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Judiciary Committee
February 23, 2012

[LB940 LB1056 LB1088 LB1099 LB1153]

The Committee on Judiciary met at 1:30 p.m. on Thursday, February 23, 2012, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a hearing on LB1056, LB1088, LB1099, LB940, and LB1153. Senators present: Brad Ashford, Chairperson; Steve Lathrop, Vice Chairperson; Burke Harr; Colby Coash; Brenda Council; Amanda McGill; and Scott Lautenbaugh. Senators absent: Tyson Larson.

SENATOR ASHFORD: We're starting a little late. I apologize to my good friend Senator Pirsch, but we usually start on time; but I have a head cold, so we're starting a little late. Anyway, Senator Pirsch...we have five bills today starting with LB1056 and it doesn't look like we have a whole big crowd and most of you I think probably have...are aware of the lights system, and so why don't we just start with Senator Pirsch and move ahead to me in a second, but we'll go with...go ahead, Pete. [LB1056]

SENATOR PIRSCH: Well, I'll be brief. For the record, my name is Pete Pirsch, P-e-t-e P-i-r-s-c-h, representing Legislative District 4, sponsor of LB1056. LB1056 really responds to a Supreme Court Opinion, State v. Graff, the November 2011 Opinion. And the Supreme Court noted an issue with the statutory language in Chapter 42-924 through 42-926. LB1056 would essentially solve a problem noted by the Supreme Court by clarifying service and notice of both harassment and protection orders, so. I do have other matters in the Revenue Committee. And so I know there are those who will be testifying after me, and so I'll defer to those testifiers and probably end up waiving my closing, and that's it. [LB1056]

SENATOR ASHFORD: Okay, so, all right, good. Yes? [LB1056]

SENATOR PIRSCH: Yeah. [LB1056]

SENATOR MCGILL: I just want to remind the committee this is the language that was meant to deal with the same problem one of my bills did... [LB1056]

SENATOR PIRSCH: That's right. [LB1056]

SENATOR MCGILL: ...and that we prefer Senator Pirsch's language in this part. [LB1056]

SENATOR LATHROP: He does or you do? [LB1056]

SENATOR MCGILL: No, he has...we both like his language better--or parts of it, so. [LB1056]

SENATOR PIRSCH: Yeah, yeah. [LB1056]

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SENATOR LATHROP: Oh, okay. [LB1056]

SENATOR PIRSCH: LB920 and LB1056 deal with the same problem, essentially, so yeah. [LB1056]

SENATOR MCGILL: Yeah. [LB1056]

SENATOR ASHFORD: Okay, okay. And what is that problem? [LB1056]

SENATOR PIRSCH: Yeah, well I'll... [LB1056]

SENATOR MCGILL: Serving, being served, and the person is in the courtroom and yet claims they didn't get notice. [LB1056]

SENATOR COUNCIL: Being given notice. [LB1056]

SENATOR ASHFORD: Oh, this is notice, okay. [LB1056]

SENATOR PIRSCH: Yeah. [LB1056]

SENATOR ASHFORD: All right. [LB1056]

SENATOR PIRSCH: Yeah. [LB1056]

SENATOR ASHFORD: Okay. [LB1056]

SENATOR PIRSCH: And there will be others who will do a good job explaining. [LB1056]

SENATOR ASHFORD: Okay, okay. Thanks, Pete. [LB1056]

SENATOR PIRSCH: Yeah, you bet. [LB1056]

SENATOR ASHFORD: Okay, Marty, you're out of your crutch, off your crutches? [LB1056]

MARTY CONBOY: I'm limping now, I've moved on to limping. Good afternoon, Chairman, Senators. My name is Marty Conboy. I'm the city prosecutor in Omaha. I'm also here on behalf of the Douglas County Attorneys...or the Nebraska County Attorneys Association, and I'm here to testify in favor of LB1056. I think Senator McGill has already explained the reasoning for this. The Supreme Court noted a statutory issue that is correct, that it does require re-service of somebody who either loses at a

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hearing to challenge a protection order or doesn't show up for it. [LB1056]

SENATOR ASHFORD: Oh, that's the problem. [LB1056]

MARTY CONBOY: And it puts us in a position where somebody who's already got the protection order in their hands, goes to the hearing, loses, walks out the door knowing they lose, is still holding the protection order, can't be prosecuted until they go find them. After it's sent back to the sheriff, they have to go find him again and hand him the same protection order again... [LB1056]

SENATOR ASHFORD: Okay. [LB1056]

MARTY CONBOY: ...and it's created a problem where people are hiding out for the...to try and avoid that or it's going to put them in a position where the court staff is actually going to have to try and get that served in the courtroom, which would mean those people might have to testify. The Supreme Court kind of threw a softball here and said: The statute says this; even though it doesn't seem to be necessary, we have to follow the statute, literally talk about statutory construction. So this is a response to that. It would be a simple and, I think, reasonable repair of that issue. The...I would point out that Senator McGill's bill had an issue with mandatory hearings, but this only deals with that one issue. The mandatory hearings were precipitated by a federal law which has since been repealed and they are... [LB1056]

SENATOR ASHFORD: Oh, that federal law was repealed? [LB1056]

MARTY CONBOY: Yes, it was found to be unconstitutional, actually, under the commerce clause. [LB1056]

SENATOR ASHFORD: Hmm. [LB1056]

MARTY CONBOY: But once that happened, then the necessity for those mandatory hearings is no longer in the courts, so it really is a headache for the courts and... [LB1056]

SENATOR MCGILL: So you would support us going through with that part of my bill and putting that in? [LB1056]

MARTY CONBOY: Yes, that makes great sense... [LB1056]

SENATOR MCGILL: Okay. [LB1056]

MARTY CONBOY: ...and I know the judges are much in favor of that because a lot of it...they have to schedule the hearings for every single case and a good number of them

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don't show up or are kind of spurious. [LB1056]

SENATOR ASHFORD: Right. [LB1056]

MARTY CONBOY: And so the ones that really need it are kind of lost in the shuffle. And that was only passed because the federal law mandated it at the time, so it seems logical to, now that we don't have to do it, to go back to the more efficient way. But at any rate, I was just going to make that note that that's not in here, but it certainly makes good sense to do that. [LB1056]

SENATOR ASHFORD: Great. Thanks, Marty. I don't see any questions. Thank you, sir. [LB1056]

MARTY CONBOY: Thank you. [LB1056]

SENATOR ASHFORD: Any other proponents? [LB1056]

RON COUGHLIN: (Exhibit 1) Good afternoon, Chairman. My name is Ron Coughlin, it's R-o-n C-o-u-g-h-l-i-n. I am the supervisor of the civil process at Douglas County Sheriff. Just to touch kind of a little bit on what Mr. Conboy talked about, we have an average of 3,000 protection orders a year in Douglas County alone, and what Mr. Conboy is talking about is we are the ones that go out and serve those second orders. I have a handout that we passed out to you. I ran the numbers. This has been in effect for nine weeks right now and in the nine weeks, we've had 78 services so far during working hours, 12 outside of working hours. We have someone on-call 24 hours a day. And then in the courthouse, like Mr. Conboy said, that if the person stays in the courthouse and actually goes to the protection order officer, there's been 39 of those. So what we're running into is we're duplicating the service of once we've served a paper, we're having to go back out. And maybe in smaller counties it's not as big a deal as it is for us. But like I said, you know, we...I did the yearly projections, too, if these numbers keep going, so we're looking at a great number of protection orders that we're going to have to go out and re-serve, so we are definitely for changing the statute. [LB1056]

SENATOR LATHROP: Very good. And you like Senator Pirsch's language? [LB1056]

RON COUGHLIN: Yes. [LB1056]

SENATOR LATHROP: Okay, that's good. I see no questions. Thanks for coming down today. [LB1056]

RON COUGHLIN: Thank you. [LB1056]

SENATOR LATHROP: The next proponent. [LB1056]

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KATIE ZULKOSKI: Good afternoon, Senator Lathrop, members of the Judiciary Committee. My name is Katie Zulkoski, Z-u-l-k-o-s-k-i, testifying today on behalf of the Nebraska State Bar Association. We do support LB1056 and Senator Pirsch's language here. We have talked to Senator McGill and as has already been stated, we do think that this language in Senator Pirsch's bill really adequately addresses the Supreme Court's language in their recent court case. [LB1056]

SENATOR LATHROP: Very good. I see no questions. Thanks, Katie. Next proponent. Anyone here in opposition who cares to testify? Anyone here in the neutral capacity? Senator Pirsch has waived closing, so that will close the hearing on LB1056 and bring us to the next bill, which would be LB1088 and Senator Ashford, who stepped out momentarily with a bit of a medical issue. [LB1056]

SENATOR MCGILL: Well done, well done.

SENATOR COASH: We could go to Senator Council's bill.

SENATOR LATHROP: Going to take (inaudible).

SENATOR MCGILL: (Inaudible) if you can have a medical emergency coughing fit.

SENATOR COASH: Senator Lathrop? Senator Lathrop?

SENATOR LAUTENBAUGH: We could go to Brenda's bill.

SENATOR COASH: We could do...

SENATOR MCGILL: Yeah, we could do Senator Council's.

SENATOR COUNCIL: Yeah, because mine is going to be quick.

SENATOR LATHROP: Okay. We will skip Senator Ashford and go straight to Senator Council's LB1099. Welcome, Senator Council.

SENATOR COUNCIL: Good afternoon, Vice Chairman Lathrop. Members of the Judiciary Committee, I'm Brenda Council. I represent the 11th Legislative District of the Nebraska Unicameral. I am here today to introduce LB1099 and I will be extremely brief. I introduced LB1099 at the request of Douglas County, and it was due in large part to the fact that there have been substantial reductions in state aid to counties and municipalities and there were threats on the horizon for additional cuts in revenue to counties. And under the current juvenile statutes that are referenced and covered by LB1099--and those are basically found in Chapter 43--those provisions make the county

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the payor of last resort when it comes to educational concerns of a juvenile who's been adjudicated. Care and custody, all of those costs, if the parent can't afford it, if there's no private insurance, then the county becomes the payor of last resort. The intent of the legislation was to shift that responsibility to the state. I admit that the draft of LB1099 goes a little further than intended in that it includes appointment of counsel and guardian ad litem and that it was not intended to be that broad. It was basically intended to address those costs that if you look at the bill, basically begin under Section 4 and then go forward, and those are costs associated with inpatient or outpatient treatment, placement in a home or any educational obligations, and that those would be borne by the state rather than the county. And that's all it's intended to do is remove the county as payor of last resort. Yes. [LB1099]

SENATOR LATHROP: Do I understand, Senator, that there are some sections of your bill that you would redact the changes? [LB1099]

SENATOR COUNCIL: Yes, and those would... [LB1099]

SENATOR LATHROP: And what sections would those be, just for those of us...? [LB1099]

SENATOR COUNCIL: Those would be the sections that deal with the appointment of counsel and a guardian ad litem. And if you look at... [LB1099]

SENATOR LATHROP: So what sections are we talking...? [LB1099]

SENATOR COUNCIL: The 43-272 on page 2. You see there's...that the state has been substituted for the county in terms of appointment of counsel, so it would go back to the county. On page 3, again there's a reference to appointed counsel; it's line 21. That would go back to the county...what...it was never the intent that those... [LB1099]

SENATOR LATHROP: Okay. Those are the two places you would change and leave the law the way it is. [LB1099]

SENATOR COUNCIL: Yes, and then...and leave the law the way it is in those sections. But everywhere else,... [LB1099]

SENATOR LATHROP: Okay. [LB1099]

SENATOR COUNCIL: ...change it from the county to the state as the payor of last resort. [LB1099]

SENATOR LATHROP: Okay, any other questions? Senator Lautenbaugh. [LB1099]

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SENATOR LAUTENBAUGH: Thank you, Senator Lathrop. Thank you, Senator Council. So is this designed--as I'm trying to scan through it--solely to focus on juvenile costs? [LB1099]

SENATOR COUNCIL: Yes. [LB1099]

SENATOR LAUTENBAUGH: And this was brought at the request of Douglas County? [LB1099]

SENATOR COUNCIL: Yes. [LB1099]

SENATOR LAUTENBAUGH: Other than that one area we just talked about that you were talking about taking out of it, if you will, are there other changes that you're anticipating for this? [LB1099]

SENATOR COUNCIL: No. [LB1099]

SENATOR LAUTENBAUGH: Okay, thank you. [LB1099]

SENATOR LATHROP: I see no other questions. Thank you, Senator Council. Proponents. He didn't even have a chance to warm the chair. (Laughter) Perfect timing, Mr. Kelley. We were... [LB1099]

MIKE KELLEY: Timing, timing. Timing is everything. [LB1099]

SENATOR LATHROP: Timing is everything. [LB1099]

MIKE KELLEY: Mr. Chairman and members of the committee, my name is Mike Kelley, K-e-l-l-e-y. I'm the registered lobbyist for Douglas County. We want to thank Senator Council for introducing this bill. The primary reason we asked her to introduce the bill was to kind of start the discussion--maybe we could have an interim hearing, too--as to if you're going to...the state's going to get rid of inheritance tax. They're serious about that. Then they have to start looking at these kinds of costs. We're talking about \$1 million in out-of-home placement costs, \$1.2 million in guardian ad litem costs. I am reliably informed by my sources that the Supreme Court is considering outlawing our current practice of going out for a bid and putting one firm in charge of guardian ad litem costs. In other words, they would cap and say each...and there might be a sound public policy for that, but it's going to have a lot of cost ramifications. So you're...so for example, you say one lawyer can only do, say, 60 cases or 50 cases. Okay, that's fine, but then that means we'll have to go out and hire a lot more people and our estimates are it will triple our costs. So instead of \$1.2 million, we'll be talking about \$3.6 million. And again, the same, you know, in the Revenue Committee, that bill was still there to end inheritance tax, which would cost Douglas County somewhere between \$8 million

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and \$9 million. So we think it's time that the discussion was had if the state is going to do some of this, at least be a partner with us, at least pay part of this cost. So this bill was a vehicle to do that, and we again thank Senator Council very much for doing that. If this bill were in the Revenue Committee, with the fiscal note we have on here, it would probably be dead before the hearing; we understand that. But we still need to start this discussion, and I'm hoping that possibly we can have an interim hearing on this and explore this. Commissioner Rodgers especially, in Douglas County, is...this is one of his areas of expertise; and he's really been, I guess, complaining about this for a long time. This bill was brought in to illustrate that and have this discussion. We thank you very much for your time on it. [LB1099]

SENATOR LATHROP: It does illustrate the consequences of the state lawmakers cutting out the stream of income for the counties. There are consequences. Anyway, any questions for Mr. Kelley? Seeing none, thanks, Mike. Thank you for coming down. [LB1099]

MIKE KELLEY: Thank you. [LB1099]

ELAINE MENZEL: Vice Chair Lathrop and members of the committee, for the record, my name is Elaine Menzel, M-e-n-z-e-l, and I'm here on behalf of the Nebraska Association of County Officials. We would also like to express our appreciation to Senator Council for recognizing the issues that counties are facing as other decisions take away the funding streams of counties and some of the obligations that counties have. As reflected in the bill, the counties would no longer be responsible for various responsibilities and, recognizing that Senator Council would potentially address just the one area versus the others, certainly appreciate still that at least one area would be recognized. The alleviation of the expense responsibilities of counties identified in the bill would potentially provide a greater opportunity to allow counties to address some preventative areas as well if some of these other decreases in funding do not occur. Our association would also be willing to be involved in an interim study if it comes to that. So if there's any questions, I would be glad to try to attempt to answer them. [LB1099]

SENATOR ASHFORD: I don't see any, thanks. [LB1099]

ELAINE MENZEL: Thank you. [LB1099]

SENATOR ASHFORD: Where are we, on the proponents? [LB1099]

SENATOR LATHROP: We are on proponents of Brenda's bill, LB1099. [LB1099]

SENATOR ASHFORD: Okay, any other proponents on LB1099? Okay, any opponents? Neutral? Katie. [LB1099]

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KATIE ZULKOSKI: Good afternoon, Senator Ashford and members of the committee. Katie Zulkoski, Z-u-l-k-o-s-k-i, testifying today on behalf of the Nebraska State Bar Association. We are neutral on the specifics of Senator Council's bill but I'm pleased to hear...we've not talked to Mr. Kelley about this issue. But when our legislation committee, as you have heard numerous times our process of how we look at bills, and our legislation committee looked at this and subsequent groups. Every time each group that looked at this said that this issue needs to be studied; should these services be paid by the state is an issue that really does deserve further study. The bar association is certainly coming at it from perhaps a different angle than those that testified earlier in that the importance of these services is really what mandates this study. And we would certainly like to be included in that if that is something that the committee would go forward with, and I'm happy to answer any questions. [LB1099]

SENATOR ASHFORD: Thank you. Thanks, Katie. I don't see any questions. Seeing none, thank you. [LB1099]

KATIE ZULKOSKI: Thank you. [LB1099]

SENATOR ASHFORD: I guess that would conclude. Brenda, do you waive? Okay. [LB1099]

SENATOR LATHROP: That would get us to your bill, Mr. Chair,... [LB1099]

SENATOR ASHFORD: That gets us to my bill. [LB1099]

SENATOR LATHROP: ...which we've passed over in your absence,... [LB1099]

SENATOR ASHFORD: I apologize. [LB1099]

SENATOR LATHROP: ...LB1088. [LB1099]

SENATOR ASHFORD: Okay. Brad Ashford, Legislative District 20. LB1088 addresses a concern brought to me by the Omaha...well, by an Omaha attorney regarding a finding of the Douglas County District Court that declared two statutes unconstitutional. Those statutes provide notice, summons, and warrant requirements under the juvenile code. The case involved a noncustodial father who was not notified when his daughter was placed in foster care and was not notified of his right to appear at proceedings regarding the custody of his daughter. This bill would amend the two statutes that were declared unconstitutional by the district court and others to ensure that both parents of the juvenile receive notice of the juvenile's involvement with the juvenile court. I believe that's the extent of what it does. It's just a simple notice statute, so. [LB1088]

SENATOR LATHROP: I see no questions. Anyone here in support of LB1088?

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[LB1088]

NICOLE GOALEY: Hi. Nicole Goaley, G-o-a-l-e-y, Deputy Douglas County Attorney in the juvenile division. I'm here in support of the bill and to also bring up a couple of other issues with the statute and items of consideration. This is the statute that applies to all of the cases that are filed under the juvenile code of 43-247, a couple of issues. One, there is parts of the statute that indicate that the juveniles need to be served, and it goes on about both parents and who they're living with. The dilemma in some of these situations is that you don't know who they are. If it's for a delinquency or a status offense, oftentimes the juveniles are not giving law enforcement accurate information. If they are, sometimes the juveniles have not seen that noncustodial parent for a significant period of time. Furthermore, case managers, even when children are made wards of the state, are not always having that information. So to serve both, if we don't have the information, may prolong proceeding for permanency of those children. Additionally, since we're talking about the abuse/neglect cases, this is the statute that indicates--with regards to serving parents--that also applies to termination of parental rights. There's no other statute that says, addresses serving parents on the termination of parental rights. There's a case from the '80s which indicates that a parent should not need to be re-served for termination of parental rights. But generally, since there's nothing in the law that specifies that they don't need to be re-served, that Douglas County Juvenile Court judges are making us re-serve parents. We are having to serve parents--and there's an attorney from my office to testify after me that will give the specifics on this, but--in Honduras, in Mexico, make attempts in Africa. And Jennifer, who is going to testify next, will give examples of a case that had to wait a year-and-a-half to proceed for that reason. Lastly, I would like to point out when it does say a person under the direction of the court that we do...sheriffs are not able to find some of our juveniles and some of their parents and we have to use our own resources to find these youths. If we have that sentence in here, under the direction of the court, that could mean that we can't use our own resources to find juveniles and their parents, to serve them to proceed, which again could prolong getting permanency or proceeding with these cases. [LB1088]

SENATOR ASHFORD: Yes, Senator Council. [LB1088]

SENATOR COUNCIL: Thank you, Ms. Goaley. And I did need clarification. Are you speaking in favor of this bill or against it? [LB1088]

NICOLE GOALEY: No, I am in favor of it, but it needs...there's things that could also be addressed within it that... [LB1088]

SENATOR COUNCIL: Okay. [LB1088]

NICOLE GOALEY: ...so it definitely needs amendments. I believe it's out of date, but it

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does need to have other things considered. And I understand your question is because it's asking for both parents to be served, and I'm saying that we can't find them. [LB1088]

SENATOR COUNCIL: That's right. Find them, right. [LB1088]

NICOLE GOALEY: It--how do I say this--it needs to be addressed, so I'm in support of a bill to address these issues. The specific issue that Senator said to add the other parent, the intent makes sense but it might not be reasonable or feasible to do that. It may mean that we can't proceed on cases. There are kids that--juveniles--that we have to serve at school because they are not going to accept service. They're going to make sure they don't answer their door, they're going to make sure they're not home when we send the sheriffs. We're lucky if we get the juvenile served, let alone a parent, let alone a second parent. [LB1088]

SENATOR COUNCIL: Thank you. [LB1088]

SENATOR ASHFORD: What...so what is this...what sort of resolution, Nicole, are you suggesting? [LB1088]

NICOLE GOALEY: It... [LB1088]

SENATOR ASHFORD: I have your e-mail here and is it...maybe it's in here. Is it in the e-mail? I... [LB1088]

NICOLE GOALEY: That's okay. I mean, there's a couple places there. There's three issues. The first one I'm concerned about is where it says "under the direction of the court." For instance, on line 22 and 23, it says "personnel of the sheriff's office or some other person under the direction of the court." If we don't eliminate the words "under the direction of the court" on that page--and as well, it's in another line, line 6 of the second page--that could mean...we have had people challenge us and say you can't use your own resources--for instance, an investigator--to serve this parent because that's not somebody that's under the direction of the court, even though we obtain service on them. So...and I will tell you we would not be successful in going forward on many of these cases if it's only someone that is under the direction of the court, like a sheriff, because the sheriffs can't find them sometimes or the court has set it so quickly that they won't get to it before the hearing. We have used the assistance of an investigator to go out on evenings, weekends, go multiple times in one day, go to a school, go to an employment. And without that resource that sheriffs would not be able to do, we would not be able to effectuate service and proceed in a child protection case on behalf of a juvenile. That was my first issue. The second issue is these...the service on parents outside the state of Nebraska. We do ask that this is considered in line--this is the fourth page of the bill--line 12 through 14: Service upon persons other than the juvenile

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required to be given notice in this section may be served at the last-known address of the person in the state of Nebraska. We advocate for this to add that language because as Jennifer could tell you, there's a case that's gone on for almost a year-and-a-half that we cannot proceed on termination of parental rights because the parent is in Mexico. She will detail FedEx, she will detail unsafe to go into that specific place in Mexico. Until we satisfy the judge that service has been effective and proper in Mexico, we can't go forward to establish permanency. This whole time, for a year-and-a-half, that child is...waits in foster care. So I don't think it's the intent of the Legislature to not be able to go forward with establishing permanency of a child in a child-protective case to try to serve a parent who has abandoned their child through another country or state that we can't proceed because we don't know how to serve them in that other country. And it has happened that the kids linger and linger and linger and cases get dismissed with no one legally responsible for them because we don't know how to serve the parent. The third point, Senator, was the...it needs to be considered about in here you don't specify on both parents if you're talking about in abuse/neglect cases or the delinquency status cases. So when I say I'm in support, I think under an abuse/neglect case, it wouldn't be...it would be more practical to have a noncustodial parent served in that circumstance because that is their child and they're being made a ward. On a delinquency or a status, to have to find and serve not only the juvenile but both parents, it's not...we're not going to be able to proceed. It isn't something that we would...that sheriff's office nor our office would be able to do. [LB1088]

SENATOR ASHFORD: There's a lot to this. Thanks, Nicole. [LB1088]

NICOLE GOALEY: Thank you. [LB1088]

SENATOR ASHFORD: Okay, next proponent, sort of, or "semiproponent." (Laugh) [LB1088]

JENNIFER CLARK: Hello, I'm Jennifer Clark. I am also with the Douglas County Attorney's office as a deputy in the juvenile division. As Nicole Goaley just stated, my primary responsibility in the office is I file motion to terminate parental rights. So our biggest issue today in regards to this, as what Ms. Goaley has stated, is service on these parents in order to provide permanency for the children. The case that Ms. Goaley is talking about is a child by the name of Kaylee (phonetic). She is eight years old. She has been in the United States her whole life. Her dad was deported back to Mexico. Her mother relinquished her parental rights. Kaylee (phonetic) has been available for adoption for the last three years. I filed a motion to terminate parental rights almost two years ago. I have tried almost every type of service I can. Alone from actually going down to Mexico to get this man served, I have tried the United States Postal Service but once it leaves the United States, I can't track it anymore and they have no way of finding out if any type of service is done. I've tried the United Postal Service and I've tried FedEx. Both have tried to do it, and then when they realize where

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this gentleman is purported to be, they will not serve it because it is considered a dangerous area for their driver to go into. So I sit here before you not able to provide Kaylee (phonetic) with any type of permanency because I cannot get her father served. I have another case where I have a child whose father lives in Nigeria. I can't have...I can't serve on him. I have another case where the mother lives in Alaska. I can't serve on her. The fact that the courts require us to have a last-known address in a country that we have no feasible way of serving has made it very, very difficult for us to be able to go forward and provide permanency for the children. I would also like to address the fact that in regards to the 1980 case, the Supreme Court stated that on a 3A case where service has been achieved, you do not need to require service when it comes to an additional pleading like a motion to terminate parental rights. Ms. Goaley is absolutely correct in that none of our judges follow that case law. Even if you bring it to them and show them this case law is accurate and there's no been...not contested, they will not follow it and yet we still have to try to achieve service on this parent. Again, a parent who had already been adjudicated, knows their child is in foster care, knows their child could be potentially up for adoption but leaves the state, leaves the country, and we don't have any idea where they are at. In regards to also Ms. Goaley striking the part where it says in the proposed legislative bill where we strike that it has to be required by the court to appoint someone to do service, I have a particular case in point where a father lived in an apartment complex and you had to buzz in to get into his...to allow for service. He refused to allow the sheriffs into the apartment complex. My office, therefore, when the father actually showed up for court, tried to serve him--my secretary did--and it was refused by the court because it was not someone that was designated by the court, so that is also one of the reasons why we wish to strike that part of the legislative bill. [LB1088]

SENATOR ASHFORD: Hmm. It's a fairly significant problem that I was not aware of, but at... [LB1088]

JENNIFER CLARK: Yes. [LB1088]

SENATOR ASHFORD: ...to the extent that you have described it. So any questions? Maybe we can...if we can fix all of this, there's...we have bills we can use to address it because it seems like it...this is a very--I don't want to overstate it--but a fairly significant issue of... [LB1088]

JENNIFER CLARK: It can...it... [LB1088]

SENATOR LATHROP: Well, if it adds a year to some kid sitting around, it's terrible. [LB1088]

JENNIFER CLARK: Well, yeah. I mean, it...there's cases where...that are brought to our office to look at to file a motion to terminate parental rights and they're like, well, we

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think the dad's in Mexico. And you're like, I'm sorry, but I can't get service on a father that lives in Mexico, and so then you cannot achieve permanency. You're also, in regards to a guardianship, you have to have service as well on a parent. Again, then you can't achieve permanency for that child if you're unable to provide notice that the court is willing to accept. So it does...you have probably several Nebraska children that are languishing in foster care because we cannot serve their parent. [LB1088]

SENATOR ASHFORD: How many...I wonder how many it is. Do you... [LB1088]

JENNIFER CLARK: I can definitely look, at least for Douglas County, to see how many cases that I have and people in my office. [LB1088]

SENATOR ASHFORD: Was it...is it 50? 25? 50? 30? 40? [LB1088]

JENNIFER CLARK: I'd say probably at least 25 to 50. [LB1088]

SENATOR ASHFORD: Wow. That's a significant problem. [LB1088]

JENNIFER CLARK: Yes, it is. [LB1088]

SENATOR ASHFORD: And we need to address that. [LB1088]

JENNIFER CLARK: Yes, we do. [LB1088]

SENATOR ASHFORD: Okay, thank you. [LB1088]

JENNIFER CLARK: You're welcome. [LB1088]

SENATOR ASHFORD: Well, we will see if we can collectively do that. Anybody else wish to testify on this bill for it or...not really for it, but kind of for it and against it? (Laughter) Nobody's for the bill, but just...and I just think it's very nice of my colleagues from the county attorney's office who are trying to make me feel better by saying they're for the bill and then...anyway, I'll waive closing on that, but I think it's something we definitely need to address. [LB1088]

SENATOR LATHROP: How about opponents? [LB1088]

SENATOR MCGILL: Oh, yeah. Did... [LB1088]

SENATOR LATHROP: There could be opponents and neutrals. [LB1088]

SENATOR MCGILL: Or were there opponents or...? [LB1088]

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SENATOR LAUTENBAUGH: Yeah, are there opponents? [LB1088]

SENATOR ASHFORD: I did say opponents, didn't I, and I don't think anybody came. [LB1088]

SENATOR MCGILL: Neutral? [LB1088]

SENATOR ASHFORD: And neutral. [LB1088]

SENATOR LATHROP: Just checking. Forgive me, Mr. Chair. [LB1088]

SENATOR ASHFORD: No, no. I think it's a good thought. Senator Harr, LB940. [LB1088]

SENATOR LATHROP: Do you want it?

SENATOR COUNCIL: Where did he go?

SENATOR COASH: Well, you could go. Steve, don't you have the last bill?

SENATOR MCGILL: Or we could get Andy.

ANDY HALE: We can do whatever you want, if you want to wait for him.

SENATOR ASHFORD: Well, Steve, do you want to go?

SENATOR LATHROP: Sure.

SENATOR ASHFORD: Why doesn't...we'll do LB1153 and we're...this may...it's going to be close to a record if we keep going in this.

SENATOR MCGILL: I know. This is crazy.

SENATOR ASHFORD: It's five after 2:00.

SENATOR LATHROP: (Exhibits 2 and 3) Good afternoon, Mr. Chairman of Judiciary Committee and members, fellow members. Steve Lathrop, L-a-t-h-r-o-p, I'm the State Senator from District 12, here to introduce LB1153. The LR37 report by the Health and Human Services Committee identified a number of concerns that resulted from the child welfare reform effort during the past few years. One of the issues faced by private providers was the high turnover of staff. And as a result of the turnover, there are many instances where...pardon me, when necessary or critical court-ordered services were not provided to the juvenile or their family in a timely manner. In some cases these

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services were not provided at all. These court-ordered services could include such things as medical exams, psychiatric treatment, assessments, visitation, evaluations, transportation, or even material necessities such as clothing. As a result, I was contacted by an attorney who practices in this area from Omaha who works with juveniles who asked me to introduce legislation to address this issue. She's found that when these services are not provided in a timely manner it can be harmful to the children and can also contribute to significant delays in achieving permanency for them. One example that she provided to me was a case where the juvenile court ordered a psychiatric evaluation for a juvenile with serious behaviors to be arranged within 30 days. When the next court hearing was scheduled, pardon me, when the next court hearing was held, 90 days later, a new caseworker showed up and stated she'd just received the court's order the day before and nothing had been done for this juvenile during the previous 90 days. When juveniles are placed in the custody of the Nebraska Department of Health and Human Services, the department becomes their legal guardian. This makes the department, not the private subcontractor, responsible for ensuring the court-ordered services are provided to the juveniles and their families. LB1153 would provide that any treatment or services ordered by the juvenile court for the juvenile or the family of the juvenile must be provided within five business days after the issuance of the court order. If they are not provided within five days by the service coordinator or the provider, then the department would have to directly arrange for them within the next three business days. It also provides that when the treatment or services are a matter of immediate and urgent necessity and are not provided by the service coordinator or a provider, then the department would have to directly arrange for the treatment or services to be immediately provided. By passing LB1153, the Legislature will impose clearly understood time lines for the provision and delivery of services in both emergency and nonemergent situations in the context of juvenile court proceedings. It will help address unnecessary delays in treatment and services for these young folks, which will lead to better outcomes for them and their families. I would encourage your support and hope you vote it... [LB1153]

SENATOR ASHFORD: Yes, Senator Coash. [LB1153]

SENATOR COASH: Thank you, Chairman. [LB1153]

SENATOR LATHROP: Yes, sir. [LB1153]

SENATOR COASH: Thank you, Senator Lathrop. What was behind choosing five days? Was that just a number you thought was reasonable? Is that what...I'm just trying to get a feel for...five days is where we landed. [LB1153]

SENATOR LATHROP: I think we thought that it was a reasonable period to provide or allow the service coordinator to arrange it. And if they're not going to, then to have the department step in. [LB1153]

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SENATOR COASH: Okay. Yeah, I've seen...I've certainly experienced this. And in your opening you mentioned a situation where it had gone 30 days or...and then the new...the turnover caused the person to come into court and say, well, I'm the new guy, so... [LB1153]

SENATOR LATHROP: Right, just got the file, I don't know anything about it. [LB1153]

SENATOR COASH: ...just got it, so I need more time. And I've been in court and judges get angry and they...my question is, is there a provision in this bill that puts any teeth in the court's hands? I mean, to be honest I...the department is having trouble meeting these deadlines with 30 days and 60 days. I have little confidence they're going to meet it with a shorter time line. What is the court going to do when they fail? I mean, they're already failing with a longer time line. We shorten it, I would consider...I bet they're going to continue to fail with a shorter time line. What's the recourse for the court in this case? [LB1153]

SENATOR LATHROP: Maybe we'll have somebody that practices in juvenile come up and have an answer for that. This really addresses what happens if you have a contract service provider and they don't get the job done. [LB1153]

SENATOR COASH: Okay. [LB1153]

SENATOR LATHROP: Ultimately the question about how do they enforce their orders, whether they give somebody 5 days or 30 or 90, I don't know what their contempt powers are. [LB1153]

SENATOR COASH: Okay. [LB1153]

SENATOR LATHROP: I mean, I don't know if they order the department to do something and they don't do it, I don't know if they're in the practice of holding someone in contempt or...because that's generally an inherent power the court has to enforce its own orders. [LB1153]

SENATOR COASH: Right. Okay. Thanks. [LB1153]

SENATOR LATHROP: Maybe somebody will tell us that, though. [LB1153]

SENATOR COASH: Got it. Thank you. [LB1153]

SENATOR ASHFORD: Yes, Senator. [LB1153]

SENATOR COUNCIL: Thank you. Senator Lathrop, I appreciate the statement you last

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made. I'm just trying to share with my experience in juvenile court it's not uncommon for the party the court has directed to undertake a particular action to come back several days later and advise that they haven't been able to get it done. And ordinarily what happens is the court gives them more time to get it done. And I'm just wondering if, you know, when you say it's not so much designed to get the youngster there, but to get the service providers to do what they're... [LB1153]

SENATOR LATHROP: Well, it's the difference...when...we've tried this experiment with privatization. And this really is a function of that issue, which is if the private contractor is told to do something, make sure this child gets a psych exam and they don't do it, this says it then becomes the department's problem and they need to get it done. A separate issue is what happens when people do not observe or carry out an order of the juvenile court. And I don't have any problem if we want to put some teeth into this or amend this to include some additional enforcement mechanism. But perhaps somebody can tell us whether the juvenile court is in the habit of holding people in contempt that don't get this done. [LB1153]

SENATOR COUNCIL: They are not. (Laugh) [LB1153]

SENATOR LATHROP: Well, I think that power is available to them inherent with being a court, so. [LB1153]

SENATOR COUNCIL: Right. [LB1153]

SENATOR ASHFORD: Thanks, Steve. [LB1153]

SENATOR LATHROP: Sure. [LB1153]

SENATOR ASHFORD: Proponents. [LB1153]

PAT McDERMOTT: Mr. Chairman, I'm Pat McDermott, I'm a county court judge in the 5th Judicial District. I have juvenile jurisdiction up there. And I really wanted to address, at Senator Lathrop's invitation, Senator Coash's question about what do we do. I won't name the case. I was filling in for a Douglas County Separate Juvenile Court judge yesterday and was told quite unabashedly, well, yeah, we were supposed to get a psychiatric eval on this woman four months ago and we still don't have it. You know, and then the judge is faced with a choice. You know, as a visiting judge I think, well, this is the hometown team's problem, there's not a lot I can do or I can go ballistic and do my best outraged judge routine. But that's generally an enormous waste of time. What I have found to be effective if I have a worker, anybody, contractor or direct employee of HHS just blow me off, then I tell them, here's what you're doing, I'm back here next Monday, you're appearing with your immediate supervisor. And unless things are done, then I want that supervisor's supervisor present in court and everybody bring your

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toothbrush. And that usually gets the message across that if you're going to defy a court order you're going to probably be incarcerated. A colleague of mine in the west, Judge Roland, fined HHS \$1,000 a day for failing to provide counseling services that he had repeatedly ordered. And that was upheld. Now that's absolutely ludicrous to fine the state because that's just money out of one pocket going in to another. But it is frustrating. And juvenile court, I don't think we have an appellate court decision that defines what is the contempt power, particularly in special juvenile courts they don't have any power to incarcerate generally. You know, it's just those inherent powers. So that is a problem in the fact that we don't have an explicit power. I have never seen any judge denied inherent powers to enforce his own orders within his own court and to demand compliance. But it's an open question. But generally speaking, I think the judges take it very seriously. And it's one of the overheads that we can do nothing about. But I just wanted to try and answer your question, Senator. That's what happens in the real world out there. [LB1153]

SENATOR COASH: Judge, do you see Senator Lathrop's bill as an appropriate way to address this? Do you think, I mean, do you think this in place is going to get better compliance with the providers that the department contracts with? [LB1153]

PAT McDERMOTT: I think bills that I describe as aspirational are important for judges, because it's easier for me to sit there and say, now look, the Legislature has indicated a public policy in this state that if I order you to do something, you got a finite time in which to at least make the arrangement. I understand it may be 60 days before we get the service because we lack providers. But I think that gives a little teeth to the judge of saying, look, I'm not trying to make life miserable for caseworkers. What I'm trying to do is tell you this is what the Legislature says we should do. They're the ones who get to decide that. If they say that, then I'm going to enforce it. So I think it gives us something to say. [LB1153]

SENATOR COASH: Thank you, Judge. [LB1153]

SENATOR ASHFORD: This maybe sounds slightly naive, but has this issue...has this become more of a difficult issue in the last couple years or... [LB1153]

PAT McDERMOTT: Senator, I don't know that... [LB1153]

SENATOR ASHFORD: ...with the private contractors that aren't used to working in the courts? [LB1153]

PAT McDERMOTT: You know, in the field where we deal with both contractors and where I am, I have some cases that are HHS managed and some cases that were KVC managed. It really comes down to the worker, regardless of who's issuing that paycheck. You have workers that are really good and get the job done and seem to

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have the kind of insight to deal with kids regardless of their employer. Then you have workers that are not as good. And I don't think who mails the paycheck to them really has much to do with it. I think it's more the worker. Some of our workers are pretty badly burned out. The chaos is...I mean, I have a group of people in a courtroom on a review hearing that's standing room only because we have contractors, we have case managers from the department. I mean, I'm just looking around and thinking the amount of money we're spending for a routine half-hour review is enormous here because everybody is in, but they're all afraid not to be there. [LB1153]

SENATOR ASHFORD: Would it help to have the...I know, I've talked to the Chief about this at some length. Would it help to guardian ad litem rules, guidelines made into rules, for one thing, and to have them be more, you know, have much more of a mandatory effect? [LB1153]

PAT McDERMOTT: I could only speak to my district. I would say that I have the best set of guardians ad litem probably not just in Nebraska but having worked with the National Council of Juvenile and Family Court Judges, I'll put them up against anybody in the nation. I have guardians ad litem that know what they're supposed to do, they see their kids, they see their kids before hearings, they bring the kids to the hearing so they can see the judge that's running their life. I think we undervalue what the Nebraska bar does throughout our system, but particularly in the juvenile court. I think we have some of the best practitioners that don't worry about how much they're getting paid, that do the jobs for kids because they think kids are important. [LB1153]

SENATOR ASHFORD: So it really is, these delays and these issues are primarily driven by the department? [LB1153]

PAT McDERMOTT: They're driven by two things. By right now chaos, people not knowing who they take their orders from, what their job is, when they're supposed to be there, when they're not supposed to be there, which isn't their fault. I mean, that's just systemic, we got to get ahold of this thing and change the tires. [LB1153]

SENATOR ASHFORD: It's not chaos because...it's chaos because of the circumstances; it's not just chaos because it's chaos. [LB1153]

PAT McDERMOTT: No, it's the circumstances and it's, you know, it was a great experiment. And who knows? And I'm not in a position to comment whether that was good, bad, or indifferent. What I do know is that it has actually increased the burden on the lawyers, the prosecutors, the defense counsel, and the guardians ad litem because they see that they have to do more to make sure that their client gets taken care of. And that's what has kept this system going is lawyers really working hard to be sure that their piece of the puzzle still fits. And I do appreciate that a lot. I don't have much trouble with caseworkers. I don't yell, first of all, so they're not afraid of me, basically. I do

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explain in great detail sometimes their potential liability under the Civil Rights Code.
[LB1153]

SENATOR ASHFORD: Without yelling. [LB1153]

PAT McDERMOTT: Not yelling. I just say, go read Section 1983 of the Federal Code and find out just exactly what can happen to you. [LB1153]

SENATOR ASHFORD: And then the chaos is one reason. And what was the second one? Chaos is a big one, but I mean there... [LB1153]

PAT McDERMOTT: Number of cases, you know, there... [LB1153]

SENATOR ASHFORD: Okay. It's just the number of cases everybody handles?
[LB1153]

PAT McDERMOTT: And, of course, where I am, lack of providers. You know, it doesn't do me any good to order a service if nobody in a 100-mile radius of the court I'm sitting in provides that service. And you keep going west, it gets worse. [LB1153]

SENATOR ASHFORD: Well, hopefully, the probation pilot can... [LB1153]

PAT McDERMOTT: I'm way, you know, a thinker out of the box. I'm willing to try anything to see if it will work better. And we do a lot of stuff just to see if it helps. I got off the track and I'm burning the clock. [LB1153]

SENATOR ASHFORD: No, I put you there. But as always, Pat, thanks for all your service and... [LB1153]

PAT McDERMOTT: Sure. I appreciate it. I appreciate what you guys do. [LB1153]

SENATOR ASHFORD: ...many years of service. Thank you. [LB1153]

PAT McDERMOTT: I will be back in a minute on what I really came down here to do.
[LB1153]

SENATOR ASHFORD: You're going to be back again? Okay. [LB1153]

SENATOR LATHROP: Thanks for stepping up, though. [LB1153]

SENATOR ASHFORD: Any other proponents of Senator Lathrop's bill? [LB1153]

LINDA COX: (Exhibit 4) I'm Linda Cox. I am the data coordinator for the Foster Care

Review Board, L-i-n-d-a C-o-x, and the Foster Care Review Board agrees with the goal of assuring that children and their families receive timely access to court-ordered services and treatments. In our most recent annual report we noted that children enter the system already wounded with increased vulnerability for further injury because of their family's pervasive alcohol and drug issues, a lack of adequate food and shelter, domestic violence, serious and often untreated mental health issues, parental intellectual limitations, and/or their own physical or mental conditions. And it's the duty of HHS and the other key players in the child welfare system to reduce the impact of abuse whenever possible and to minimize the trauma of the child's removal. And this is accomplished by providing appropriate services to the family in a timely manner, obtaining the documentation of their participation and progress or lack thereof, and providing the reports to the court and the legal parties so that informed decisions can be made regarding a child's permanency and the future can be timely. In the reviews conducted in 2010, which is the latest year for which statistics are available at this moment, the Foster Care Review Board found that in 13 percent of the cases reviewed some, but not all of the services were in motion for the mother. And for another 6 percent of the reviews it was unknown what was being provided. Regarding visitation supervision for 8 percent of the cases, visitation with the mother was unclear. Regarding the services for the child, 23 percent of the children were receiving only some, but not all of the services, while another 5 percent of the cases it was unclear as to what was being provided. The FCRB's professional review staff reports that during reviews it's not uncommon to cite delays to services. Some delays are attributable to decreased service capacity, some are to the lack of affordable and obtainable mental health and substance abuse services, and others are due to funding issues if Medicaid doesn't cover the needed services or treatments. While this bill deals specifically with lead agencies and contractors, there are service delays in all areas. And we are in support of this bill in hopes that it can improve the ability of the system to get the services to the family and children on a timely basis when it's needed and can be the most effective. I thank you. And if there's any questions,... [LB1153]

SENATOR ASHFORD: Any questions of Linda? Seeing none, thanks. Other proponents. Opponents. [LB1153]

MONIKA ANDERSON: (Exhibit 5) Good afternoon, Senator Ashford, members of the committee. My name is Monika Anderson and I'm the legal counsel for Nebraska Families Collaborative in Omaha. NFC currently provides case management, service coordination, and delivery to two-thirds of the child welfare juvenile justice population in Douglas and Sarpy Counties through a contract with the Department of Health and Human Services. NFC supports and advocates for timely access to treatment services for children and families in the eastern service area. However, LB1153's requirements that court-ordered treatment services be provided within five days after issuance of the court's order is setting everyone up to fail. You've already heard testimony about some of those failures. I'm going to give you a different perspective than what you've heard.

Certain nontreatment services are available and can be provided by NFC through our provider network very quickly. Other services, particularly treatment services, can be referred by NFC as soon as the court order is received, although the service itself may not occur for several days or weeks thereafter, and that's through no fault of the NFC or the department or really anybody else. Courts often order specific treatment services for a child or a parent. Once the NFC receives that order, then we have utilization management staff who sends a referral for that particular service to one or more of our network providers. But the time line associated with this bill is unrealistic and problematic. On average, NFC, and as of next week we will be the only lead agency remaining in the state of Nebraska, we don't normally get the court orders to even review them within that five-day turnaround. The proposed language in LB1153 does not take into consideration insurance industry standards for access to care. And I've included a chart in the materials that I've passed out that includes the routine standard for a number of insurance and managed care companies, including Magellan. The average of those is 21 days for routine care. Another issue that we have is that the court may order a specific level of treatment and beds may not be available even if the treatment service is authorized by Magellan or some other insurance company. So we often experience weeks of delay in finding a bed available for various treatment services. So there are capacity issues that are beyond the scope of this bill, and there are also medical necessity issues that are beyond the scope of this bill. So I would just urge the committee to consider those things and the NFC would urge the committee not to advance this bill. We would be glad to have discussions with members of the committee about some of the difficulties that we experience in referring those services. [LB1153]

SENATOR ASHFORD: Senator Harr. [LB1153]

SENATOR HARR: Thank you, Senator Ashford. I'm looking at your chart that you provided to us... [LB1153]

MONIKA ANDERSON: Yes. [LB1153]

SENATOR HARR: ...and you said appointment availability, routine, urgent, and emergent. What are those? What does routine...what's the definition of each one of those? [LB1153]

MONIKA ANDERSON: Well, emergent would be like emergency-room care where it's a matter of life or limb, life-threatening illness or injury. [LB1153]

SENATOR HARR: So there probably wouldn't be a court order there? [LB1153]

MONIKA ANDERSON: No,... [LB1153]

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SENATOR HARR: Okay. [LB1153]

MONIKA ANDERSON: ...not usually in those situations. Although, we have some situations where we have a court-ordered service and then something happens and there's an emergency. In my experience, that's never been a problem where we have to have a child hospitalized. Urgent would be more like acute care where there would have to be an admission to a facility or to see a medical provider because of an acute illness. Routine care is more like your outpatient care. Again, I don't know that I have the exact insurance industry definitions for you. But most of the care that we refer for is routine care, such as outpatient treatment or subacute levels of care. [LB1153]

SENATOR HARR: Okay. [LB1153]

MONIKA ANDERSON: In other words, not... [LB1153]

SENATOR HARR: So acute would go under urgent and routine then? [LB1153]

MONIKA ANDERSON: Subacute is what I said. [LB1153]

SENATOR HARR: Okay, yeah. Well, I guess I don't understand what subacute means. [LB1153]

MONIKA ANDERSON: Subacute is the residential-type treatment services or it could be intensive outpatient. [LB1153]

SENATOR HARR: Okay. You don't like five days and I understand that. That seems, you know, in a perfect world that seems like where we'd be. What do you see as a reasonable time table? [LB1153]

MONIKA ANDERSON: Well, it depends, the bill says to provide the services. NFC does not provide any direct services. So we don't have employees that do therapy or any other type of direct service. So we have to refer that to another provider. Some services are available when we have enough capacity. Other services we don't have enough capacity. On average, I would say 30 to 60 days would be sufficient to get most assessments, evaluations, and to begin most treatment services. [LB1153]

SENATOR HARR: Thirty to sixty... [LB1153]

MONIKA ANDERSON: The referral can be done a lot quicker than that. [LB1153]

SENATOR HARR: Okay. And you're saying after a judge says, hey, this kid needs mental help it can take up to 60 days? [LB1153]

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MONIKA ANDERSON: That's correct. I can... [LB1153]

SENATOR HARR: Do you think that's good or bad? Do you think it needs to be shorter than that? [LB1153]

MONIKA ANDERSON: I think it needs to be shorter than that. I think... [LB1153]

SENATOR HARR: What do you think is a good period for that? [LB1153]

MONIKA ANDERSON: Well, you have to understand that we don't control the capacity that's out there. [LB1153]

SENATOR HARR: And I'm not asking what...I'm asking you, what do you think in an ideal world would be a proper time from referral to actual treatment? [LB1153]

MONIKA ANDERSON: Thirty days. [LB1153]

SENATOR HARR: Thirty days? Okay. [LB1153]

MONIKA ANDERSON: I think that allows sufficient time for whatever paperwork is involved, whatever authorizations need to be completed for payment purposes. [LB1153]

SENATOR HARR: And during that 30 days, generally, where is that kid? [LB1153]

MONIKA ANDERSON: Again, it would depend on the treatment service. They could be at home, they could be in a foster home, they could be in a shelter, or they could be in detention. [LB1153]

SENATOR HARR: Okay. All right. Well, I appreciate that. Thank you very much. [LB1153]

MONIKA ANDERSON: Um-hum. [LB1153]

SENATOR ASHFORD: Let me just, could you just, for this committee, because obviously in the other committee, Health Committee you're there all the time I'm sure and talking to them. Tell me a little, not long division, but NFC is made up of who? [LB1153]

MONIKA ANDERSON: Boys Town, OMNI Behavioral Healthcare, Child Saving Institute, Heartland Family Service, and Nebraska Family Support Network. [LB1153]

SENATOR ASHFORD: Okay. And there are providers within that group? [LB1153]

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MONIKA ANDERSON: That's correct. [LB1153]

SENATOR ASHFORD: And isn't that part of the idea, I suppose, isn't it, is to have providers? And Boys Town is a provider, Heartland is a provider. [LB1153]

MONIKA ANDERSON: Correct. [LB1153]

SENATOR ASHFORD: And Heartland provides mental health services. [LB1153]

MONIKA ANDERSON: Correct. [LB1153]

SENATOR ASHFORD: Boys Town has residential care and other...and also mental health services and all that. And that's...my sense would be that that's a good thing. What you've done here is you've taken...gone out and gotten strong partners to collaborate with each child. So...and the kinds of care that we're talking about, much of it is mental health, correct? I mean, at least what we hear on the juvenile side is, whomever the child is, 60, 70 percent of the juvenile kids are, if they're in for a delinquency case, 60, 70 percent or maybe more are...maybe it is more, have mental health issues, developmental issues, and so on and so forth. But your...the NFC organization is set up to address those levels of developmental issues, correct? You have people within your organization, within your collaborative, to assess and to refer and to follow up on children in need, correct? [LB1153]

MONIKA ANDERSON: Correct. We have subcontracts with about 35 to 40 different providers. [LB1153]

SENATOR ASHFORD: In the state? Well, you're not all over the state. But in... [LB1153]

MONIKA ANDERSON: Most of them would be in the metropolitan Omaha area. [LB1153]

SENATOR ASHFORD: Eastern...okay. Well, that to me seems to be a pretty significant thing. I mean, that's something that we didn't have before. We didn't have this sort of collaborative. So now we have the collaborative. It looks like you're going to be the last of the...last one standing. But what is positive in my mind is that these are local people, aren't going anywhere. So when Senator Harr asked you about times and days, I mean, there probably aren't very many other professionals out there that are more qualified than your organization to make that assessment. Correct? I mean, you know what's going on for the various levels of care that are needed in the Omaha area. [LB1153]

MONIKA ANDERSON: Correct. I think that's one of the advantages of our model is that

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we do have a provider network. But there certainly are some gaps in services and some capacity issues that this would impact. [LB1153]

SENATOR ASHFORD: Okay, so but...so if we were to maybe turn this bill upside down a bit and say, all right, five days isn't possible, but you are...I mean, I'm not being sarcastic, I'm being very, very positive here. My sense is all those organizations you mentioned I'm very well aware of. And they're very positive contributors to Omaha and to Douglas County and to Sarpy County. If we can...if it's 30 days, 60 days, 30 days, 15 days, I mean, you would be the ones to be able to tell us how we...when and how we could get to those various benchmarks. [LB1153]

MONIKA ANDERSON: Yes, I think we would have some pretty good data on time lines for access to care in our experience. [LB1153]

SENATOR ASHFORD: And what it would take...and I think what everybody is fumbling around, not everybody, what I'm fumbling with is this, number one, why in this wealthy place that we live in, why we don't have the capacity we need, because the department doesn't provide those services. You don't provide all the...you have some, but there is capacity that's beyond that, beyond what you directly provide. And you have 30 to 40 other providers. [LB1153]

MONIKA ANDERSON: Right. [LB1153]

SENATOR ASHFORD: And you have children in need. And we see it on the juvenile side when they really, I know Steve's got to go. Do you have to go, Steve? [LB1153]

SENATOR LATHROP: No, I'm fine. [LB1153]

SENATOR ASHFORD: Okay. I don't want to belabor my question. But what I'm trying to delve into is to be able...we have to rely on somebody that can tell us, you know, where we are today, where we're going to be in a year, where we're going to be in three years generally, because...and how that fits into the outcomes that we deal with in this committee, which everything from very violent behaviors on the homicides, all the way to not going to school. And it seems to me that your resource, NFC and your collaborative, would be a major resource to us on this committee to tell us how do we make this better. I mean, 60 days is not acceptable. And what specifically do we need to do to get to 30, then to 15? Don't you think that's something you could tell us and give us? [LB1153]

MONIKA ANDERSON: I think we can certainly help you assess that and analyze that. We can certainly provide you with some data that we have. [LB1153]

SENATOR ASHFORD: I mean, it seems to me it's blocking and tackling, isn't it? I mean,

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we have 5,000 kids or whatever it is, 7,000 kids in the metro area who are crossover kids or abused and neglected or in the juvenile system. How do we, first of all, define their levels of need? And then, you know, what are the time lines that we can expect from the department and from NFC that are responsible time lines and the capacities that are necessary to get there? So we can go to the communities...my frustration, and I think it's not a criticism of anybody. My frustration is I think we're all wondering, yes, we want to care for these kids. We don't want them to go deeper into the system. But what kind of resources are we going to need, outside of how many caseworkers we hire? What kind of resources are we going to need in the community? And how do we fill those gaps? And what reasonable time line should we put into effect to get us to a success? [LB1153]

MONIKA ANDERSON: And I think one of the advantages going forward to having more stability in the system is that we can focus on some of those things rather than focusing on the chaos. [LB1153]

SENATOR ASHFORD: I mean, because this is to me, I think all of us on this committee don't sleep at night because we...and because we day after day after day after day hear about the tragedies that occur. And we have to rely on you guys now. I mean, this is no joke, we have to rely on you guys to, you know, to give us the information and also the results, because we cannot fail anymore. And I think what Senator Lathrop is saying by his bill is challenging us all, challenging the system to say, no more, we can't...not in Nebraska. We're one of the wealthiest states in the United States. We have to be able to allocate our resources, and then I'll stop, to allocate our resources in such a way to give people like you and your team the assets that they need to be successful with these kids. Because if Nebraska can't do it, there's not a state in the Union that can do it, in my view. So enough said. But I... [LB1153]

SENATOR LATHROP: Maybe just this observation. The way the system is structured, you being able to pick up the phone as a service coordinator, pick up the phone and make a psychiatric appointment for somebody is the function of a number of psychiatrists that are willing to do an evaluation at whatever we have been paying them. Right? [LB1153]

MONIKA ANDERSON: Correct. [LB1153]

SENATOR LATHROP: Our reimbursement rates have a direct effect upon our capacity, true? [LB1153]

MONIKA ANDERSON: I would agree with that. [LB1153]

SENATOR LATHROP: So every time we meet and we want to tighten the budget and be responsive to the fiscal problem that we faced during the recession, we screw down

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or ratchet down the reimbursement rates, and people say, I'm done doing work for juveniles on an appointment. In other words, the capacity is market driven. [LB1153]

MONIKA ANDERSON: Well, I think capacity issue also has to do with funding streams and the availability of funding, not just the rates but just the overall availability. [LB1153]

SENATOR LATHROP: So it's what we're willing to reimburse these people for an hour of their time while they do an evaluation. And then whether, as a Legislature, we put enough money into the...make enough money available so that people say, you know what, it's not a roller coaster, funding is not a roller coaster, my reimbursement rates are not a roller coaster, I think I'll get into this business. [LB1153]

MONIKA ANDERSON: Correct. [LB1153]

SENATOR LATHROP: And then we have another problem where Boys and Girls Home defaulted and didn't pay a bunch of contractors, many of whom just said, forget it, I'm done. A lot of it just plain goes back to the way we have treated these people. We want all this done in the community. Instead of having a stable full of state employees that are doing the work, we want it all done in the community. And I saw this with DED, too, where we ratchet down the reimbursement rates, they come in for a raise that they haven't had in a long time, and we go...on the provider rates, no, no, we're going to do something else with the money. Am I right? Those are the core problems with having the capacity, yes? [LB1153]

MONIKA ANDERSON: Well, with building capacity... [LB1153]

SENATOR LATHROP: Building capacity? [LB1153]

MONIKA ANDERSON: ...and recent changes in the Medicaid regulations haven't helped with the capacity issues. [LB1153]

SENATOR LATHROP: The only other observation I'd make, as long as we're talking about it, besides having the capacity, which is treating these people like partners and getting this care to the kids, has to do with the frustration that we experience sitting here, when we hear all of the failures of the process. And that is just the sense, maybe this is unfair, the sense that people at the courthouse don't have a sense of urgency. When we trip into a hearing in juvenile court, it may take four lawyers to get something done by the time everybody has a lawyer, and a guardian, and a CASA worker, and everybody else that gets appointed to these things. One person shows up and they go, I'm not ready to go or I just got the file. And, bam, the thing goes down, reset it and the next date all four of them are available, it's 60 days later and the kid sits. And I don't know how to create that sense of urgency. [LB1153]

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MONIKA ANDERSON: Well, I understand what you're saying. You know, in the last year since I've been with the NFC I haven't seen any of our staff, and we do have a lot of young staff, inexperienced staff, I haven't seen anyone who deliberately doesn't want to provide services to families. I think that overall within our system it would be good to have better communication among the parties, more communication among the parties. It would be good to see more frequent family team meetings. Certainly lower caseload sizes contribute to the caseworker having more time to spend with the family and to assess their needs and determine with the family what services they need. I think oftentimes the court-ordered services are more about payment. And again, that gets into the funding streams and the difficulty there and medical necessity issues and who determines whether a treatment is medically necessary. And we, as a lead agency in partnership with the department, need to do a better job of bringing the evidence to the courts so that they can make the proper determination as to what the proper intervention is, the appropriate treatment for the child or family at the appropriate time and for the appropriate length of time. [LB1153]

SENATOR LATHROP: Okay. [LB1153]

SENATOR ASHFORD: I am very impressed by the presentations you've made to us, Monika. [LB1153]

MONIKA ANDERSON: Well, thank you. [LB1153]

SENATOR ASHFORD: And I can tell you, we really need you to make this work. And I know it's a struggle and it's going to be hard, but it has to work. And we have to know as a committee and as legislators we need to know what resources are needed and in a very honest and candid way. You know, politics enters into everything we do. But I think we've gone past politics here. I think now we're caring...we're all Nebraskans, and we care desperately about these kids. And, you know, we need to...let me just ask one other question... [LB1153]

MONIKA ANDERSON: Sure. [LB1153]

SENATOR ASHFORD: ...because we just had this bill in our committee, the child advocacy centers. And I was here when Jessie Rasmussen voted for LB1184 as a matter...LB1084...LB1184. [LB1153]

MONIKA ANDERSON: LB1184. [LB1153]

SENATOR ASHFORD: LB1184, and her idea was to have a one-stop shop. And Scot was around, too, he's grinning. But...and her idea, and when she got up on the floor of the Legislature, and I remember her very well saying, we're going to have a one-stop shop for juveniles; we're going to have a place throughout the state where juveniles can

go. And I think the county attorneys were involved very directly, Jim Jansen in Omaha, in getting that started. I guess my question is, and then I will let you go because it's taking longer than we necessarily should spend on this, well, we could spend two weeks on it, but is, what do you see the role of the child advocacy centers to be? And how that interfaces with NFC in the Omaha area? And I guess how do you see the role of the child advocacy centers to provide that coordination and...does that... [LB1153]

MONIKA ANDERSON: Well, I see them as a physical location, for one thing, where the child can go and they can get the emotional support. They only have to tell their story one time, because all of the parties who are involved in the investigative process are present there. And so the child is traumatized. We reduce the harm that has already occurred to the child and will continue to occur to the child. I think that's very important. Another role that I've seen in my previous work in central Nebraska, the child advocacy centers there provided an advocate to attend court or other meetings with the child and could sort of be a buffer between that child and, say, the perpetrator or others who maybe are kind of scary to the child. I think there is...they have a lot of the expertise in the forensic aspects, the interviewing aspects. I think they can be a valuable resource to all the members of the child welfare community. And as you've probably gathered from my testimony last week, I don't see them and the NFC does not see them in an oversight role. We've got a number of oversight agencies already, including this body. And I just think that that changes the complexion of the child advocacy centers. [LB1153]

SENATOR ASHFORD: Haven't they been providing that role for the highest risk children up to now? I mean, the 7,000 children that go through the advocacy centers now, they have the forensic side and they also have a review side as well or... [LB1153]

MONIKA ANDERSON: You know, honestly, I don't know. [LB1153]

SENATOR ASHFORD: Okay. [LB1153]

MONIKA ANDERSON: I know that was not part of their stated purpose previously. And I think that the child advocacy centers and the LB1184 teams are perhaps utilized differently across the state... [LB1153]

SENATOR ASHFORD: Okay, fair enough. [LB1153]

MONIKA ANDERSON: ...in different venues. [LB1153]

SENATOR ASHFORD: I kept you up there too long. I've bored...not bored, but I've certainly carried on longer than I should. But thank you for your comments. [LB1153]

MONIKA ANDERSON: Thank you. And we'll be in touch with you, so we can talk about

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some of these things further. [LB1153]

SENATOR ASHFORD: Yeah. You got to make this work, Monika. Scot. [LB1153]

SCOT ADAMS: (Exhibit 6) Good afternoon, Senator Ashford and members of the Judiciary Committee. My name is Scot Adams, S-c-o-t A-d-a-m-s, and I have the privilege and honor to serve as the interim director for the Division of Children and Family Services for the Department of Health and Human Services. I'm here to provide testimony in opposition to LB1153 because I believe it creates some duplication, adds expense and some confusion, and reduces accountability and efficiency. I would like to make mention and say thank you to Senator Lathrop for introducing this and continuing to shine the light onto these important issues, even though we disagree on this one. And let me, first of all, also acknowledge that our fiscal note arrived late because of the recent changes to the child welfare system, including changes announced even today and to the impact that this bill would have. LB1153 would require the department to enter into contracts with providers for treatment and services where a lead contractor exists requiring in turn that DHHS would then be responsible for payment. Among the confusion and reduced efficiencies are these: number one, LB1153 would require additional staff and service funding for these activities or even in anticipation of the potential of these activities because we have to monitor the courts. Another item would be many orders from the juvenile court cannot be completed within such a short period of time as you have heard. Examples include a chemical dependency evaluation or a consultation with a psychiatrist for a prescription for medication. Another one is given the global focus of LB1153 on all court-ordered services, we could anticipate that a variety of providers may need to add staff themselves to be able to provide a quicker turnaround, and that cost most certainly would be passed on to the department and thus to taxpayers. I would also like to point out that LB1153 does not address times when a lead contractor or subcontractor or the department is unable to set up treatment services within a designated time frame because the service is not available for any of a variety of reasons. Sometimes providers are at capacity. It's also not uncommon for providers to refuse to provide treatment to a particular child. Perhaps most significantly it does not address those instances in which the department disagrees with the court order and the existing right of the department to appeal such order, nor does LB1153 recognize those situations in which the department has not received a court order in a timely fashion. I agree with the judge and Senator Coash's thoughts that have been expressed earlier. This may be a personnel issue. It may be a supervision issue. It could be a training issue, might be an experience issue. It is certainly a management issue, but it is not, in my opinion, a statutory issue. I urge you to oppose LB1153. Thank you. Be happy to respond to your questions. [LB1153]

SENATOR ASHFORD: Yeah, Senator Harr. [LB1153]

SENATOR HARR: Thank you, Senator Ashford. I don't know where to begin with that.

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But I'm going to start with this. What do you think best practices should be for...or if you know, what are best practices? Is there a third-party group that says, hey, once a court order has been issued, that order should be followed through within X amount of time? Is there best practices out there? [LB1153]

SCOT ADAMS: I'm not aware of that as a national standard. [LB1153]

SENATOR HARR: Okay. Based on your experience and education, what would you say is a reasonable amount of time? [LB1153]

SCOT ADAMS: It depends a little bit in terms of the order, the nature of the service, and what we're talking about. For instance, if we're talking about the front end of services, I think evaluations and access to assessment ought to be done within a week to two. If we are talking about moving from the basis of that assessment, consideration of the strengths of the family, the individual person being assessed, the assessment of the environment and those kinds of things, and then developing a treatment plan, that may be at some other treatment provider other than the assessor, which is oftentimes the case, in fact, most often the case, then I think the insurance standard of two to three weeks is probably a fair standard of play. [LB1153]

SENATOR HARR: Okay, all right. Now your last statement was this is not a statutory problem. I am going to take...well, I'm going to not agree with that. I'm going to say the purpose of the Legislature and of the legislative branch is to set policy. And it's the job of the executive branch to execute that policy, the management that you talk about. [LB1153]

SCOT ADAMS: Yes. [LB1153]

SENATOR HARR: So if we decide the policy is we don't want these kids lingering out there 60 days, that's the policy we set. That's statutory, yes. But that's a policy issue and that's what we set. That's the purpose of this branch of government. So to say it's not a statutory issue, I take exception to. I think it's very important for us to say...and we are the ones that are most directly responsible to the citizenry. We're the ones here, not the judicial, not the executive, it's us. We're supposed to be the most responsive to the people. We are first among equals. That being said, we set the policy. So I do think 30 days...if we set it, at whatever we set it, I think it is appropriate for us to set the policy and for you to honestly execute it. We appreciate you coming here. We definitely need your input. I appreciate your input. But I'll leave it at that. Thank you. [LB1153]

SCOT ADAMS: Senator, I appreciate the comments. And I certainly didn't mean to say that it was not a statutory issue from the point of view of policy. In terms of fixing it, though, is really where I was coming from. And I think that was Senator Coash's issue as well. And so it is in that frame of reference that I make that comment. [LB1153]

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SENATOR HARR: Okay. [LB1153]

SENATOR ASHFORD: Senator Lathrop. [LB1153]

SENATOR LATHROP: Maybe I'm going to make an observation not unlike Senator Harr. And we've been through this on the BSDC committee, and now we're watching it transpire again with child welfare. And in the first instance the job of making all this work is the executive branch. And when it doesn't, we stand here with money and policy and maybe shining a bright light on the issue are the only tools that we have to work with. And sometimes that means we have to set limitations on how fast you have to do things because if...it's particularly frustrating when we deal with Health and Human Services, honestly, getting straight answers so that we can find out exactly where the problem is, so that we can figure out what we need to do to make a change. We can't hire and fire the managers over there and the people that are responsible for it. And it's very frustrating. And I think you can appreciate as lawmakers the only thing we have really is policy. And I'm tempted to go into Appropriations and where you guys find money when you need money, like large sums of money to do what you want to do and we don't know where you find it or how you come up with it or what you sacrifice to pay for it. So maybe I'll just ask you one other question, and this is only because you're here, and not to put you on the spot. But yesterday KVC and the state agreed to part ways and they will soon. Is that right? [LB1153]

SCOT ADAMS: Yes, sir. [LB1153]

SENATOR LATHROP: Will KVC's subcontractors be paid or are any of them going to be stiffed? [LB1153]

SCOT ADAMS: No, sir. I...that was...there were two really high-order goals for the department in negotiating the transition. One is that there be as little impact to children and to families as absolutely possible. [LB1153]

SENATOR LATHROP: Good. [LB1153]

SCOT ADAMS: And our implementation about that was to hire the case managers KVC had. We are offering employment to them and to their supervisors so that "Sally" can stay with "Jimmy" and keep moving. So hopefully many...much of that will happen. It's not going to be 100 percent. [LB1153]

SENATOR LATHROP: But you do not expect that me, as Chair of Business and Labor Committee, next year I will not see claims from KVC's subcontractors because they didn't get paid because KVC's contract ended. Is that true? [LB1153]

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SCOT ADAMS: Sir, and our second goal was to ensure that providers got paid... [LB1153]

SENATOR LATHROP: Okay. [LB1153]

SCOT ADAMS: ...and we're doing that in a couple different ways. One is with regard to the rapid transition, so that KVC is responsible through February 29 and then it's us. We know that they are current with payments and so making the rapid transition, so that is one method by which we're assuring that. Second way that we're doing that is with our transition contract, to ensure that we retain some payments and pay out over time to make sure that the subs are paid through February 29. [LB1153]

SENATOR LATHROP: Will they be reimbursed 100 cents on the dollar for their services? [LB1153]

SCOT ADAMS: They should be reimbursed according to the contracts they have with KVC. [LB1153]

SENATOR LATHROP: So they're not going to get 35 percent or 70 percent. [LB1153]

SCOT ADAMS: There has been no discussion of that. They will be paid according to contracts they have. [LB1153]

SENATOR LATHROP: Okay. [LB1153]

SCOT ADAMS: Yes, sir. [LB1153]

SENATOR LATHROP: That's all I have. Thanks. [LB1153]

SCOT ADAMS: Thank you. [LB1153]

SENATOR ASHFORD: Let me just, Scot, as long as I've got you here... [LB1153]

SCOT ADAMS: Sure. [LB1153]

SENATOR ASHFORD: ...I know sometimes Senator Coash knows the answers to all these questions and he always...but I don't, so if you...why is it that Nebraska has...this isn't a gotcha question. I'm just trying to understand. [LB1153]

SCOT ADAMS: Um-hum. Um-hum. [LB1153]

SENATOR ASHFORD: Why is it that Nebraska continually or for years has had...the length of stay in foster care and the number of children in foster care has been so large

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compared to other states? What is it about what we do or did that caused that to happen? Why is that happening? Why did that happen? [LB1153]

SCOT ADAMS: Boy, you know, there are... [LB1153]

SENATOR ASHFORD: Is it lack of capacity? Is it lack...why can't we get to permanence quicker and general? I mean you're, Scot, I know you to be one of the...you're an expert, there's nobody more expert. Just tell me in your own words,... [LB1153]

SCOT ADAMS: Sure. [LB1153]

SENATOR ASHFORD: ...why is it that we got to that point? [LB1153]

SCOT ADAMS: You know, I think there are two or three different reasons that have...each of which have subpoints that sort of get very complicated... [LB1153]

SENATOR ASHFORD: Okay. [LB1153]

SCOT ADAMS: ...but if I can just maybe touch on some of the highlights. You may all recall that in the recent past, perhaps in the last decade, there was a string of child deaths that absolutely scared us all, you know, and called us all to action. Frankly, the system at that point jumped to that safety was a good thing and that safety...the only way to be safe was out of home in those circumstances. I think we have built up a culture around that concept and that premise that has...that exists today. Secondly, I think we have been perhaps a bit slow in coming to some of the science around what safety is, what risk factors are, and communicating that fully and throughout the system, and by that I mean with all partners. But recently the department has adopted the structured decision-making model, or SDM, and this model helps with a variety of tools to assess risk and safety factors, not as much cleanliness of a house or they talk funny or they do this differently than me but more objectively. It is evidence-based. We're about the 23rd state to jump on to this model, so we're a little late to that game. We are coming into the training, South and...or, excuse me, East and Southeast Service Areas are trained, but we are going through additional training as we roll this out across the state. So we're getting there but we're probably a little late to the game on that front. [LB1153]

SENATOR ASHFORD: Do we understand the stages of developmental...of developmental stages of children? Is that inbred in our system? Do we know what the risk factor...you know, this is...what risk factors are identified with each stage of development? And do we...are we now, Scot, seriously, are we now in a place where we can start sharing information on these children when we have the first...I know it's every case is different, but when we get the first indicia of problems that we can finally tap into evidence-based...well, tap into data on that child, not only the child but the

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family, the environment that child is in, and then apply evidence-based solutions based on the developmental stage that child is in? I mean can we do that quick? Are we getting there? I mean it just seems to me that some of this lag time that's gone on in the system, and I'm sure it goes on other places, but is because we just don't have enough information on that child in a timely place. [LB1153]

SCOT ADAMS: A couple of responses: You raise a number of interesting points and, yes, individual personality and developmental stages of people are part of what training goes on and what we also assume with regard to the folks that we hire. But also, in addition to that, there are a number of other factors that come into play, substance abuse being perhaps one of the most noteworthy ones, whether that's the child's substance abuse as an adolescent or a parental substance abuse in terms of their factors. One of the things that I have had...that I have great hope for, to be honest with you, is this. In my opportunity to serve as the interim director of Children and Family Services and to be able to look back, if you will, at the Division of Behavioral Health, I see all kinds of opportunities and differences, things that the Division of Children and Family Services doesn't know much about in terms of, say, behavioral health. The opportunity for us to learn, to grow, and to work more closely together I think has never been better. And I look forward to the time when I can sort of go back to my behavioral health hat and to work closely with the new director of the Division of Children and Family Services. So I'm excited about the future in that regard. But to answer your question, yes, we look at that. We look at other factors with regard to harm and the opportunity, substance abuse being perhaps one of the ones that stands out the most. [LB1153]

SENATOR ASHFORD: Thanks, Scot. I mean this is a big deal, isn't it? [LB1153]

SCOT ADAMS: Yeah. Yeah, I agree. [LB1153]

SENATOR ASHFORD: Okay, yeah. Okay. Thanks very much. [LB1153]

SCOT ADAMS: And that's why I'm genuine in saying thanks to you. [LB1153]

SENATOR ASHFORD: And thanks for all you do and thanks for all you have done. [LB1153]

SCOT ADAMS: Appreciate that. All right. Thank you. [LB1153]

SENATOR ASHFORD: Okay. Nicole. [LB1153]

NICOLE GOALEY: I'm in neutral. Is it appropriate to go at this time? [LB1153]

SENATOR ASHFORD: I don't know. Is there anybody else opposed? Anybody else

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dare to be? No. No, Nicole is coming in on neutral. [LB1153]

NICOLE GOALEY: Thank you. Nicole Goaley again from the Douglas County Attorney's Office. I couldn't not come back up and make some comments about the comments that you just heard, several statements about chaos about LB1184. This morning I came directly here today to Lincoln from LB1184 staffing on delinquents and status offenders that we reviewed six cases, and I can...I respectfully do not agree with the comments made about how CACs are not for oversight. The three hours this morning was by far some of the most productive hours I've ever seen. It was NFC was there, KVC was there, HHS was there, therapists, an expert in sexual abuse, and I mean the expert in Omaha in sexual abuse, an expert in chemical dependency, and an expert in detachment disorders, an expert therapist in general. There was the assigned caseworkers there from KVC or NFC, the assigned prosecutors for every case, all six cases, were there. The assigned probation officer from every case was there. We worked through three cases and I have never seen something more productive. There was agreement on six cases. And when I hear the word "chaos," the cases were chaos before they came before the team this morning. The first case, the worker, and I won't cite who the contractor is, said I was texted that I got a case; this is the piece of paper that I got. A high-risk runner with major family dynamics was put in a brand new foster home...I mean a new foster parent who hadn't been a foster parent before, brought her to an area that she was familiar with, left her unsupervised in the hallway and she ran and she's gone again. We've been looking for her all year long. The expert in chemical dependency therapist happened to be in the building at that time and knew the story, knew more about this juvenile than the other people that are assigned to the case, who admittedly indicated, we got no information about this juvenile when they were put in our custody at court; we just get an order and had nothing. Nobody called for information on our court orders, nothing. That was case one. Case number two, no capias was requested on a kid who was gone for six weeks, so when they came in there were miscommunications and the kid with a gun is back on the street now. We have no idea where they are. There's a missing and now there's a warrant, pending gun charges in adult court, and now to find out after he got out that that was a stolen weapon. Admittedly, I saw the e-mails between the provider and HHS. The contractor asked for the warrant. HHS responded back, this is what I need. The provider provided it to HHS and HHS failed to issue that warrant for six weeks because of the chaos. Case number three, no court orders. The provider said at the meeting, I don't have copies of the orders that you are talking about where the judge ordered residential level of care. But they're on JUSTICE, but they're in the court file, but they're in our file; why haven't you asked for them? So talking through that information that the providers don't have, and I'm talking about the contracted agency caseworkers don't have information on cases that they're case managing, we worked through it. Case number four, before driving along here I look at my e-mail, already from that meeting a probation officer has gone back, gotten a defense attorney to stipulate to a psychiatric eval. We're asking why should it take 30 days, 60 days. It shouldn't. It should be arranged today, and that it's

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going to be arranged now today because a probation officer went and got someone to...the defense attorney to stipulate to it so that kid doesn't sit there huffing, drug abuse, concerns from the therapists on the team that if his mental health needs aren't met immediately that we're going to have much more serious concerns for him than we do today. Case number four (sic), again, back on the street. This child had burnt down a house, had successfully completed probation, now was not placed in an appropriate level of care, so where could she be? We talked about that. What level of placement would be appropriate when we get back? Hey, probation officer coordinator, let the providers you're working with know that this team, with expert therapists sitting here this morning, are saying this is enough to apply for a higher level of care. The last case, we decided that an affidavit needs to be completed by the case manager to see if a judge will sign off on sheriff to go get a two-year-old child in the care of the father with warrants out and a protection order he needs to be served on by the mother. Six cases, not a single disagreement between every single agency once we put it all out on the table, all the facts are with everybody, assigned people, all of it. A brand new leader in Omaha, I won't say who it is, sat at the meeting for the first time and said...he just shook his head at the lack of information that individuals had until they came together at that meeting, got it together, and walked away. I cannot recall a more productive three hours in a very long time. [LB1153]

SENATOR ASHFORD: I mean this...this...help me, Colby. Yes, this, we got to do this, don't we? [LB1153]

SENATOR COUNCIL: Thank you. [LB1153]

NICOLE GOALEY: And this cannot be done without a case facilitator. I had Jackie Simmons from Project Harmony who put this entire agenda of six cases together, sent out an individual e-mail on all six cases to the specific providers. And some people wrote back: Don't forget the tracker, don't forget this person. They all came. Then she sent... [LB1153]

SENATOR ASHFORD: That's my point to Monika is we have the best players we could ever ask for, just get in the room and fix these people. [LB1153]

NICOLE GOALEY: Yes. And so it is not just for what she said, and I respectfully understand what she meant about CACs, but they provide a case coordinator and they send the e-mails, they get the cases together, they put a report so people can come and pick them up so they're prepared for the meeting. This cannot be done without an expert case facilitator from Project Harmony taking the cases, staffing them. She took e-mails, probation referred some, NFC refer some, KVC refer some, HHS refer some, I refer some, and we all put it out on the table and worked through it. And today one kid might get removed from an unsafe situation, one kid might get a psychiatric eval, this one is going to get some orders done, maybe a warrant won't not get issued again. We fixed

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things, in general and on specific cases, just this morning from 8:30 to 11:15. [LB1153]

SENATOR LATHROP: You just described this process. Are you telling us that you just finished something that works? What is it that you did? [LB1153]

NICOLE GOALEY: This was an...this is, when the senator asked Monika about LB1184, this was an LB1184 team meeting today on delinquents and status offenders. [LB1153]

SENATOR LATHROP: Okay. Okay. [LB1153]

SENATOR ASHFORD: And there is a bill... [LB1153]

SENATOR LATHROP: I wasn't here for LB1184 and I'm not in juvenile court so... [LB1153]

SENATOR ASHFORD: No, but...and there is a bill...the reason I brought up and asked Monika, too, there's a bill on the floor that we, you know, that we put out and it's going to be up tomorrow or maybe next week that really enlarges the LB1184 team throughout...there's seven of them... [LB1153]

SENATOR LATHROP: Oh, okay. [LB1153]

SENATOR ASHFORD: ...across the state... [LB1153]

SENATOR LATHROP: Okay. [LB1153]

SENATOR ASHFORD: ...and...I'm sorry, Brenda, I keep interrupting. [LB1153]

SENATOR COUNCIL: No, no, but that's... [LB1153]

SENATOR ASHFORD: But it just seems to me that... [LB1153]

SENATOR LATHROP: I just didn't know what we were talking about because this sounded like a great... [LB1153]

SENATOR ASHFORD: ...you've got... [LB1153]

NICOLE GOALEY: Well, it went with the chaos and the staffings. These are...he asked about staffings and oversight. Child advocacy centers can oversee and facilitate multidisciplinary teams to staff individual cases, which I have respect for family team meetings but those are for the families and the providers. These meetings are for everybody, and everybody goes. They have such respect that today, even the new probation officer sent every assigned probation officer, everyone in the room on that

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case for each of those cases was there and it was mind-boggling how people that need the information don't have the information. So we said, well, let's share it; what do you have, what do you have, what did you know; and we figured it out. And after each case, is this the general consensus of the team? Go back and do this, go back, and it worked. [LB1153]

SENATOR ASHFORD: And I think, Steve, I mean the point...I mean we are spending in state dollars around, and I could be a little off, \$700,000 or \$800,000 a year for taking care of 7,000 cases, and if we added the other 8,000 or 9,000 statewide it's another I guess \$800,000, for \$1.6 million. How much did we spend today on whatever we spent it on that we could take care of 15,000 kids through this process with a partnership with the department, with NFC, with county attorneys, with... [LB1153]

NICOLE GOALEY: Right. Right. Probation. Yeah, right. [LB1153]

SENATOR ASHFORD: And they're all Nebraskans. [LB1153]

NICOLE GOALEY: Yes. [LB1153]

SENATOR ASHFORD: I mean we're the most caring people in the damn country. [LB1153]

NICOLE GOALEY: Our goal...right. [LB1153]

SENATOR ASHFORD: I mean why can't...why can't we do this? [LB1153]

NICOLE GOALEY: Our goal is not to find kids to remove. That's not what we did this morning. We problem solved cases in the best interest of each of these kids that came before the team. [LB1153]

SENATOR ASHFORD: I mean for \$1.5 million...I'm going to...Senator Council. [LB1153]

SENATOR COUNCIL: And I appreciate the success of the LB1184 process, but inherent in that, what you reported, were a whole bunch of failures... [LB1153]

NICOLE GOALEY: Absolutely. [LB1153]

SENATOR COUNCIL: ...leading up to that. [LB1153]

NICOLE GOALEY: Absolutely. [LB1153]

SENATOR COUNCIL: And my issue is how do you address these...I mean why do we need to wait till the LB1184 process, you know, that someone has had information for

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six weeks and didn't share it with someone else? Or...I mean that's my concern. I don't...I have the utmost confidence in the LB1184 process,... [LB1153]

NICOLE GOALEY: Right. [LB1153]

SENATOR COUNCIL: ...but every single one of those cases you recited, there was something that could have occurred sooner... [LB1153]

NICOLE GOALEY: Yes. Yes. [LB1153]

SENATOR COUNCIL: ...with what appeared to me to be just some communication or some follow-up. [LB1153]

NICOLE GOALEY: We have major communication issues because you have layers and so they're...and you have multiple parties. Someone said how many lawyers there are, then you have Health and Human Services who's the legal guardian, then you have the provider who's not the legal guardian, then sometimes you have probation involved. It's unacceptable. And when we catch them we staff them, but it is true, on a regular basis there is not solid communication that the kids in the system deserve. [LB1153]

SENATOR COUNCIL: Right, and because just looking at one of the letters in support of LB1153, it revealed data in terms of the number of cases reviewed where the information that was needed was there. And, you know, we're talking about some low percentage, like 8 percent. I mean that's what I mean. I mean, how can we get to that? Is it a provider issue? Is it a training issue? I mean it just appears to me that... [LB1153]

NICOLE GOALEY: Well, you have to...you have to access a court order. If you don't have one, Monika indicated that they don't have the court order for five days, well, there are going to be times when the workers aren't in the courtroom because it's at the hearing that they're being placed in HHS custody, but most often they're at the hearing. If the court orders it on the record, it's a court order. [LB1153]

SENATOR COUNCIL: You got it. Right. [LB1153]

NICOLE GOALEY: Also, you can go check out the order in the court file. You can get on JUSTICE and get the order. [LB1153]

SENATOR COUNCIL: That's what I'm saying. I mean... [LB1153]

NICOLE GOALEY: We have to figure out ways to do it faster, to do it better, instead of create reasons why we can't. [LB1153]

SENATOR COUNCIL: Okay. Thank you. [LB1153]

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SENATOR ASHFORD: Did you...Senator Coash, did you have a...? [LB1153]

SENATOR COASH: No. [LB1153]

NICOLE GOALEY: Thank you. [LB1153]

SENATOR ASHFORD: Let's go forth and... [LB1153]

SENATOR HARR: Do good. [LB1153]

SENATOR LATHROP: Thanks. [LB1153]

SENATOR ASHFORD: ...do good work, I guess. Okay. I don't know what to say. I mean I just...we got to solve this problem. [LB1153]

SENATOR COUNCIL: That was your last neutral... [LB1153]

SENATOR ASHFORD: Does anybody else want to...I'm sorry, I'm getting off message. Is this the...any other neutral testifiers? [LB1153]

SENATOR LATHROP: I'll waive close. Good discussion. [LB1153]

SENATOR ASHFORD: Okay. Senator Harr. [LB1153]

SENATOR LATHROP: Thanks. [LB1153]

SENATOR HARR: Great, I get to follow that. [LB940]

SENATOR ASHFORD: Clear a room, don't you? (Laugh) [LB940]

SENATOR HARR: I guess so. [LB940]

SENATOR ASHFORD: Okay. [LB940]

SENATOR HARR: I'm on? [LB940]

SENATOR ASHFORD: You're on. [LB940]

SENATOR HARR: Thank you, Senator Lathrop (sic). Members of the Judiciary Committee, my name is Burke Harr, B-u-r-k-e, Harr, H-a-r-r, and I represent Legislative District 8, which is midtown Omaha. I am here on LB940, which is a guardian ad litem bill. It changes it in regards to adoption proceedings. LB940 would amend statute

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sections 43-1405 (sic) and 43--excuse me--104.5 and 43-104.18 to provide for compensation of a guardian ad litem appointed in adoption proceedings. When a guardian ad litem is appointed to represent best interest of the child in a proceeding on a petition to adjudicate a notice of objection to adoption, the reasonable compensation of the guardian will be determined--or would be determined--by the court and assessed as a cost to the parties in a fair and equitable manner. If the court determines any party ordered to pay is indigent, the court may order the county to pay such cost upon notice to the county attorney. This is a pretty simple bill. The one issue I had or then considered--and I talked to a couple...well, I was addressed by a couple of lobbyists about--is this another unfunded mandate on the counties. And as you can see after evaluation, no one from any of the counties or NACO have come here today. It's a very important bill. This has to do with adoption, and so as we look at best interest of the children and as kids are pulled from the homes and possibly placed in permanent adoption, I think it is important that that kid, that child has a representative. And there are, I think Judge McDermott is coming back up again to testify in favor of this, but...and I will entertain any questions. [LB940]

SENATOR ASHFORD: Seeing none, thanks, Burke. [LB940]

SENATOR HARR: Thank you. [LB940]

SENATOR ASHFORD: Pat? [LB940]

PAT McDERMOTT: Again, my name is Pat McDermott. I'm a county judge in the 5th Judicial District. I'm the cochair of the County Judges Association's legislative committee. Thank the senator for introducing this bill. This really comes to you as kind of our technical corrections package. This was brought to our attention by Judge Donna Taylor up in Neligh. I've done this for 14 years. I've appointed guardians ad litem. When there's no money, I've ordered counties to pay them. I have never had a county attorney even suggest that they were going to oppose it. I've never had a county board blink at paying those. I will say again, you know, and probably should get a check from the bar association because I have to admit that in about 75 percent of the cases I've ever appointed a guardian ad litem in adoption, that attorney has waived fees because attorneys see the great value of adoption in giving kids a place to be for the rest of their lives and most of the time, they waive the fee. But county courts are courts of special jurisdiction, so we only have power and authority that you give us. You have to give us explicit authority. You have done that in two different respects. You've told us that you...we shall appoint a county or a guardian ad litem in cases where there's an objection to the petition for adoption, but the statute is silent on the payment. Some of us thought we had inherent power just to make that payment, but this is not the kind of thing that...where one sentence will fix it, why wait for the appellate court to parse it? And that's really what this is about. You'll recall back--and I think it was LB1084 in 2008--you solved 98 percent of the problem when you said that if a juvenile court has

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jurisdiction over a child and there is guardianships, adoptions, any of those things, you're going to have the juvenile court hear them. I've already got a guardian ad litem and they just continue. So this is really something that happens very rarely, but when it does happen, it is important that that child have a guardian ad litem. So we do urge the committee to advance this. Thank you. [LB940]

SENATOR ASHFORD: Okay. [LB940]

PATRICK McDERMOTT: Answer any questions anybody has. [LB940]

SENATOR ASHFORD: I don't see any. [LB940]

PATRICK McDERMOTT: This is kind of anticlimactic to the discussion that we've been having today. [LB940]

SENATOR ASHFORD: I'm not going to even ask you your view of the last discussion because we...I'd be shot. [LB940]

PATRICK McDERMOTT: We don't have time, Senator. You know, you and I can spend the next...all summer on this one. [LB940]

SENATOR ASHFORD: Yeah. All right, thank you, Pat. [LB940]

PATRICK McDERMOTT: Thanks. [LB940]

SENATOR LATHROP: Good to see you again. [LB940]

SENATOR ASHFORD: Any other testifiers on this bill? Seeing none, closes the hearing. Senator Harr...see you, Scot... [LB940]