretty much? [LR37]

EVANCE PHILLIPS-SOASH: Pretty much. There was so much. Yeah, I... [LR37]

SENATOR CAMPBELL: Well, do feel free to, you know, to talk to us individually if you want to afterwards. You and I talked at the beginning... [LR37]

EVANCE PHILLIPS-SOASH: Yes. [LR37]

SENATOR CAMPBELL: ...and we'd be glad to do that to follow up. [LR37]

EVANCE PHILLIPS-SOASH: All right. [LR37]

SENATOR CAMPBELL: Thank you for coming today. [LR37]

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Transcriber's Office  
Rough Draft

Health and Human Services Committee  
September 28, 2011

---

EVANCE PHILLIPS-SOASH: Thank you for hearing me. [LR37]

SENATOR CAMPBELL: Okay. I think the lady in the very back...are you all with the Foster Care Review Board? Is that what... [LR37]

\_\_\_\_\_ : Pauline is going to testify. [LR37]

SENATOR CAMPBELL: Oh, okay. Yes. The lady that's way in the back...yes. And then we'll do the Foster Care Review Board, which will be our final testifier today. Now it is good afternoon. Thank you. [LR37]

DANA SMITH: (Exhibits 18, 19) Hi there. How are you all today? [LR37]

SENATOR CAMPBELL: Go right ahead. [LR37]

DANA SMITH: First of all, I want to explain, take a couple of seconds... [LR37]

SENATOR CAMPBELL: Oh, we need to have you identify yourself for the record. [LR37]

DANA SMITH: Oh, I'm sorry. Dana Smith, and I'm a parent with children that have been in the system. [LR37]

SENATOR CAMPBELL: Okay. And you want to go ahead. I'm assuming that you're going to highlight some of the information that you've given us in the packet today. [LR37]

DANA SMITH: Yes. First of all, I want to go back and I want to explain quickly some of the...after the first four pages, which is my testimony, I included some documentation as to my children and the case that we've been involved in. The first page is the initial

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Transcriber's Office  
Rough Draft

Health and Human Services Committee  
September 28, 2011

---

reason why the children were taken. The very first...as you can see on the bottom, A, B, C, and D were the reasons my children were taken. On the second page, you'll see what the Omaha City Prosecutor's Office sent me when I got a ticket for neglect. It was dismissed within the first 30 days. They had held my children without letting me see them for 30 days. This ticket was dismissed and then it went into the juvenile system. On the following page, you'll see a letter from my attorney to one of the caseworkers. On the second part of that page, you'll see...I put a couple of stars by the sentence that was a question from me and my attorney. And the question was whether I would relinquish my parental rights to my two babies in exchange for having a solid six months of reunification with my original three children that were taken. The next page is what I recently received October of last year from the Department of Health and Human Services. My parental rights have already been terminated. However, they sent this to me, like I said, October of last year: "You are currently court ordered to provide health insurance coverage to the following dependents," and it has my original three children that were taken from me back in '04 listed there. And some of this will make more sense once I go through my original story for you all. I've also included a letter from one of my attorneys that was given to Ms. April Carlson. She was a caseworker on my case. When my children were allowed...they were being told prior to the termination being finalized, they were being told they were going to be adopted and they were already using the last name of the foster parents, on top of they would come to visitations telling me that they would not have to listen to me. [LR37]

SENATOR CAMPBELL: Ms. Smith, do you want to try and summarize for us the story, because you have a lot of information here as we're taking it. Do you want to just...because we won't have time... [LR37]

DANA SMITH: Yes. [LR37]

SENATOR CAMPBELL: ...to read the whole testimony. [LR37]



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Rough Draft

Health and Human Services Committee  
September 28, 2011

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DANA SMITH: No. That is... [LR37]

SENATOR CAMPBELL: But I do think you may want to summarize for us your story.  
[LR37]

DANA SMITH: Okay. All right. Again, my name is Dana Smith. I'm a very loving and dedicated mother, have always been involved with my kids' school activities, etcetera. I have always provided the essentials for my kids with a nice home. They've always had their bellies full and nice clothing and not at any given moment were the children ever placed in an imminent harm situation while in my care. It all started one day when I overslept and I did not pick my daughter up from school. The school had called my emergency contact, my cousin, to pick my daughter up from school, so she did. She got to my house and I was at home sleeping due to lack of prescriptions that I was supposed to have been taking. She couldn't...when she knocked on my door, she couldn't rouse me from sleep, so she called the police for a well-being check. The police arrived. I was startled awake by them banging on all the doors, rushing to answer, still half asleep and stumbling down the stairs. They presumed I was on drugs. They never arrested me for the ticket of neglect that they gave me. They never tested me--anything. They continued to tell me they were going to take my daughter, who was in my cousin's custody at that point in time. They were going to go pick by two boys up from day care, them telling me that I was late picking them up from day care, which I was not at that point in time. Actually, the police didn't ask me, they told me, and I felt I had no choice but to comply with their decisions. They took my children to a shelter, and I was given the ticket for neglect, which was soon dismissed. I was never arrested, like I had said, or anything else. I was totally cut off from my children and contact with them for the first 30 days. The judge said my appearance in court was not even necessary, that my ticket had already been dismissed for the neglect. Only recently did I learn from the director of Heartland Family Services Children's Shelter that in all the cases that she has seen when there's no further criminal charges and the home is found to be safe to return home to, that children do when the ticket gets dismissed. So not why in my own case?

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Transcriber's Office  
Rough Draft

Health and Human Services Committee  
September 28, 2011

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Because the department already had three of my children, they also took two other children from me in the long run. My daughter Grace was taken directly from the hospital after birth, even though the toxicology report showed no drug use. At the time the state took Grace from me, the department's excuse was that they didn't have the results of the testing back yet. However, later it was proven that they did and they had lied. The system never allowed Grace and me to have a chance to bond as mother and newborn. Heartbreakingly enough, I was only provided two-hour visits twice each week with her. All the while, I was trying to jump through unrealistic hoops to meet the seemingly endless demands of caseworkers, of which there was probably about six to eight on the whole case throughout the whole time with me and my children, many of the requirements addressing issues not even pertaining to my case. Nothing could ever be done to satisfy any of the caseworkers. For fear of the department, I moved to Iowa to have my fifth child Hanah. She and I were Iowa residents. We visited Nebraska to see my daughter Hanah's siblings, Courtney, Jaden, and Payton, all who were still state wards--and the department had then taken Hanah from me as well. It didn't matter that we were Iowa residents or that CPS in Iowa had just told me I was doing a wonderful job with my five-month-old baby and let me walk out their doors with her. Not even one month had passed from the time the department took Hanah and the state filed termination of parental rights papers on me. This meant that Hanah was only in the Nebraska CPS system for one month, but they moved to sever my rights to all five of my children at once. The state absorbed her and I was helpless to stop it. After the TPR was filed, I was given a "Sophie's Choice" bind. The department would give me an additional six-month reunification plan for my three older children, Courtney, Jaden, and Payton, if I would agree to relinquish my rights to my two younger babies, Grace and Hanah. That seemed like kidnapping, extortion, and blackmail to me, and it was an unconscionable proposal. From one mistake of oversleeping, the system acted upon stereotypes, assumptions, and false accusations. The department was continually putting up roadblocks, intentionally sabotaging the reunification process. I was never ever given...with my visitations, I never had my own visitations. They were always supervised. And some of the most troubling aspects of my experiences have included

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Rough Draft

Health and Human Services Committee  
September 28, 2011

---

court-ordered family counseling, but the department never allowed with my children yet it was allowed with the foster family. [LR37]

SENATOR CAMPBELL: Ms. Smith, I'm sorry. Could you kind of summarize for us. [LR37]

DANA SMITH: Okay. Yeah, I'll hurry. My educational rights were still intact, but I was not given any information as far as where they were going to school. It was trying to be kept from me, as long as...the same with the medical rights for my kids. I had reported bruising on my children, and it was ignored by the department. I was given back the same public defender that I had already fired. Isn't that conflict of interest? My TPR was improperly filed by public defense attorneys. What's happened to due process and our constitutional rights as parents and children and citizens? To think of all the intrusive and unwarranted evaluations the department requested over and over for updates, hoping to prove something that wasn't there. Our state foots the bill and the system perpetuates itself. Children and families are suffering needlessly. We are human beings. We aren't statistics, we aren't cases, and we aren't criminals. The system must change. And I worry so much for my children. I haven't seen them for two and a half years. I still long for them and I fight for their return every day, even though I don't know where they are and I don't know if anything can be done. [LR37]

SENATOR CAMPBELL: Ms. Smith, we'll look through the packet. If we have any questions, I really appreciate that you provided a current address and e-mail so we can follow up if we have questions as we read through the packet. You have provided a lot of materials. Any questions? Thank you very much. [LR37]

DANA SMITH: Okay, thank you. [LR37]

SENATOR CAMPBELL: Our last testifier today will be the Foster Care Review Board. [LR37]

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Transcriber's Office  
Rough Draft

Health and Human Services Committee  
September 28, 2011

---

PAULINE WILLIAMS: Good afternoon. [LR37]

SENATOR CAMPBELL: Good afternoon. [LR37]

PAULINE WILLIAMS: Good to see you again. [LR37]

SENATOR CAMPBELL: Yes. We saw you in Norfolk. [LR37]

PAULINE WILLIAMS: (Exhibit 20) Yes. My name is Pauline Williams. I was a review specialist for 16-plus years for the Foster Care Review Board. The last two years I've been supervisor in Northern and also Eastern Area, Douglas/Sarpy County. I'd like to commend the committee for the time, effort, energy spent addressing this issue. I'm going to reduce the last 22 months down to three minutes. We'll see how well I do. [LR37]

SENATOR CAMPBELL: You do terrific. [LR37]

PAULINE WILLIAMS: Thank you. You will notice maps at the end of the testimony. That's in regard not only to placement issues, children in out-of-home care. In August of this year, Douglas/Sarpy County, there were 1,873 children placed in out-of-home care; 662 of those children had been in care at least once before; 1,044 have had at least four or more DHHS workers; and 864 of those children have been in four or more placements while in out-of-home care. I have reduced down to about four main issues now in this area. One would be the lack of stability in regard to case management. The lead agencies were ill prepared. Twenty days' training for case management to take over a very stressful job. In the best of situations, there is a high turnover anyway. You have constant turnovers on this side, on the HHS side. There's uncertainty in regard to will I have a job and I better find one before I end up with no way to support my family. The end result when everybody is leave it on both sides, is where is the documentation,

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Health and Human Services Committee  
September 28, 2011

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where is the data, is it being collected, and I left yesterday so I'm not going to come back to figure out what has been happening--and then the new person who comes in has to take over. The Foster Care Review Board is working to address that issue and to report the deficits. The second one is in regard to placement, of course the lack of placements, all levels of care. Decrease in licensed foster placements. You do have a map on that regard. Douglas County between November of '09 and January of 2011, and these are stats per HHS, in Douglas County they've decreased from 793 to 628; in Sarpy from 148 to 126. Also the lack of overview of placements. Previously, that was the job of resource development within HHS to oversee the number and mixture of children in the home. Currently, we have HHS, we have NFC, and we have KVC all doing placements, subcontracting within the same placement. There is no longer a central warehouse. Therefore, you could have an agency-based foster home and children from each of the agencies placed in there. And, like I say, what I don't know is who is ensuring that the mixture of the children in that home is appropriate. Also there's currently--because we do have access to N-FOCUS, the case file--delays in updating...speaking quicker, the records placement on N-FOCUS and also as Alicia Henderson brought up in regard to respite care, except in our case, rather than three placements we often see four. They're removed from one home due to abuse/neglect, temporary here, temporary here, finally placed in another one and yet on the record there are only two listed; whereas, respite was intended going back to the initial placement, and that was never the intention. And court continuances, they're listed there, maybe the most relevant one. A lot of hearings in regard to reasonable efforts; that means, are accessible services provided in a timely manner? If not, it's going to be a two-month delay to a hearing, a decision. The whole case is going to be delayed until a ruling has been made. The other thing, the court gives custody, of course, to HHS, who is no longer required to see the child, to see the parent, or to visit the placement, and yet they make decisions regarding safety/risk. How can they do so? And then the lack of availability of infrastructures. We could have visitation increased to 20 hours a week and yet there's no one to provide it. A parent who needs chemical dependency treatment yet they might have to wait three to five months to get into treatment. So then

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Health and Human Services Committee  
September 28, 2011

---

how is that speeding along permanency for a child? [LR37]

SENATOR CAMPBELL: Questions? Senator Howard. [LR37]

SENATOR HOWARD: Thank you, Pauline. That's really concise and it provides a lot of information. When you look at all this, do you think there's any chance that we'll pass a federal audit when this comes around to us again? [LR37]

PAULINE WILLIAMS: We are working our best in order to make sure. We are meeting with HHS, we're meeting with the lead agencies to make sure they're aware--that's part of our job--make sure they're aware. And all we can do is the best they can. We cannot change things for them. [LR37]

SENATOR HOWARD: Well, it's not...the burden is not on you. [LR37]

PAULINE WILLIAMS: Right. [LR37]

SENATOR HOWARD: I'm talking about with the system. [LR37]

PAULINE WILLIAMS: Yes. We are trying to notify both HHS and the lead agencies in regards to the deficits so they can take corrective action in that regard. And part of that was our file content checklist and things like that. This is what we need. This is what the federal's personnel are looking for when they come in. [LR37]

SENATOR HOWARD: Well, I think that's good that you're providing that information for them and they can't say they didn't know. Thank you. [LR37]

PAULINE WILLIAMS: You're welcome. [LR37]

SENATOR CAMPBELL: Ms. Williams, one of the questions I have has to do with the

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Health and Human Services Committee  
September 28, 2011

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increased number of lack of reasonable efforts. And you mentioned that as one of the problems. [LR37]

PAULINE WILLIAMS: Um-hum. [LR37]

SENATOR CAMPBELL: When you testified in Norfolk, I can't remember, was that also a problem that you saw in that service area? [LR37]

PAULINE WILLIAMS: It isn't as much of a problem as it is in this service area for a lot of different reasons, and, of course, the way they look at a few things. But it is much greater problem here than it is up there. [LR37]

SENATOR CAMPBELL: Is there any other, I mean, major point that would be different from what you saw in that service area when you testified there as to what you're testifying here? [LR37]

PAULINE WILLIAMS: For the legal portion of it? [LR37]

SENATOR CAMPBELL: Well, or any. [LR37]

PAULINE WILLIAMS: Between that, the court system, the lack of documentation, they rely more heavily on some areas rather than other areas, and placement oversight. And again, especially since we have multiple agencies placing for us up there, they have two main agencies and they're only placing in their own foster homes. Here we have three entities who may be placing children in the same foster home. And then who is overseeing the mixture of those children in the home? [LR37]

SENATOR CAMPBELL: That is a difference... [LR37]

PAULINE WILLIAMS: Yes. [LR37]

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Transcriber's Office  
Rough Draft

Health and Human Services Committee  
September 28, 2011

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SENATOR CAMPBELL: ...from what you testified and what we saw in Norfolk. [LR37]

PAULINE WILLIAMS: Yes, because they...right. They only have Building Blocks up there and Beneficial Behavior. So they only place in their own homes and no other homes. [LR37]

SENATOR CAMPBELL: Thank you. As usual, the data is very good for our records and we really appreciate you bringing it forward. As I mentioned in all the hearings, it is required by state statute that the Foster Care Review Board provide data to the Legislature as we look through these issues. So we appreciate your appearing very much. [LR37]

PAULINE WILLIAMS: Okay. [LR37]

SENATOR CAMPBELL: Thank you. [LR37]

PAULINE WILLIAMS: Thank you. [LR37]

SENATOR CAMPBELL: That will conclude the public portion of our hearings today. (See also Exhibits 21, 22) This afternoon the committee will reconvene in closed session. Thank you one and all for coming and for your testimony. [LR37]