

One Hundred Fifth Legislature - First Session - 2017

Introducer's Statement of Intent

LB11

Chairperson: Senator Laura Ebke

Committee: Judiciary

Date of Hearing: January 18, 2017

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

In 2014, the Legislature passed LB 464 to bring more children back to juvenile court from adult criminal proceedings. The bill fully rolled out in 2015, and it has been extremely effective at keeping more minors in juvenile court, where they are not only held accountable for their actions, but also have access to rehabilitative supports, which provide for better outcomes for youth and communities. Under our current law, most minors facing charges see their cases start in juvenile court. In appropriate cases, after the case is filed in juvenile court, the county attorney may file a motion before the juvenile court judge requesting that the case be transferred to county or district court for criminal prosecution.

The Nebraska Supreme Court recently considered the transfer scheme we enacted in LB 464, and held that a minor cannot appeal a decision transferring his case until after he goes through the whole criminal trial process and is sentenced in the criminal court. This might mean months or even over a year later before the appeal can be filed. This bill is intended to make it explicit that a youth's right to be served by the juvenile court is a substantial right and the juvenile is permitted to immediately appeal the juvenile court's decision to transfer the case to criminal court, and that the juvenile court can continue to issue temporary orders in the juvenile's best interests while the case is pending appeal.

We know that, for teenagers, the clock is ticking on how long they have to get access to rehabilitative services that will change their behavior for the better. Waiting for the criminal process to play out, before being able to ask the appellate court for reconsideration of an order transferring the case, is a missed opportunity for a minor to access the kinds of treatment and programming specifically designed to rehabilitate him. Legislative Bill 11 would not change anything about our current statutory scheme for where cases originate, and it would not grant any new right to appeal; it simply moves up the timing of that appeal to maximize the opportunity for rehabilitative growth and better outcomes for communities.

Principal Introducer: _____

Senator Bob Krist, District 10